Insurance Code

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*Note: An update of the English text of this Act is being prepared following the amendments in SG No. 62/1.08.2017, SG No. 63/4.08.2017

Text in Bulgarian: Кодекс за застраховането

PART ONE
GENERAL DISPOSITIONS

Chapter One
SUBJECT MATTER. OBJECTIVES. MAIN PRINCIPLES

Subject matter and scope of applicability

Article 1. (1) This Code shall regulate:

1. the insurance and reinsurance activities;

2. the insurance and reinsurance intermediation;

3. the terms and conditions for commencement, performance and termination of activities under Item 1 and Item 2;

4. the rules for distibution of insurance products and for settling of insurance claims;

5. the insurance contract;

6. the compulsory insurance;

7. the restructuring, liquidation and bankruptcy of an insurer or a reinsurer;

8. the insurance supervision.

(2) The provisions of this Code shall not apply to activities related to supplementary social insurance, unless otherwise stipulated by law.

(3) The provisions of this Code, with the exception of Part Four, shall not apply to the export credit insurance activity, which is performed by the Bulgarian Export Insurance Agency, where this type of insurance activity is performed at the expenses of the state or is guaranteed thereby and where the state is the insurer.

(4) The provision of this Code shall not apply to travel assistance activities, which simultaneously meet the following conditions:

1. the assistance is provided by a legal entity or by a sole proprietor with a seat of business in the Republic of Bulgaria,

which/who is not an insurer;

2. the assistance is rendered in the event of an accident or a technical breakdown of the transportation vehicle, when the accident or the technical breakdown have occurred on the territory of the Republic of Bulgaria;

3. the assistance is rendered through performing the following activities:

a) on-the-spot repair of the technical breakdown, in the process of which the person under Item 1 uses primarily own staff and equipment;

b) transportation of the transportation vehicle to the nearest or most appropriate place, where the repairs can be performed and, possibly, transportation by means of the same vehicle of the driver and the passengers to the nearest place, wherefrom they can continue their journey with another transportation vehicle;

c) transportation of the transportation vehicle, possibly, together with the driver and the passengers to their place of residence or to the departure or arrival point of the journey in the Republic of Bulgaria.

(5) In the case under Paragraph 4, Item 3, Letters "a" and "b", the condition that the accident or technical breakdown must have occurred on the territory of the Republic of Bulgaria, shall not be applied, when the driver of the transportation vehicle is a member of an organisation of persons under Paragraph 4, Item 1 and the repair of the technical breakdown or the transportation of the transportation vehicle is effected by a similar organisation in another state on the basis of a mutual agreement, if the repair of the technical breakdown or the transportation of the transportation vehicle is performed upon presentation of a membership card and without payment of an additional premium.

(6) The provisions of this Code shall not apply to reinsurance activities, which are performed or guaranteed entirely by the state, in its capacity of a reinsurer of last resort, because of reasons of significant public interest, including when this activity is needed because of the market situation, in which it is impossible to obtain adequate commercial cover.

Objectives

Article 2. (1) The objectives of this Code shall be:

1. to provide protection of the interests of consumers of insurance services, and

2. to establish conditions for the development of a stable, transparent and efficient insurance market.

(2) In the sense of this Code, "Consumers of insurance services" shall be the insuring person, the insured person, the third beneficiary person, the third injured party, the other persons for whom rights under an insurance contract have arisen, as well as the natural person or the legal entity interested in using the services provided by an insurer or by an insurance intermediary in connection with its scope of activities, irrespective of whether the said person is a consumer in the sense of the Consumer Protection Act.

(3) When performing its function, the Financial Supervision Commission, hereinafter referred to as "the Commission" and its Deputy Chairperson in charge of the Insurance Supervision Directorate, hereinafter referred to as "the Deputy Chairperson", shall take into account the potential impact of their decisions on the stability of the respective financial systems in the European Union and, in particular, in emergency situations, by taking into consideration the information available to them at the specific point in time. At times of exceptionally dramatic fluctuations on the financial markets, the Commission and the Deputy Chairperson shall take into account the potential pro-cyclical effects of their actions.

Insurance

Article 3. (1) Insurance shall be the activity of providing insurance cover against risks in accordance with a contract, representing the raising and expenditure of funds designated for indemnity payments and other cash amounts on occurrence of events or circumstances anticipated by contract or by law, as well as directly related activities including:

1. assessment of the insurance risk;

2. determination of the insurance premium;

3. establishment of the occurrence of an insured event;

4. determination of the amount of damage incurred;

5. management of the insurer’s assets;

6. transfer of all, or part, of the insurance risks covered by an insurer to a reinsurer or to another insurer (outward reinsurance);

7. provision of travel assistance insurance services under Item 18, Section II, Letter "A" of Annex No. 1 by an insurer, through persons engaged by the insurer and the insurer's own technical means.

(2) The performance of insurance activities in the Republic of Bulgaria shall mean covering risks situated in the Republic of Bulgaria.

Reinsurance

Article 4. Reinsurance shall be the activity of assuming, in accordance with a reinsurance contract, all or part of the risks covered by an insurer or by another reinsurer, in exchange for an insurance premium (inward reinsurance) and activities directly related to this.

Insurance and reinsurance intermediation

Article 5. (1) Insurance and reinsurance intermediation shall be the performance of an activity for elaborating, offering or other preparatory work for concluding insurance and reinsurance contracts or for concluding such contracts or assistance in the servicing and implementation of such contracts, including on the occurrence of an insured event.

(2) The following shall not be considered insurance or reinsurance intermediation:

1. performance of the activities under Paragraph 1 by an insurer or a reinsurer, or his or her employees;

2. incidental provision of information when performing another professional activity, whose subject is not assisting insurance service consumers, when elaborating, signing and implementing insurance or reinsurance contracts;

3. professional performance of insurance claims settlement activities on the behalf of an insurer;

4. performance of activities in connection with the preparation of expert appraisals in connection with the settlement of insurance claims.

Voluntary nature of the insurance and the insurance intermediation

Article 6. (1) Insurance and insurance intermediation shall be performed on the principle of voluntary participation.

(2) Compulsory insurance shall be established by law or by international treaty ratified, promulgated and enforced in the Republic of Bulgaria.

Insurance supervision

Article 7. Regulation and supervision exercised over the activities under Article 1 (1) shall be performed by the Commission, as well as by the Deputy Chairperson.

Language

Article 8. (1) The language in which insurance and insurance intermediation shall be carried out in the Republic of Bulgaria shall be the Bulgarian language. The general conditions, consumer information and other documents that shall be provided by insurers and insurance intermediaries to the insurance services consumers shall be prepared in Bulgarian. On request by an insurance service consumer, another language may be used in the relationships with the insurer.

(2) The language, in which the insurance supervision shall be exercised in the Republic of Bulgaria, shall be the Bulgarian language. In specific cases, the Commission and the Deputy Chairperson may exchange information, including reporting information, with authorities of the European Union, authorities of other member states, insurers, reinsurers and insurance intermediaries in any other of the official languages of the European Union.

Application of the rules of international treaties and the practice of the Committee of European Insurance and Occupational Pensions Supervisors

Article 9. (1) Where an international treaty ratified, promulgated and effective in the Republic of Bulgarian or the European Union respectively, in exercising its international contractual legal competency, provides for different rules for the activities under Article 1, Paragraph 1, such rules shall apply.

(2) The Commission shall adopt decisions, instructions or practices relating to the implementation of the international treaties under Paragraph 1 where this is necessary for the purposes of prudent supervisory practice and for implementation of recommendations of the competent institutions of the European Union.

(3) The Commission and the Deputy Chairperson may apply:

1. the acts of the Committee of European Insurance and Occupational Pensions Supervisors, hereinafter referred to as the "European Authority", created by Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 concerning the Creation of an European Supervisory Authority (Committee of European Insurance and Occupational Pensions Supervisors), for Amendment of Decision No. 716/2009/EC and for Repealing Decision 2009/79/EC of the Commission (OJ, L 331/48 of 15 December 2010), hereinafter referred to as "Regulation (EU) No. 1094/2010";

2. the minutes and other documents adopted within the Committee of European Insurance and Occupational Pensions Supervisors.

(4) When the European Authority has adopted a guideline or a recommendation in the sense of Article 16 of Regulation (EU) No. 1094/2010, the Commission may adopt decisions, instructions or practices in connection with the implementation of the guideline or recommendation, when this is necessary for the prudent supervisory practice.

Advertising

Article 10. The insurers, reinsurers and insurance intermediaries, which have the right to perform operations in the Republic of Bulgaria, may advertise their services through all the mass media in Bulgaria, while adhering to the rules established to protect the public interest.

General conditions, tariffs and other documents used in the relations with consumers

Article 11. (1)The requirement of preliminary approval or systematic notification shall not be permissible as regards the general terms and conditions of the insurance contracts, the price rates of the premiums or templates of forms and other printed documents, which an insurer intends to use in its transactions with the insurance service consumers.

(2) The competent authorities in the Republic of Bulgaria may require non-systematic notification of the general terms and conditions of the insurance contract and other documents solely for the purposes of verification that the national provisions pertaining to the insurance contracts have been complied with. These requirements may not constitute a pre-condition for

exercising the activity of insurance.

(3) In the case of compulsory insurances, the Deputy Chairperson may require from the insurers to be notified by the latter of the general terms and conditions of these insurance policies prior to their distribution.

(4) Preserving or introducing an obligation for preliminary notification or approval of proposed raises of the price rates of the premiums shall not be permitted, unless this is a part of the general price control systems in the country.

(5) The requirement for preliminary approval or systematic notification and for the technical bases used for calculation of the premiums and of the technical reserves shall not be permitted under the insurance policies under Section I of Annex No. 1 The Deputy Chairperson may require systematic information on the technical bases solely for the purpose of verification that the provisions concerning the actuarial principles have been complied with.

Chapter Two
PERSONS WHO MAY PERFORM OPERATIONS UNDER THE PRESENT CODE AND MAIN REQUIREMENTS TO THEM

Section I
Insurers and reinsurers

Insurers and reinsurers

Article 12. (1) An Insurer shall be:

1. a joint-stock company, a European company, a mutual insurance cooperative or an European cooperative society with a seat of business in the Republic of Bulgaria, which has obtained a licence under the conditions and in accordance with the procedure laid down in this Code (local insurer);

2. a person who has obtained a license for insurance in another member state and performing activities on the territory of the Republic of Bulgaria under the conditions of the right of establishment or of the freedom to provide services (insurer from another member state);

3. a branch of an insurer from a third country, registered under the Commerce Act, which has obtained a license under the conditions and according to the procedure laid down in this Code.

(2) Reinsurer shall be:

1. a joint-stock or an European company, which has obtained a licence to pursue inward reinsurance under this Code (local reinsurer);

2. a person which has obtained a licence to pursue inward reinsurance by seat of business in another member state (a reinsurer from another member state);

3. a person which has obtained a permit for inward reinsurance by seat of business in a third country (a reinsurer from a third country) through a branch registered under the Commerce Act and which has obtained a license under this Code.

(3) Reinsurance in the Republic of Bulgaria may be carried out also by a reinsurer with a seat of business in a third country.

European company. European cooperative society

Article 13. (1) A European company insurer or reinsurer shall be established, shall carry out its operations, shall transform itself and shall be wound up in accordance with Council Regulation (EC) No. 2157/2001 of 8 October 2001 on the Statute of a European company (SE) and this Code. In respect of a European company insurer, the provisions of the joint-stock insurance companies under this Code shall apply.

(2) A European cooperative society insurer shall be established, shall carry out its operations, shall transform itself and shall be wound up in accordance with Council Regulation (EC) No. 1435/2003 of 22 July 2003 on the Statute of a European cooperative society and this Code. In respect of a European cooperative society insurer, the provisions of the mutual insurance cooperatives under this Code shall apply.

Captive insurer. Captive reinsurer.

Article 14. (1) A captive insurer shall be a joint-stock insurance company owned by a financial undertaking, which is not an insurer or a reinsurer, or by an insurance or a reinsurance group, or a joint-stock insurance company owned by a non-financial undertaking, whereby the joint-stock company concerned has the objective of providing insurance coverage exclusively for the risks of the person/s who is/are its owner/s or the person/s from the group to which the captive insurer belongs.

(2) A captive reinsurer shall be a reinsurer owned by a financial undertaking, which is not an insurer or a reinsurer, or by an insurance or a reinsurance group, or a reinsurer owned by a non-financial undertaking, whereby the reinsurer concerned has the objective of providing reinsurance coverage exclusively for the risks of the person/s who is/are its owner/s or the person/s from the group to which the captive reinsurer belongs.

(3) The fact that a joint-stock insurance or reinsurance company is captive shall be specified in its articles of association.

(4) The provisions applicable to joint-stock insurance companies or to reinsurers respectively shall also apply to captive insurers or reinsurers respectively, unless otherwise stated in this Code.

Section II
Right of access of the insurers and reinsurers to the common market

Right of access of the insurers and reinsurers

Article 15. (1) The insurers and reinsurers with a seat of business in the Republic of Bulgaria shall have the right of access to the market of the European Union and the European Economic Area (the common market), when they have obtained a license under this Code and when they apply the requirements of Part Two, Section Three.

(2) The insurers and reinsurers under Paragraph 1 shall be obligated to comply with this Code, with the exception of Part Two, Section Four, as well as to comply with the acts of the European Commission for implementation of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 concerning Commencement and Exercising of Insurance and Reinsurance Operations (Solvency II) (OJ, L 335/1 of 17 December 2009), hereinafter referred to as "Directive 2009/138/EC".

(3) An insurer, which applies Part Two, Section Four, may not perform operations in another member state under the conditions of the right of establishment or the freedom to provide services.

(4) The insurers under Paragraph 3 shall be obligated to comply with this Code, with the exception of Part Two, Section Three, as well as to comply with the acts of the European Commission for implementation of Directive 2009/138/EC, when this is envisaged in this Code.

(5) The application of Part Two, Section Four shall be authorised by the Commission in the proceedings for issuance of a license and under the procedure of Article 38, Paragraphs 6-9 and shall be made note of in the license issued.

Conditions for limiting the access to the common market

Article 16. An insurer without the right of access to the common market can be an insurer with a seat of business in the Republic of Bulgaria only, for which the following requirements are simultaneously met:

1. its annual gross amount of the subscribed premiums does not exceed the BGN equivalent of EUR 5,000,000;

2. its gross amount of technical reserves, without deduction of the shares of reinsurers or special purpose vehicles for alternative insurance risk transfer, does not exceed the BGN equivalent of EUR 25,000,000;

3. when the insurer is part of a group, the gross amount of the technical reserves of the group, without deduction of the shares of reinsurers or special purpose vehicles for alternative insurance risk transfer, does not exceed the BGN equivalent of EUR 25,000,000 or if the following supplementary conditions are met:

a) there is no other insurer with access to the common market and no other reinsurer in the group;

b) all the insurers in the group have their seats of business in the Republic of Bulgaria;

4. the activity of the insurer does not include insurance or inward reinsurance of the risks under Item 10-15, Section II, Letter "A" of Annex No. 1, unless these are covered as supplementary risks in the sense of Article 30;

5. as regards the inward reinsurance of the insurer:

a) its premium revenue does not exceed the BGN equivalent of EUR 500,000 or 10% of the gross premium revenue respectively

b) its technical reserves without deduction of the shares of reinsurers or special purpose vehicles for alternative insurance risk transfer do not exceed the BGN equivalent of EUR 2,500,000 or 10% of the gross amount of the technical reserves without deduction of the shares of reinsurers or special purpose vehicles for alternative insurance risk transfer.

Section III
Main requirements to the insurers and the reinsurers

General requirements to the insurers and the reinsurers

Article 17. (1) A joint-stock insurance or reinsurance company shall be established, perform its operations, be transformed and be dissolved under the procedures specified in the Commerce Act unless otherwise stipulated herein.

(2) A mutual cooperative insurance society shall be established, perform its operations, be transformed and dissolved under the procedures established under the Cooperatives Act (CA) unless otherwise stipulated herein.

(3) The head office of a local insurer or of a local joint-stock reinsurance company respectively shall obligatorily be located at its registered management address in the Republic of Bulgaria. A joint-stock insurance company may open more than one branch under the Commerce Act in one and the same locality, including where its seat of business is situated.

(4) A joint-stock insurance company shall have the right to perform insurance operations solely in connection with the types of insurance specified under the licence, except for coverage of ancillary risks under the terms and conditions of Article 30.

(5) A mutual insurance cooperative society shall have the right to perform insurance operations solely in connection with the types of insurance specified under the licence, except for coverage of ancillary risks under the terms and conditions of Article 30. The subject of activity of a mutual cooperative insurance society may cover one or more types of insurance under Section I of Annex No. 1, with or without Accident and/or Sickness insurance.

(6) In addition to the data stipulated by the Cooperatives Act, the statutes of a mutual cooperative insurance society shall also contain the following information:

1. the types of insurance;

2. the funds of the mutual cooperative insurance society, the type, method of payment and size of the instalments, the scope of responsibility of its members for the mutual cooperative insurance society's liabilities.

Company name

Article 18. (1) The company name of a joint-stock insurance company shall contain the word "insurance" or derivatives of it in the Bulgarian language and may also contain the word "insurance" or derivatives of it in a foreign language.

(2) A party which does not have a licence to perform activities as an insurer may not use the word "insurance" or derivatives of it in Bulgarian or in a foreign language in its name, advertising or other operations.

(3) Paragraphs 1 and 2 shall apply with regard to a mutual cooperative insurance society accordingly. The company name of a mutual cooperative insurance society may not contain the name of any of its members.

(4) The company name of a reinsurer must obligatorily contain the word "reinsurance" or derivatives of it in the Bulgarian language. The company name of a reinsurer may also contain the word "reinsurance" or derivatives of it in a foreign language.

(5) A party which does not hold a licence for reinsurance shall not have the right to use the word "reinsurance" or its derivatives in Bulgarian or a foreign language in its name, advertising or other operations.

Authorised capital and shares

Article 19. (1) Upon the establishment of an insurance joint-stock company or of a reinsurance joint-stock company, the amount of the registered capital of

1. an insurer or a reinsurer under Article 15 (1) may not be less than the amount of the minimum capital requirement under Article 192 (2);

2. an insurer under Article 15 (3) may not be less than the amount of the guarantee capital under Article 210.

(2) The capital under Paragraph 1 shall be fully subscribed and paid up by the date of submission of a licence application. Upon subsequent increase of the capital, it shall be paid up in full at the date of filing the application for entry in the Commercial Register.

(3) Capital contributions to the capital of a joint-stock company under Paragraph 1 shall be in cash only and may not be made with funds of unproven origin or funds obtained as a result of illegal activity.

(4) A joint-stock insurance company under Paragraph 1 shall issue only registered dematerialised shares, each bearing the right to one vote.

(5) Upon an increase of the capital, the insurer or the reinsurer respectively shall submit before the Commission:

1. information of the changes in the body of shareholders and their participation, if applicable;

2. documents certifying that the increase in capital was paid in.

Founders and members

Article 20. (1) A mutual cooperative insurance society shall be established by at least 500 persons. A founder and member may be a natural person aged at least 18 years if not placed under judicial disability.

(2) The founders shall take out insurance from the mutual cooperative insurance society after it has been granted a licence to provide insurance and shall pay an insurance contribution on insurance selected by them under Section I of Annex No. 1 for the

first year.

(3) Membership in a mutual cooperative insurance society shall arise or be terminated simultaneously with the signing or termination of the insurance contract in compliance with the general terms.

Instalments and Payments by Members

Article 21. (1) Each member shall make an initial capital contribution, the amount of which shall be defined under the Statutes, and shall take out a life insurance contract under Section I of Annex No. 1 with the mutual cooperative insurance society for a term of validity of at least three years. The capital contributions shall serve to replenish the minimum guarantee capital.

(2) For attaining the absolute minimum amount of the minimum capital requirement and the capital solvency requirement and of the minimum guarantee capital and the solvency margin respectively, the general meeting, by a majority of two thirds (2/3) of the members represented at the meeting, may adopt a decision for collection of supplementary and special purpose contributions by the members. All instalments shall be paid in cash to the cooperative society's capital. The supplementary contributions and the special-purpose contributions may be refunded to the members only if by so doing the mutual insurance cooperative society's own funds will not diminish below the absolute minimum amount of the minimum capital requirement and the capital solvency requirement or of the solvency margin or the minimum guarantee capital respectively. Any refunding of supplementary contributions and special-purpose instalments shall occur with one-month written prior notification addressed to the Deputy Chairperson. Within the time limit of the prior notification, the Deputy Chairperson shall issue a ban on any refunding, if as a result of the refunding the mutual insurance cooperative society’s own funds will drop below the absolute minimum amount of the minimum capital requirement and the capital solvency requirement or of the solvency margin or the minimum guarantee capital respectively. On termination of the mutual cooperative insurance society, the participating contributions, the supplementary contributions and the special-purpose instalments shall be subject to repayment only after all other liabilities have been repaid.

(3) Article 19 (3) shall apply with regard to a mutual cooperative insurance society. Where the supplementary contribution or the special-purpose instalment exceeds one per cent of the minimum guarantee capital of the cooperative society, Article 73 shall apply.

(4) The premiums of members and the liabilities of a mutual cooperative insurance society under insurance contracts shall be identical if the circumstances under the insurance are identical.

(5) The general meeting of a mutual cooperative insurance society may decide to reduce the insurance payments by means of a two-thirds majority of all members represented at the meeting.

Section IV
Special purpose vehicles for alternative insurance risk transfer Insurance intermediaries

Performance of activities through special purpose vehicles for alternative insurance risk transfer

Article 22. (1) "Special purpose vehicle for alternative insurance risk transfer" shall be a legal entity or an unincorporated person other than an insurer or reinsurer, which assumes risks from an insurer or reinsurer under a contract and which finances in full its risk exposure through debt issue or another financing arrangement, provided that the rights of the creditors or of the participants in the financing arrangement are subordinated to the reinsurance obligations of the vehicle.

(2) The creation of a special purpose vehicle for alternative insurance risk transfer in the Republic of Bulgaria shall be permitted after obtaining a license from the Commission under the terms and conditions and in accordance with the procedure of Delegated Regulation (EU) 2015/35 of the Commission of 10 October 2014 for Supplementation of Directive 2009/138/EC of the European Parliament and of the Council concerning the Commencement and Exercising of Insurance and Reinsurance Operations (Solvency II) (OJ, L 12/1 of 17 January 2015), hereinafter referred to as "Regulation (EU) 2015/35".

(3) The terms and conditions for performing activities through a special purpose vehicle for alternative insurance risk transfer, the day-to-day supervision thereof, the measures for remedy of violations found, the terms and procedure for withdrawal of the license issued shall be stipulated by Regulation for Execution (EU) 2015/462 of the Commission of 19 March 2015 for establishing technical standards for execution as regards the procedures for approval by the supervisory authorities of the establishment of special purpose vehicles for alternative insurance risk transfer and as regards the procedures for collaboration and exchange of information between the supervisory authorities in connection with such special purpose vehicles, as well as for determining the formats and templates for the information which must be reported by such special purpose vehicles in accordance with Directive 2009/138/EC of the European Parliament and of the Council (OJ, L 76/23 of 20 March 2015). The rules for reinsurance companies of this Code shall apply in the cases that are not properly settled.

Insurance intermediaries

Article 23. An insurance or reinsurance intermediary shall be:

1. an insurance broker or an insurance agent registered under the conditions and in accordance with the procedure specified in this Code;

2. an insurance intermediary from a member state who performs operations under the conditions of the right of establishment or of the freedom to provide services.

Section V
Restrictions on operations

Restrictions on the operations of insurers and reinsurers

Article 24. (1) It shall not be permitted for the same insurer to perform insurance operations in the classes of insurance under Section I of Annex No. 1, on the one hand, and under Section II of Annex No. 1, on the other hand, with the exception of Accident Insurance and Sickness Insurance. An insurer licensed to carry on operations under Items 1 and/or 2 of Section II, Letter "A" of Annex No1 may obtain also a license to carry on operations under Section I, whereas an insurer licensed to carry on operations under Section I may obtain also a license to carry on operations under Items 1 and/or 2 of Section II, Letter "A" of Annex No. 1 (mixed-operations insurers).

(2) The operations under Section I and Section II of Annex No. 1 shall be managed separately in accordance with Chapter Nine "Separate Management of the Operations for General Insurance and Life Insurance".

(3) A branch of an insurer from a third country licensed in the Republic of Bulgaria may not carry on simultaneously insurance operations under Section I and under Section II of Annex No. 1

Insurance and inward reinsurance

Article 25. (1) A joint-stock insurance company may also provide inward reinsurance by type of insurance and relevant risks for which it has been granted an insurance licence.

(2) A reinsurer may not carry out insurance.

Ban on performing other activities

Article 26. (1) An insurer or a reinsurer respectively shall not be allowed to carry out any other commercial activities. The

following shall not be other commercial activities: settling of claims by an insurer on the territory of the Republic of Bulgaria under insurance policies concluded with insurers having their seat of business outside of the Republic of Bulgaria. Such activities shall be carried out under a contract for consideration and without assumption of insurance risk.

(2) An insurer or reinsurer may not participate as a general partner in a commercial company.

(3) An insurer or reinsurer may not secure the liabilities of third parties with its own assets, unless stipulated otherwise by this Code.

Restrictions on the operations of insurance intermediaries

Article 27. Insurance intermediation by one and the same person, both as an insurance broker and insurance agent, shall not be allowed.

PART TWO
INSURANCE AND REINSURANCE

TITLE ONE
COMMENCEMENT AND TERMINATION OF OPERATIONS

Chapter Three
ISSUE AND WITHDRAWAL OF LICENCES TO LOCAL INSURERS AND REINSURERS

Section I
Issue of licences

Licensing of insurance or reinsurance operations

Article 28. (1) A person with a seat of business in the Republic of Bulgaria shall have the right to perform insurance and reinsurance operations on the territory of the Republic of Bulgaria after obtaining a license from the Commission under the terms of this Code.

(2) A person which has not obtained a license for insurance operations shall not have the right to offer or sign contract whereby insurance risk is assumed.

Licences

Article 29. (1) The license of an insurer shall be issued for insurance operations under:

1. one or more types of insurance under Section I from Annex No. 1 (Life Insurance);

2. one or more types of insurance under Section II from Annex No. 1 (General Insurance).

(2) The license under Paragraph 1, Item 2 may be issued also for the groups of insurance types enumerated in Section II, Letter "B" of Annex No. 1.

(3) The license of a reinsurer shall be issued for reinsurance operations under:

1. Life Insurance, or

2. General Insurance, or

3. Life Insurance and General Insurance (reinsurance under all types of insurance).

(4) The scope of the license of an insurer may be expanded by a supplementary license for a type of insurance or for groups of types of insurance enumerated in Section II, Letter "B" from Annex No. 1 A reinsurer licence issued for part of the activities under Paragraph 2 may be broadened by a supplementary licence for new operations.

(5) An insurer may perform the activity specified in Article 3, Paragraph 1, Item 7 for provision of travel assistance only provided the said insurer has obtained an insurance license under Item 18, Section II, Letter "A" of Annex No. 1, with the exception of the cases of supplementary risk.

(6) A licence shall be in writing and shall comprehensively specify:

1. for an insurer - the type of operations and the types of insurance under Annex No. 1 under which the said insurer has the right to perform insurance;

2. for reinsurer – the operations under Paragraph 3 under which the said reinsurer may perform reinsurance.

(7) A license under Paragraphs 1 - 3 (license), as well as a supplementary license under Paragraph 4 (supplementary license) shall be issued by the Commission on a proposal by the Deputy Chairperson.

(8) The Commission shall refuse to issue a licence in cases where the applicant does not satisfy the requirements stipulated in this Code.

(9) A licence or a supplementary licence for a type of insurance shall be issued for the entire type of insurance, but it may also be issued only for part of the risks from Annex No. 1 relating to the respective type:

1. when the applicant has requested cover for only part of the risks within the meaning of Annex No. 1, relating to the type of insurance;

2. at the Commission's discretion, when it has been established from the documentation submitted for issue of a licence that not all risks are covered.

(10) The reinsurance licence may be issued for one or for two activities under Paragraph 3, Items 1 and 2 as per the request submitted.

Supplementary risks

Article 30. (1) An insurer which has obtained a licence for a principal risk which is included in one type or in a group of types of insurance according to Section II of Annex No. 1 may also insure risks included in another type of insurance, where the said insurer shall not be obligated to obtain a license for these risks, if these risks meet simultaneously the following conditions:

1. these are connected with the principal risk;

2. these pertain to the object which has been insured against the principal risk;

3. these are included in the contract, by virtue of which the principal risk is insured.

(2) The risks included in types 14, 15 and 17, Section II, Letter "A" of Annex No. 1 shall not be considered supplementary risks within the meaning of Paragraph 1. Nevertheless, the insurance of legal expenses under type 17 may be a supplementary

risk to type 18, when the conditions of Paragraph 1 are met, as well as when one of the following conditions is met:

1. the principal risks relates solely to the assistance which is provided to persons who find themselves in difficult situations during travel, away from home or from their usual place of residence;

2. the insurance relates to disputes or risks which stem from or in connection with the use of marine vessels.

Documents necessary for issue of a licence

Article 31. (1) In order to issue a licence for a joint-stock company to perform insurance or reinsurance operations, an application shall be submitted, to which the following shall be attached:

1. the Statutes and other Articles of Association;

2. a list of shareholders and the amount of shares they hold;

3. a document issued by a bank entitled to perform banking activity on the territory of the Republic of Bulgaria certifying the cash instalments paid for the shares subscribed;

4. the documents and the information under Article 69 - for the persons which/who acquire a participating interest under Article 68 (1) and the documents and the information under Article 73 - for the persons which/who acquire more than one percent of the shares of the company;

5. Evidence that:

a) the insurer or reinsurer respectively will be able to maintain in the future eligible own funds for covering the capital solvency requirements within the meaning of Chapter Thirteen;

b) the insurer without right of access to the common market will be able to maintain in the future eligible own funds for covering the solvency margin under Article 209;

6. Evidence that:

a) the insurer or reinsurer respectively will be able to maintain in the future eligible core own funds for covering the minimum capital requirement within the meaning of Chapter Fourteen;

b) the insurer without right of access to the common market will be able to maintain in the future eligible core own funds for covering the guarantee capital under Article 210;

7. evidence that the insurer or reinsurer respectively will be able to comply with the requirements pertaining to the management system under Chapter Seven, including the documents under Article 77, Paragraph 1, Items 1, 3 and 4;

8. data about the persons under Article 79 (1), together with evidence of compliance with the respective requirements for qualification and good reputation;

9. a programme of operations of an insurer or a reinsurer respectively.

(2) For the issuing of a licence to perform insurance operations under Item 10.1, Section II, Letter "A" of Annex No. 1, the following shall be presented as part of the application:

1. a bank document confirming that a bank guarantee will be issued in accordance with the requirements of the Statutes of the National Bureau of the Bulgarian Motor Insurers;

2. a reinsurance contract in compliance with criteria stipulated by a resolution of the Commission, as well as

3. a list of the names and addresses of the representatives under Article 503 for settlement of claims in each of the member states and copies of contracts with these persons certified by the applicant.

(3) In order to issue a licence for a mutual cooperative insurance society to provide insurance, an application shall be submitted accompanied by the following:

1. the Statutes and other Articles of Association;

2. a list of the members and the amount of their capital contributions;

3. a document issued by a bank entitled to perform banking activity on the territory of the Republic of Bulgaria, certifying the cash instalments paid into the cooperative society's capital;

4. the documents and the information under Article 69, Paragraph 2, Item 1 or Paragraph 3, Items 1 and 6 respectively - for the persons who pay a supplementary or a special-purpose instalment exceeding one per cent of the cooperative society's minimum guarantee capital;

5. the evidence and the documents under Paragraph 1, Items 5 - 9.

(4) When the applicant under Paragraphs 1 and 2 has requested an insurance licence under Item 18, Section II, Letter "A" of Annex No. 1, the Commission may request evidence of the direct and indirect resources, including those for the staff and equipment, including evidence of the qualification of the medical team and of the quality of the equipment, which are available to the applicant for assuming its obligations stemming from the Travel Assistance Insurance.

(5) The application under Paragraphs 1, 2 or 3 shall be considered after payment of the documents consideration fee.

Documents to expand the scope of a licence

Article 32. (1) For the issuing of a licence to a reinsurer for expanding its scope of activities with a new activity, an application shall be submitted accompanied by the following:

1. a transcript of the minutes of the competent body of the reinsurer with the decisions adopted for supplementing the scope of activities;

2. the programme of operations, amended and supplemented.

(2) For the issuing of licence for a new type of insurance operations to an insurer, as well as for a licence for a new type of insurance policy, for supplementation of licence of a particular type of insurance policy with new risks under Annex No. 1 or for a licence for a group of several types of insurance policies, an application shall be submitted accompanied by the following:

1. a transcript of the minutes of the competent body of the insurer with the decisions adopted regarding the application for a licence;

2. the programme of operations, amended and supplemented;

3. Evidence that:

a) the insurer with a right of access to the common market has at its disposal eligible own funds sufficient for covering the capital solvency requirement and eligible core own funds, sufficient for covering the minimum capital requirement respectively, or

b) the insurer without a right of access to the common market has at its disposal eligible own funds sufficient for covering the solvency margin and eligible core own funds, sufficient for covering the minimum guarantee capital respectively.

(3) For the issuing of licence to provide insurance under Item 10.1, Section II, Letter "A" of Annex No. 1, the evidence under Article 31 (2) shall also be submitted.

(4) In the cases under Paragraph 2, when an application was made to issue a licence for the activity of general insurance to a life insurer under the types of insurance policies under Items 1 or 2, Section II, Letter "A" of Annex No. 1 or to issue a licence for the activity of life insurance to an insurer which is licenced only under Items 1 and 2, Section II, Letter "A" of Annex No. 1, evidence shall be submitted that the insurer has at its disposal the eligible core own funds covering the absolute minimum amount of the minimum capital requirement - for life insurers and the absolute minimum amount of the minimum capital requirements - for general insurance insurers according to Article 192, as well as evidence that the insurer will be able to cover the minimum financial liabilities under Article 142 (2). When the insurer does not have a right of access to the common market, evidence shall be submitted that it has at its disposal the eligible core own funds covering the minimum guarantee capital under

Article 210, Item 3.

(5) The application under Paragraphs 1, 2, 3 or 4 shall be considered after payment of the documents consideration fee.

Programme of operations

Article 33. (1) The programme of operations of an insurer or a reinsurer respectively shall contain the following:

1. the types of insurance which the insurer intends to underwrite, and the nature of the risks which it intends to cover, or the operations which the reinsurer intends to underwrite and nature of the risks which it intends to cover;

2. the reinsurance or retrocession policy and program in which the leading principles of the reinsurance or of the retrocession shall be specified;

3. the methods, assumptions and input data, which will be used for forming the technical reserves;

4. a forecast of the expenses required to organise and commence business operations, the financial resources needed to cover such expenses, and in cases of insurance under Item 18, Section II, Letter "A" of Annex No. 1, the financial and technical resources available to the applicant in order to provide the assistance;

5. a well-grounded financial projection of the person's operations for the first three years, containing:

a) a projected balance sheet;

b) a projected estimate of the future capital solvency requirement on the basis of the projected balance sheet, together with the method of calculation used for deriving the said estimate;

c) a projected estimate of the future minimum capital requirement on the basis of the projected balance sheet, together with the method of calculation used for deriving the said estimate;

d) a projected estimate of the financial resources intended to cover the technical reserves, the minimum capital requirement and the capital solvency requirement;

e) a revenues and expenses forecast, including the anticipated premium revenue amount, the anticipated insurance or reinsurance payment claims and the anticipated expenses on commissions paid to insurance and reinsurance intermediaries, acquisition, administrative and other costs - as regards the general insurance and reinsurance;

f) a plan with a detailed forecast estimate of the revenues and expenses as regards the direct insurance activity, the inward and the outward reinsurance - as regards the life insurance;

6. the source, amount and allocation of the own funds, including ways of securing finance in cases of insufficient assets to cover the capital solvency requirement and the minimum capital requirement;

7. a programme for the measures to prevent money laundering and terrorism financing.

(2) The programme of operations of a reinsurer shall furthermore include a description and key parameters of reinsurance contracts which it intends to enter into with assignors.

(3) The programme of operations must realistically reflect the characteristics of the market and their influence on the person's activities under Paragraph 1, the volume of activities performed, the financial, labour and other resources and other factors connected to the implementation of the programme within the time limits set.

(4) In the cases under Article 32, the programme of operations shall only concern the new type of insurance or the group of insurance types with which an insurer seeks to expand the scope of its licence or shall concern the new activity with which the reinsurer seeks to expand the scope of its licence.

(5) In the cases when the applicant wants to take advantage of the restriction on the right of access to the common market under Article 16, the parameters under Paragraph 1, Item 5, Letters "b" - "e" and Item 6 shall be presented as solvency margin and as minimum guarantee capital respectively. When the Commission, in the procedure for issuing of a licence, finds that within

5 years after the issuing of the licence the applicant may exceed at least one of the thresholds under Article 16, the procedure shall be suspended until a corrected programme of operations is submitted in accordance with the parameters of the capital solvency requirement and of the minimum capital requirement respectively.

Issue and refusal to issue a licence

Article 34. (1) On a proposal by the Deputy Chairperson, the Commission shall establish whether the requirements for issue of the licence requested have been fulfilled and shall pronounce its opinion within a 4-month time limit from the date of receipt of the application at the latest.

(2) If the documents submitted are irregular or additional information is needed, the Deputy Chairperson and/or the Commission shall forward notice to the applicant regarding the irregularities established and/or the additional information required, and shall set an adequate time limit for the applicant to eliminate the irregularities, which shall not be less than 1 month or greater than 2 months. The term under Paragraph 1 shall cease to elapse until expiry of the period prescribed for elimination of the irregularities and/or submission of additional information.

(3) When a licence is issued to expand the scope of the insurer's licence with a new type of insurance or with a group of types of insurance or when a licence is issued to expand the scope of the reinsurer's licence with a new activity, the term under Paragraph 1 may not be longer than two months, and under Paragraph 2, no shorter than 7 days. The term for pronouncement to be rendered by the Commission ceases to elapse until the expiry of the period prescribed for elimination of the irregularities and/or submission of additional information.

(4) If the notice under Paragraph 2 is not accepted at the mailing address indicated by an applicant, the term set for the applicant shall begin to elapse from placing the notice at a location specially designated for this purpose on the Commission's premises. The notice of notification shall also be published on the web page of the Commission. These circumstances shall be certified by means of a statement drawn up by officials assigned by order of the Chairperson of the Commission.

(5) The Commission shall notify the applicant in writing of its decision within a 7-day time limit.

(6) The Commission shall notify the European Authority of each and every decision for issue of a licence to an insurer or to a reinsurer respectively.

Grounds for refusal

Article 35. (1) The Commission shall refuse to issue a licence for insurance or for reinsurance activities in cases where:

1. the capital of an applicant does not meet the requirements specified under this Code;

2. any of the members of the management and control body of an applicant or the persons authorised to manage and represent it does not fulfil the requirements set hereunder, or where this member, by his/her activities or decision-making influence, may compromise the security of the applicant or its operations;

3. the persons who hold directly, together with or through related parties, or in agreement with third parties, 10 or more than 10 per cent of the votes in the general meeting or the capital of an applicant or who are capable of controlling it:

a) do not meet the requirements specified herein;

b) could undermine the activity of an applicant through actions or qualifications or by influencing decision-making;

c) cannot be identified up to the actual owner (actual beneficiary);

d) the value of the assets they hold and/or their operations, in terms of scale and financial results, do not correspond to the figures declared for the purpose of acquiring participating interest in the applicant and raise doubts as to the reliability and capacity of these persons to provide, when necessary, capital support to the applicant;

4. the financial resources by virtue of which the persons have subscribed one or more than one percent of the capital do not

meet the requirement of Article 19 (3);

5. the applicant has submitted false data or documents of untrue content;

6. the applicant is connected to a physical person or a legal entity and that connection hampers the effective implementation of the Commission's or the Deputy Chairperson's supervisory functions;

7. there are impediments for the effective implementation of the Commission's or the Deputy Chairperson's functions, ensuing from or in connection with the application of a law or administrative act of a third state regulating the activities of one or more persons to whom an applicant is a related party;

8. no programme of operations has been submitted, or the programme submitted does not conform to the requirements under Article 33 or does not guarantee the interests of insurance service consumers to a sufficient extent, or where the operations that the applicant is to carry out do not ensure the necessary reliability and financial stability;

9. other requirements specified in this Code or under the regulations on its implementation have not been complied with.

(2) In cases under Paragraph 1, Items 1, 2, 4, 5, 8 and 9, the Commission shall refuse to issue a licence only if the applicant has not eliminated the irregularities or has not submitted the additional information within the term specified.

(3) A refusal by the Commission to issue a licence shall be justified in writing. When a decision has not been decreed within the time limit under Article 34 (1), it shall be deemed that this is a tacit refusal.

(4) A new licence application form may be submitted no earlier than 6 months from the entry into force of the licence refusal decision.

(5) The Commission shall refuse to issue a licence for a new type of insurance or for expansion of the scope of the licence of a reinsurer with a new activity on the grounds under Paragraph 1, Items 1, 3 - 5, 8 and 9, where Paragraphs 2 and 3 shall be applied respectively. A tacit refusal shall be present, if the Commission fails to pronounce its judgement within the time limit under Article 34 (3). In the case of a refusal, Paragraph 4 shall apply.

Entry into the commercial register

Article 36. Entries in the Commercial Register of a merchant providing insurance or reinsurance shall be made only after presentation of the licence issued by the Commission.

Section II
Change of the right of access of an insurer to the common market

Status of the insurer

Article 37. The presence or absence of a right of access to the common market (the status of the insurer) shall be reflected in the insurer’s licence into the register under Article 30, Paragraph 1, Item 9 of the Financial Supervision Commission Act.

Voluntary change in the status of the insurer

Article 38. (1) An insurer without right of access to the common market shall have the right to obtain authorisation to perform its operations according to the general rules for access to the common market, regarding which the said insurer shall submit an application to the Commission.

(2) When the application is submitted after an issued licence, the insurer shall submit evidence of bringing its operations into

conformity with the requirements of Part Two, Title Three and with the other requirements laid down in this Code and in the applicable acts of the European Union, that the operations of the insurers with a right of access to the common market must conform to.

(3) The necessary evidence under Paragraph 2 shall be stipulated by a decision of the Commission and shall include as a minimum the following:

1. information and data on the compliance with the requirements for valuation of the assets and liabilities and for calculation of the technical reserves according to Part Two, Title Three and according to Regulation (EU) 2015/35;

2. information and data on the minimum capital requirement and on the capital solvency requirement in accordance with the requirements of Part Two, Title Three and of Regulation (EU) 2015/35;

3. information and evidence of the availability of eligible own funds which are at least equal to the capital solvency requirement and to the minimum capital requirement in accordance with the requirements of Part Two, Title Three and of Regulation (EU) 2015/35.

(4) On a proposal by the Deputy Chairperson, the Commission shall make an assessment of whether the requirements of Part Two, Title Three and of Regulation (EU) 2015/35 have been complied with and shall pronounce its judgement within a time limit of three months from the date of receiving all the evidence, where the change in the status of the insurer shall be recorded into the licence issued.

(5) If the documents submitted are irregular or additional information is needed, the Commission shall forward notice to the applicant regarding the irregularities established and/or the additional information required, and shall set an adequate time limit for the applicant to eliminate the irregularities and/or submit the additional information required, which shall not be less than 1 month or greater than 2 months. The term under Paragraph 4 shall cease to elapse until expiry of the period prescribed for elimination of the irregularities and/or submission of additional information.

(6) An insurer which performs operations under the general rules for access to the common market can perform its operations under the rules for insurers without a right of access to the common market after submission of an application to the Commission, if the following circumstances are simultaneously present:

1. none of the thresholds under Article 16 has been exceeded during the last three consecutive years after the date of submission of the application;

2. none of the thresholds under Article 16 is expected to be exceeded during the next 5 years after the date of submission of the application;

3. as of the date of submission of the application, the insurer does not perform operations under the conditions of the right of establishment or of the freedom to provide services in another member state;

4. the insurer is not part of the group, in regard to which Part Two, Title Three is applied on the grounds of Article 39 (4).

(7) In order to prove the circumstances under Paragraph 6, Item 2, the insurer shall submit a programme of operations under Article 33.

(8) On a proposal by the Deputy Chairperson, the Commission shall pronounce a decision for change of the status of the insurer within a 1-month time limit from the submission of the application, where a transitional period may be envisaged, in which supplementary requirements to the reporting of the insurer are to be applied. The change in the status of the insurer shall be recorded in the licence issued.

(9) The Commission shall refuse to change the status of the insurer, when the circumstance under Paragraph 6, Items 1, 3 and 4 are not present, if a conclusion can be drawn from the programme of operations of the insurer under Article 33 that there is likelihood that any of the thresholds under Article 16 may be exceeded during the next 5 year or if the assets for covering the reserves are not in conformity with the requirements of Title Four.

(10) The application under Paragraphs 1 or 6 shall be considered after payment of the documents consideration fee.

Obligatory change in the status of the insurer

Article 39. (1) When any of the thresholds under Article 16 is exceeded within a time period of 3 consecutive years, the general rules for access to the common market shall begin to be applied to the respective insurer without a right of access to the common market from the fourth year onwards. The Deputy Chairperson shall notify in writing the respective insurer not later than the end of the second consecutive year, in which any of the thresholds under Article 16 has been exceeded.

(2) The insurer under Paragraph 1 shall be obligated, within a 3-month time limit from the notification, to submit a plan for bringing its operations in conformity with the requirements, that the operations of the insurers with a right of access to the common market must conform to. The Deputy Chairperson shall exercise ongoing supervision over the compliance with the plan and shall apply the respective coercive measures in the case of non-compliance.

(3) The status of the insurer under Paragraph 1 shall be changed ex officio by a decision of the Commission after the end of the third consecutive year, in which any of the thresholds under Article 16 has been exceeded, where the change in the status of the insurer shall be recorded into the licence and shall be entered into the register under Article 30, Paragraph 1, Item 9 of the Financial Supervision Commission Act.

(4) All insurers which are part of a single insurance group shall obligatorily apply Part Two, Title Three in the cases when one of them starts to apply Part Two, Title Three, as well as when an insurer with a seat of business outside of the Republic of Bulgaria joins the said group. Paragraphs 1 and 2 shall be applied to these cases accordingly.

(5) When an insurer without a right of access to the common market submit an application for obtaining a supplementary licence for one or more of the types of insurance under Article 16, Item 4 or for groups of types of insurance, the compliance with the requirements, that the operations of insurers with a right of access to the common market must conform to, shall be verified in the process of the proceedings for issuing the supplementary licence.

Section III
Withdrawal of licences

Licence withdrawal

Article 40. (1) The Commission shall withdraw a licence of an insurer or a reinsurer where:

1. the person has submitted false information or documents containing false information, which have served as grounds for the issue of the licence;

2. the person has not submitted a short-term plan under Article 215 (2) or the plan submitted is evidently inadequate or, if regardless of the submission of the short-term plan, the person has not recovered its compliance with:

a) the minimum capital requirements within a 3-month time period of establishing the non-compliance, when the person is an insurer with a right of access to the common market or when the person is a reinsurer respectively;

b) the guarantee capital within a 3-month time limit from establishing the non-compliance, when the person is an insurer without a right of access to the common market;

3. the insurer violates the principle of voluntary participation of the insurance;

4. a request has been submitted by the person and the requirements specified under the present Code have been observed.

(2) The Commission may withdraw the insurance or reinsurance licence if:

1. the person does not commence activity within 12 months of issue of the licence;

2. the person ceases to perform operations for more than 6 months;

3. the number of members of a mutual cooperative insurance society falls below the stipulated minimum and is not replenished

within 6 months or if Article 20, Paragraph 2 or Article 21, Paragraph 1 have been infringed;

4. the persons ceases to be in compliance with the conditions for the issue of a licence;

5. the person performs other activities in addition to the activities for which it has been granted a licence;

6. the person or a shareholder thereof, or a member of the management or control body, or another person empowered to manage or represent it, fails to comply with a coercive administrative measure imposed and in effect under this Code;

7. grounds exist for dissolution of the joint-stock company under Article 252, Paragraph 1, Item 4 of the Commerce Act;

8. the insurer, the reinsurer and/or persons under Article 80 have committed and/or have allowed gross or systematic violations of this Code or of the regulations for its implementation;

9. the plan under Article 215 (1) has not been submitted within the stipulated time limit, has not been approved or, regardless of its submission within the stipulated time limits, the person has failed to recover the compliance with:

a) the capital solvency requirement, when the person is an insurer with a right of access to the common market or when the person is a reinsurer respectively; or

b) the solvency margin, when the person is an insurer without a right of access to the common market.

10. the person wrongfully refuses payment of an executable and liquid pecuniary liabilities or only pays part of them;

(3) When the grounds for licence withdrawal refer to a part of the person's activity, the Commission may withdraw the licence for one or more separate types of insurance or for a separate part of the reinsurance activity.

(4) The Commission shall pronounce a reasoned decision and shall notify the person in writing within 7 days of the decision.

(5) Under a licence withdrawal decision, except for the cases under Paragraph 3, the Commission shall appoint one or several questors under Article 597 until appointment of a liquidator or a trustee-in-bankruptcy.

(6) In the cases under Paragraph 1, Item 5, the decision of the Commission shall be to approve a voluntary relinquishing of the licence.

Obligations of an insurer or a reinsurer on withdrawal of a licence

Article 41. (1) On entry into force of a licence withdrawal decision, the person under Article 40, Paragraphs 1 or 2 may not enter into new insurance and/or reinsurance contracts, may not offer new terms and conditions on contracts and may not amend terms thereof, including the term of the contract, the maturity value and the cover under existing contracts.

(2) Withdrawal of a licence shall not exempt the person from its obligations under existing contracts.

Powers of the Commission on withdrawal of a licence

Article 42. (1) On entry into force of a licence withdrawal decision in respect of an insurer or a reinsurer, the Commission shall notify thereof the European Authority and shall forward a request to the competent court to initiate liquidation proceedings, and in cases under Article 40, Paragraph 1, Item 2 and Paragraph 2, Items 9 and 10, to initiate bankruptcy proceedings, and shall undertake the required measures to inform the public.

(2) The Commission, through the Deputy Chairperson, may perform inspections and impose coercive administrative measures under Article 587 until the company or the cooperative society is deleted from the commercial registry.

Notification of the Competent Authorities of the Other Member States upon Withdrawal of an Insurer's or a Reinsurer's Licence

Article 43. (1) The Commission shall notify immediately the respective competent authorities of the remaining member states of the withdrawal of the licence of an insurer or a reinsurer and shall forward a request to the respective competent authorities to undertake actions in accordance with their legislation to:

1. prevent the conclusion of new contracts, the proposals of new terms and conditions and the amendment of the terms and conditions under contracts already concluded by the insurer or by the reinsurer respectively;

2. protect the interests of the stakeholders, including by prohibiting the discretionary disposal with assets of the insurer or of the reinsurer respectively.

(2) When the Commission has been notified of the withdrawal of the licence of an insurer or a reinsurer by another member state, the Commission shall undertake appropriate measures under Paragraph 1 in connection with the operations and assets of the insurer or of the reinsurer respectively on the territory of the Republic of Bulgaria.

Chapter Four
PERFORMANCE OF OPERATIONS IN ANOTHER MEMBER STATE BY A LOCAL INSURER OR REINSURER PERFORMANCE OF OPERATIONS IN THE REPUBLIC OF BULGARIA BY AN INSURER OR A REINSURER FROM ANOTHER MEMBER STATE

Section I
Performance of operations in another member state by a local insurer

Right of Establishment and Right to Provide Services

Article 44. (1) A local insurer holding a licence to perform insurance operations under the conditions and following the procedure established hereby, may perform the activities for which the licence has been issued on the territory of another member state under the conditions of the right of establishment or of the freedom to provide services.

(2) Paragraph 1 shall not apply to the insurers licensed and performing operations according to the procedure of Title Four of Part Two.

Performance of operations under the conditions of the right of establishment

Article 45. (1) A local insurer which intends to establish a branch within the territory of another member state shall notify the Commission of this in advance.

(2) The notification under Paragraph 1 shall contain:

1. indication of the member state in which the insurer intends to establish a branch and the insurer's address;

2. a programme of operations of the insurer, including information about the types of insurance which the insurer will provide in the member state in which the branch is registered, and the organisational structure of the branch;

3. the name of the authorised branch representative with the representative powers to assume obligations for the insurer to third parties and to represent the insurer before the public authorities and the courts of the member state in which the branch is based;

4. evidence of membership in the respective National Bureau of the Green Card System and in the institution charged with the making of the guarantee payment, analogous to the Guarantee Fund under Article 518, of the member state in which the branch is based, if the insurer intends to perform operations under Item 10.1, Section II, Letter "A" of Annex No. 1;

5. information about the measure chosen by the insurer under Article 147 for the avoidance of conflict of interest, if the insurer intends to perform operations under Item 17, Section II, Letter "A" of Annex No. 1

(3) The Commission shall provide the respective competent authority of the member state in which the branch is based with the information under Paragraph 2 within a time limit not exceeding three months from receiving the information and the documents under Paragraph 2, and a certificate proving that the insurer has at its disposal sufficient funds of its own to cover the capital solvency requirement and the minimum capital requirement. The Commission shall immediately notify the insurer of any information provided under Sentence One.

(4) The Commission may refuse within the time limit specified under Paragraph 3 to provide the respective competent authority in the member state with the information under Paragraph 2 by means of a reasoned resolution if the management structure of an insurer, its financial standing, or the professional qualifications and experience of the persons who manage and represent it or of the branch's authorised representative are inadequate or insufficient with regard to the insurance which the insurer intends to provide in the member state, as well as in cases where an insurer implements a reorganisation programme and, in this connection, the interests of the insured are jeopardised. The Commission shall immediately notify the insurer of a resolution under Sentence One.

(5) An insurer may establish a branch and commence operations within the territory of the member state on receipt of notification by the Commission issued by the relevant competent authority of that state, or after expiry of two months from the notification under Paragraph 3 of the relevant competent authority if no notification has been received within this time limit.

(6) The insurer shall notify in writing the Commission and the relevant competent authority of the member state, in which the branch is based, of each amendment to the data and the documents under Paragraph 2 within a time limit no shorter than one month prior to implementation of the amendment. Paragraph 4 shall be applied to this case accordingly.

Performance of operations under the conditions of freedom to provide services

Article 46. (1) An insurer with a seat of business in the Republic of Bulgaria who intends to perform insurance operations in another member state under the conditions of the freedom to provide services without opening a branch on the territory of the member state shall notify the Commission in advance of its intention, specifying the following:

1. the types of insurance it intends to provide and the nature of the risks it envisages to cover in this member state;

2. evidence of membership in the respective National Bureau of the Green Card System and in the institution charged with the making of the guarantee payments, analogous to the Guarantee Fund under Article 518, of the member state in which the branch is based, as well as the name and address of the representative in charge of settling of claims, if the insurer intends to perform operations under Item 10.1, Section II, Letter "A" of Annex No. 1;

3. the measure chosen by the insurer under Article 147 for the avoidance of conflict of interest, if the insurer intends to perform operations under Item 17, Section II, Letter "A" of Annex No. 1

(2) Within one month of the notification, the Commission shall provide the relevant competent authority of the member state also with information under Paragraph 1, as well as with information regarding the types of insurance which an insurer has the right to provide in the Republic of Bulgaria, together with a certificate attesting to the fact that the insurer has at its disposal sufficient own funds for covering the capital solvency requirement and the minimum capital requirement. The Commission shall immediately notify the insurer of any information provided under Sentence One.

(3) The Commission may refuse, within the time limit set under Paragraph 2, to provide the respective competent authority in the member state with the information under Paragraph 1 by means of a reasoned resolution if the insurer's own funds do not suffice to ensure coverage of the capital solvency requirement or the minimum capital requirement or if the insurer implements a reorganisation programme and the interests of the insured are jeopardised for this or for another reason.

(4) An insurer may commence performing operations on the territory of the respective member state from the date on which it

has been notified of the provision of information under Paragraph 1 by the Commission to the relevant competent authority of the member state.

(5) An insurer shall notify the Commission in writing of each amendment to the data and the documentation under Paragraph 1 at least one month prior to implementation of the amendment. The Commission shall notify the relevant competent authority in the member state of the amendments under Sentence One.

Provision of information

Article 47. (1) An insurer with a seat of business in the Republic of Bulgaria which performs operations in another member state shall submit, according to the procedure of Article 126, to the Commission quarterly and annual reports separately on the insurance policies concluded under the conditions of the right of establishment or of the freedom to provide services and on the insurance premiums amount, including the portion of the reinsurer, as well as on the amount of the claims and commissions specified by the member state and by types of activities (lines of business) according to Regulation (EU) 2015/35. The insurer shall also submit information on the frequency and average amount of the claims under the insurance under Item 10.1, Section II, Letter "A" of Annex No. 1.

(2) The Deputy Chairman shall provide the information received under Paragraph 1 in summary form to the competent authorities of the respective member states upon their request.

Section II
Performance of operations on the territory of the Republic of Bulgaria by an insurer from another member state

Right of Establishment and Right to Provide Services

Article 48. An insurer from another member state, which has obtained a licence to perform insurance operations from the respective competent authority of the member state of origin of the insurer, may perform the activity for which it has been granted a licence on the territory of the Republic of Bulgaria under the terms and conditions of the right of establishment and freedom to provide services.

Performance of operations under the conditions of the right of establishment

Article 49. (1) Within two months of the receipt of the information within the meaning of Article 45 (2) forwarded by the relevant competent authority regarding an insurer from another member state who intends to establish a branch on the territory of the Republic of Bulgaria, the Deputy Chairperson shall notify the relevant competent authority of the insurer's member state of origin and, where necessary, shall provide it with information on the conditions under which insurance operations in the Republic of Bulgaria are performed, with a view to protecting the public interest.

(2) An insurer may establish a branch and commence performing operations on the territory of the Republic of Bulgaria after the competent authority of the insurer's member state of origin has received a notification from the Deputy Chairperson in accordance with Paragraph 1 or on expiry of the time limit specified under Paragraph 1 if the notification has not been received within this term.

(3) An insurer shall notify the Commission in writing of each amendment to the circumstances under Article 45 (2) under which it performs its activity, within a time period no shorter than one month prior to implementation of the amendment. Paragraph 2 shall be applied to this case accordingly.

Performance of operations under the conditions of freedom to provide services

Article 50. (1) An insurer from another member state, which intends to perform insurance operations on the territory of the Republic of Bulgaria under the conditions of the freedom to provide services, without opening a branch, may commence to perform operations from the date on which it has been notified by the respective competent authority of the insurer's member state of origin that information within the meaning of Article 46, Paragraph 1 and 2 has been provided to the Commission.

(2) An insurer under Paragraph 1, who has expressed intention to perform insurance operations under Item 10.1, Section II, Letter "A" of Annex No. 1, shall notify the Commission in writing of the name and address of the representative appointed under the procedure of Article 51 (2) and shall declare the circumstances under Article 51 (1), where such information has not been provided to the Commission by the competent authority of the member state by origin of the insurer under the procedure of Paragraph 1.

(3) Paragraph 1 shall apply accordingly upon any amendment of the types of insurances which an insurer from a member state intends to provide in the Republic of Bulgaria under the conditions of the freedom to provide services.

Requirements to the insurers with a seat of business in another member state

Article 51. (1) An insurer who performs operations in the Republic of Bulgaria under the conditions of the right of establishment or of the freedom to provide services and who covers risks on an insurance policy under Item 10.1, Section II, Letter "A" of Annex No. 1 shall be obliged to hold membership in the National Bureau of Bulgarian Motor Insurers and to participate in the funding of the Guarantee Fund according to the procedure of this Code.

(2) An insurer who performs operations in the Republic of Bulgaria under the conditions of the right of establishment or the freedom to provide services shall appoint a person with a permanent address or a seat of business in the Republic of Bulgaria to represent the insurer in its relations with insured persons or damaged parties under the compulsory third party liability insurance for motorists who are resident or have a seat of business in the Republic of Bulgaria. The above representative shall have sufficient powers to collect all information necessary to settle the claims of such persons, as well as to effect payments and to represent the insurer in court or administrative proceedings in connection with settlement of the claims. The representative shall be obliged to certify before the Commission and other competent authorities the existence and validity of compulsory third party liability insurance policies for motorists.

(3) The representative under Paragraph 2 shall not be considered an establishment of the insurer from the member state. Where such an insurer has also established a branch on the territory of the Republic of Bulgaria, that branch may perform the functions of representation in connection with the compulsory third party liability insurance for motorists taken out under the conditions of the freedom to provide services.

(4) On approval by the Commission, an insurer who offers compulsory third party liability insurance for motorists in the country under the conditions of the freedom to provide services may assign the operations under Paragraph 2 to the representative for the settlements of claims in the Republic of Bulgaria under Article 503.

Section III
Performance of operations in another member state by a local insurer Performance of operations in the Republic of Bulgaria by a Reinsurer from another member state

Right of establishment and freedom to provide services of a local reinsurer

Article 52. A local reinsurer holding a licence under the conditions and procedure of this Code may perform the activity for which the licence has been issued to it on the territory of another member state under the conditions of the right of establishment or of the freedom to provide services after notifying the Commission thereof and subject to compliance with the law of such member state.

Right of establishment and freedom to provide services of a reinsurer from another member state

Article 53. A reinsurer from another member state holding a licence for reinsurance by its seat of business may perform the activity for which the licence has been issued to it on the territory of the Republic of Bulgaria under the conditions of the right of establishment or of the freedom to provide services and subject to compliance with the law of the Republic of Bulgaria.

Chapter Five
PERFORMANCE OF OPERATIONS IN A THIRD STATE BY A LOCAL INSURER OR A REINSURER PERFORMANCE OF OPERATIONS IN THE REPUBLIC OF BULGARIA BY AN INSURER OR A REINSURER FROM A THIRD STATE

Section I
Performance of operations in a third state by a local insurer

Issue of an authorisation

Article 54. (1) In order for a local insurer to perform insurance operations on the territory of a third state, the said local insurer shall submit an application for a permit before the Commission, wherein the following shall be specified:

1. the state in which the insurer intends to perform operations and the method of performing the operations (through a branch or direct provision of services);

2. the types of insurance which the insurer shall provide in the third state.

(2) The application form under Paragraph 1 shall be accompanied by:

1. a programme of operations containing the amendments and supplementations related to the operations in the third state;

2. documents verifying the compliance with the requirement of Article 80 and 83 - for the manager of the branch, as well as the address of the branch, where the operations will be performed through a branch.

(3) When there is no signed agreement for cooperation and information exchange between the competent authority in the state where the seat of business of the branch is registered and the Commission, the latter may demand that an applicant certify the requirements stipulated by the legislation of the third state in connection with the performance of insurance operations through a branch.

(4) On the Deputy Chairperson's proposal, the Commission shall issue a pronouncement within two months of receipt of the application form. Article 34, Paragraphs 2, 4 and 5 shall apply mutatis mutandis where irregularities have been established or additional information is needed, where the time limit for removing said irregularities or providing additional information shall not be shorter than 15 days.

(5) The Commission shall refuse to issue a licence when:

1. the performance of operations in the third state would jeopardise the insurer's financial standing;

2. the programme of operations submitted envisages performance of insurance operations in a third state which is beyond the scope of the insurer's licence;

3. the organisational structure of the branch proposed does not ensure its reliable and stable management;

4. there are legal or administrative obstacles to performance of supervision over the activity of a branch by the Commission or the Deputy Chairperson;

5. an insurer is undergoing a procedure to implement a plan under Article 215, Paragraphs 1 or 2;

6. other requirements specified in this Code or under the regulations on its implementation have not been complied with.

Notification to the Commission

Article 55. Within 7 days of receipt of the licence to perform insurance activity issued by the competent authority in the third state in question, an insurer shall submit a copy thereof to the Commission.

Section II
Performance of operations in the Republic of Bulgaria by an insurer from a third state

Conditions for performance of operations

Article 56. (1) A insurer from a third state shall have the right to perform insurance operations on the territory of the Republic of Bulgaria through a branch registered under the Commerce Act after obtaining a licence from the Commission under the terms and procedure of this Code and the acts for its application. The licence may cover only the types of insurance which the insurer is authorised to provide in the state where its seat of business is registered. Simultaneous performance of operations under Section I and Section II of Annex No. 1 through a branch shall not be permitted.

(2) The Commission may issue a licence under Paragraph 1 provided that:

1. the person has the right to perform insurance activity under the national legislation of the respective third state;

2. the branch of the insurer holds assets in the Republic of Bulgaria amounting to no less than half of the respective absolute minimum amount of the minimum capital requirement under Article 192 (2);

3. a deposit has been paid in the amount of one fourth of the respective absolute minimum amount of the minimum capital requirement under Article 192 (2) into a bank which carries on bank activity in the Republic of Bulgaria;

4. a branch manager of the branch has been elected, meets the requirements specified under Article 80, Paragraphs 1, 3 and 4 and Article 83, and has representative powers to assume obligations for the insurer to third parties and to represent the insurer before the state authorities and courts in the Republic of Bulgaria;

5. a programme of operations has been submitted, which, in addition to the appropriate information under Article 33, contain also information on the status of the eligible own funds and of the eligible core own funds in connection with the capital solvency requirement and the minimum capital requirements, as well as information on the management structure and system;

6. the branch complies with the requirements in connection with the management system under Chapter Seven.

(3) Unless otherwise stipulated herein, an insurer from a third state shall have the rights and obligations of an insurer with a seat of business in the Republic of Bulgaria and, with regard to its operation within the country, it shall be subject to the state insurance supervision exercised by the Commission and by the Deputy Chairperson over insurers with a seat of business in the country. When an insurer from a third state has chosen the competent authorities of the Republic of Bulgaria under the procedure specified under Article 62, Paragraph 3, the Commission and the Deputy Chairperson shall exercise solvency supervision in relation to the operation of all its branches established within the European Union and the European Economic Area, and shall apply the coercive administrative measures stipulated herein.

Licence issue

Article 57. (1) For the purpose of issuing a licence to provide insurance in the territory of the Republic of Bulgaria through a branch, an insurer from a third state shall submit an application form accompanied by the following:

1. a certified copy of the insurer's registration document and a document issued by the registration authority containing current particulars of the seat and business address, the subject of operations, the amount of subscribed capital, the management system and the persons which represent and/or manage the insurer;

2. a certified copy of the licence for performance of insurance operations issued by the competent authority where the seat of business of the insurer is registered, also including a description of the insurance types for which the insurer holds a licence;

3. a certified copy of the resolution of the competent management body of the insurer to open a branch on the territory of the Republic of Bulgaria and to nominate a branch manager;

4. a certificate issued by the authority exercising insurance supervision in the state in which the seat of business of insurer is registered, stating that a Bulgarian insurer may open a branch and carry out its activity in that state under the general procedure established for foreign insurers;

5. a document issued by a bank performing banking operations in the Republic of Bulgaria, certifying payment of the deposit in accordance with Article 56, Paragraph 2, Item 3, and documents proving the amount of assets in accordance with Article 56, Paragraph 2, Item 2;

6. particulars of the Branch Manager;

7. programme of operations;

8. evidence that the branch will comply with the requirements in connection with the management system under Chapter Seven, including the documents under Article 77, Paragraph 1, Items 1, 3 and 4;

9. a written declaration by the insurer’s management body stating that annual financial statements shall be drawn up and submitted regarding the operations which the insurer shall perform in the country through the branch and that the insurer shall store the said annual financial statement at the seat of business of the branch;

10. a written declaration by the insurer’s management body stating that the branch will cover the capital solvency requirement and the minimum capital requirement according to the procedure established for the local insurers;

11. the insurer's annual financial statements for the last three years or for the period of the insurer's existence in case where it has existed for a shorter period;

12. particulars of the persons who hold, directly or through related parties, 10 or more than 10 per cent of the votes in the general meeting or the capital of an insurer, or other participation enabling them to control the insurer;

13. when an insurance licence is applied for encompassing insurance under Item 10.1, Section II, Letter "A" of Annex No. 1:

a) the name and address of the insurance representative for the settlements of claims under the said insurance in each of the member states;

b) a bank guarantee document pursuant to the Statutes of the National Bureau of the Bulgarian Motor Insurers;

c) a reinsurance contract in compliance with criteria determined by a resolution of the Commission;

14. the technical basis for calculation of premium rates and insurance reserves.

(2) The Commission shall issue its pronouncement within 4 months of receipt of the application form. Article 34, Paragraphs 2, 4 and 5 shall apply mutatis mutandis where irregularities have been established or additional information is needed, where the time limit for removing said irregularities or providing additional information shall not be shorter than 15 days.

(3) The application under Paragraphs 1 shall be considered after payment of the documents consideration fee.

Refusal to issue a licence

Article 58. (1) The Commission shall refuse to issue a licence on the grounds specified under Article 35 (1) and in cases where the legislative framework in the country where the seat of business of an insurer from a third state is registered or the supervision exercised over it by the respective competent authority prevents the exercise of state insurance supervision in accordance with this Code and the Financial Supervision Commission Act or in some other way jeopardises the interests of insurance service consumers.

(2) The Commission may also refuse to issue a licence if it establishes that the competent authority in the state in which the insurer's seat is registered does not apply the principle of reciprocity in providing Bulgarian insurers with access to the respective foreign insurance market, as well as when an insurer from a third state poses a threat to the national security of the Republic of Bulgaria.

(3) A refusal by the Commission to issue a licence shall be justified in writing.

(4) A new licence application form may be submitted not earlier than six months from the entry into force of the licence refusal decision.

Entry into the commercial register

Article 59. (1) A branch of the insurer from a third state providing insurance and/or reinsurance services shall be entered in the Commercial Register after presentation of the licence issued by the Commission.

(2) An insurer from a third state shall notify the Commission of each amendment introduced into the documentation or under the circumstances specified in Article 57 (1) within 7 days of adoption of the resolution, of the respective amendment coming to the attention of the insurer, or of the entry of the circumstance if subject to entry in the commercial registry, but no later than 14 days following the entry.

Operational requirements

Article 60. (1) The insurer from a third state performing operations on the territory of the Republic of Bulgaria through a branch shall keep its commercial books in the Bulgarian language according to the applicable Bulgarian legislation and shall store at the branch’s address the entire available documentation related to the operations performed by the said insurer on the territory of the Republic of Bulgaria.

(2) Within 7 days of dissolution of an insurer from a third state, the Branch Manager shall submit the resolution of the competent body to the Commission.

(3) The branch of the insurer from a third state shall be obligated:

1. to value its assets and liabilities according to the procedure of Article 152;

2. to maintain sufficient technical reserves for cover of the liabilities under insurance and reinsurance contracts assumed on the territory of the Republic of Bulgaria according to the procedure of Chapter Eight, Section II;

3. to determine its own funds according to the procedure of Chapter Twelve.

Capital solvency requirement and minimum capital requirement

Article 61. (1) The branch of an insurer from a third state shall be obligated to have at its disposal eligible own funds for cover of the capital solvency requirement in accordance with the requirements of Chapter Twelve.

(2) The capital solvency requirement and the minimum capital requirement of the branch of an insurer from a third state shall be calculated according to the procedure of Chapter Thirteen and Chapter Fourteen respectively, while taking into account only the operations performed by the branch.

(3) The eligible core own funds of the branch of the insurer from a third state may not be less than one half of the absolute minimum of the minimum capital requirements under Article 192 (2), where the deposit under Article 56, Paragraph 2, Item 3 shall also be included in them.

(4) The assets for cover of the capital solvency requirement of the branch of an insurer from a third state up to the amount of the minimum capital requirement shall be held in the country and the remaining part - within the boundaries of the European Union.

Privileges for insurers from third countries

Article 62. (1) An insurer from a third state, wishing to obtain or having obtained a licence to perform insurance operations in the Republic of Bulgaria through a branch and in one or more member states, may request the following privileges from the Commission, which may be provided in their entirety only:

1. that its capital solvency requirement be calculated as regards the entire volume of operations performed by this insurer from a third state in the European Union, where only the operations performed by all the branches of the insurer from the third state in the member states shall be taken into account in such a case;

2. that the deposit under Article 56, Paragraph 2, Item 3 be paid in only one of the member states in which the insurer performs operations;

3. that the assets representing the amount of the minimum capital requirement be located in one of the member states in which the insurer performs operations.

(2) In order to enjoy the privileges under Paragraph 1, the insurer from a third state shall submit an application form to the Commission and to the competent authorities of the other Member States in which it wishes to perform operations or where it has obtained a licence to perform operations.

(3) In the above application form, the insurer from a third state shall explicitly specify the competent authority of one of the member states in which it wishes to perform operations or has obtained a licence to perform operations, which shall supervise its solvency with regard to the operation of all its branches established within the European Union and the European Economic Area, as well as the arguments for the selection of that authority. The deposit under Paragraph 1, Item 2 shall be paid up in the state specified under Sentence One.

(4) The privileges under Paragraph 1 shall be granted only on the consent of the competent authorities of all member states to which an application form under Paragraph 2 has been submitted. The Commission shall give its consent by means of a resolution on assessment of the financial standing of the insurer from a third state, including its solvency.

(5) An insurer from a third state may enjoy the privileges under Paragraph 1 after the competent authority under Paragraph 3 has informed the other competent authorities that it shall exercise supervision over the solvency of the insurer with regard to the activities of all its branches established within the European Union and the European Economic Area.

(6) The Commission shall provide the relevant competent authority under Paragraph 3 with the complete information necessary to the latter to exercise supervision, which the Commission has at its disposal.

(7) The privileges granted shall be simultaneously repealed in each of the member states in which an insurer from a third state performs operations, on the basis of a proposal submitted by the competent authority of any of these member states.

Licence withdrawal

Article 63. (1) The Commission shall withdraw the licence of the branch of an insurer from a third state for its operations through a branch on the territory of the Republic of Bulgaria under the terms and according to the procedure of Article 40. Paragraphs 41 and 42 shall be applied to this case accordingly.

(2) The Commission shall also withdraw the licence of a branch of an insurer from a third state if the insurer's licence to perform insurance operations has been repealed by the competent authority in the state in which its seat of business is registered or by

the competent authority under Article 62, Paragraph 3 on the grounds of failure to meet the solvency requirements. Where the authority under Article 62, Paragraph 3 has notified the Commission of the withdrawal of the licence of the insurer from a third state on other grounds, the Commission shall undertake the necessary measures.

(3) In the case of withdrawal of the licence by the Commission in its capacity of an authority under Article 62 (3), the Commission shall immediately notify the competent authorities of the member states in which the insurer performs operations and which have granted their consent under the procedure of Article 62 (4), while stating the arguments for the decision adopted.

Section III
Performance of operations in a third state by a local reinsurer Performance of operations in the Republic of Bulgaria by a reinsurer from a third state

Operations in a third state by a local reinsurer

Article 64. With regard to the operations of a reinsurer with a seat of business in the Republic of Bulgaria in a third state, the law of the third state shall apply, unless provided otherwise hereby.

Operations of a reinsurer from a third state in the Republic of Bulgaria through a branch under the Commerce Act

Article 65. (1) A reinsurer from a third state shall have the right to perform operations on the territory of the Republic of Bulgaria through a branch registered under the Commerce Act after obtaining a licence from the Commission under the terms and procedure of this Code and the acts for its application. The licence shall be issued for reinsurance only by type of operations for which the reinsurer has been authorised in the state of its seat of business.

(2) The Commission shall issue the licence under Paragraph 1 provided that:

1. the person is entitled to perform reinsurance activity under its national legislation;

2. the branch of the reinsurer holds assets in the Republic of Bulgaria amounting to no less than half of the absolute minimum amount of the minimum capital requirement under Article 192 (2);

3. a deposit has been paid in the amount of one fourth of the absolute minimum amount of the minimum capital requirement under Article 192 (2) into a bank which carries on bank activity in the Republic of Bulgaria;

4. a managing director of the branch is appointed, who meets the requirements of Article 80, Paragraphs 1, 3 and 4 and Article 83, having a scope of representative power that allows him/her to assume obligations on behalf of the reinsurer to third parties and represent it before public authorities and courts in the Republic of Bulgaria;

5. a programme of operations has been submitted, which contain the respective information under Article 33, information on the status of the eligible own funds and of the eligible core own funds in connection with the capital solvency requirement and the minimum capital requirements, as well as information on the management structure and system.

(3) Unless otherwise provided hereby, a reinsurer from a third state shall have the rights and obligations of a reinsurer with a seat of business in the Republic of Bulgaria and its activity in the Republic of Bulgaria shall be subject to the national insurance supervision exercised by the Commission and the Deputy Chairperson over reinsurers with a seat of business in the Republic of Bulgaria.

(4) With regard to the issue and refusal to issue a licence under Paragraph 1, Article 57, Paragraph 1, Items 1 - 11 and 14, Paragraphs 2 and 3 and Article 58 shall apply. Articles 59 - 61 shall be applied accordingly in regard to the reinsurer.

(5) The Commission shall withdraw the licence of a branch of a reinsurer from a third state under the terms and procedure of

Article 40, as well as where the authorisation for performance of reinsurance activity has been withdrawn by the competent authority in the state by the seat of business of the reinsurer. Article 41 and 42 shall be applied in regard to the reinsurer.

Provision of Services in the Republic of Bulgaria by a Reinsurer with a Seat of Business in a Third State

Article 66. (1) A reinsurer from a third state may provide services in the Republic of Bulgaria through its head office or branch provided that it has been issued a licence for reinsurance in the state by its seat of business and is subject to supervision for its overall activity by the competent authority in such state.

(2) Provisions which result in more favourable treatment than the one provided to the reinsurers with a seat of business in a member state shall not be applied in regard to a reinsurer from a third state which performs reinsurance operations on the territory of the Republic of Bulgaria.

(3) By virtue of an ordinance, the Commission may envisage for insurers or reinsurers from third countries who perform reinsurance in the Republic of Bulgaria an obligation for providing a pledge or other guarantees for cover of the unearned premium reserve or of the forthcoming payments reserve.

(4) Paragraph 3 shall not be applied to insurers and reinsurers from third countries with a supervisory framework, which has been recognised as equivalent by the European Commission under the terms and according to the procedure envisaged in Directive 2009/138/EC and in the regulations for its implementation.

Section IV
Provision of information

Information provided to the European Commission

Article 67. The Commission or the Deputy Chairperson shall notify the European Commission, the European Authority and the competent authorities exercising insurance supervision in member states of:

1. a licence issued to an insurer or a reinsurer over which control is exercised directly or through related persons by one or more parent undertakings, where the law of a third state is applicable for at least one of these; the notification shall also specify the structure of the group to which the persons under Sentence One belong;

2. participation acquired by a parent undertaking under Item 1 in an insurer or a reinsurer with a seat of business in the Republic of Bulgaria, which enables the party to exercise control over the insurer;

3. the existence of obstacles to the performance of operations in a third state by an insurer or a reinsurer with a seat of business in the Republic of Bulgaria.

TITLE TWO
REQUIREMENTS TO THE MANAGEMENT AND OPERATIONS OF INSURERS AND REINSURERS

Chapter Six
QUALIFIED PARTICIPATIONS

Acquisitions

Article 68. (1) Each natural person or legal entity or persons acting in a coordinated fashion, who have adopted a decision to acquire directly or indirectly qualified participation in an insurance or a reinsurance joint stock company or to increase directly or indirectly such qualified participation, as a result of which the share in the voting rights or in the capital they hold would reach or exceed 20, 30 or 50 percent or as a result of which the insurance or reinsurance joint stock company would become their subsidiary, shall be obligated to notify in writing of the said decision the Deputy Chairperson prior to the acquisition, stating the amount of the envisaged participation. When, as a result of circumstances that have occurred objectively beyond the will of the persons, their participation becomes qualified or reaches or exceeds the thresholds of Sentence One, the notification shall be made after the acquisition or after the increase of the participation respectively, within a time limit of 15 business days from becoming aware thereof.

(2) Each natural person or legal entity, which has adopted a decision to engage in disposition transactions, directly or indirectly, with its qualified participation in an insurance or a reinsurance joint stock company, shall be obligated to notify in writing of the said decision the Deputy Chairperson before the disposition transaction, stating the amount of its participation after the planned disposition transaction. The person shall notify the Deputy Chairperson also when it has adopted a decision to reduce its qualified participation, as a result of which the share in the voting rights or in the capital held would fall below 20, 30 or 50 percent or as of result of which the insurance or reinsurance joint stock company would cease to be its subsidiary.

(3) "Qualified participation" shall be direct or indirect participation in an insurer or in a reinsurer, which constitutes 10 or more than 10 percent of the capital and of the voting rights or which would make it possible to exercise considerable influence on the management of this insurer or reinsurer respectively.

(4) Each person under Paragraph 1 must be indisputably identified up to its actual owner (actual beneficiary).

(5) An actual owner (actual beneficiary) within the meaning of Paragraph 4 shall mean one or more natural persons who ultimately own or control the applicant for acquisition of a qualified participation. The actual owners (actual beneficiaries) shall encompass at least:

1. in the case of corporate entities:

a) a natural person or persons, who ultimately own or control a specific legal entity by means of directly or indirectly owning or controlling a sufficient percentage of the shares or the voting rights in this legal entity, including by means of holding bearer's shares in a company other than a company whose shares are quoted on a regulated market and which is subject to the terms and conditions for disclosure in accordance with the law of the European Union or equivalent international standards; 25 percent plus one share shall be deemed sufficient to meet this criterion;

b) the natural person or persons which/who in some other manner exercise control over the management of a specific legal entity;

2. in the case of legal entities such as foundations or legal arrangements such as fiduciary management companies, which manage or distribute funds:

a) where the future actual owners (actual beneficiaries) have already been determined - the natural person or persons, who are actual owners (actual beneficiaries) of 25 percent or more of the property of the legal arrangement or legal entity;

b) where the natural persons, who benefit from the legal arrangements or legal entity, are as yet to be determined - the category of persons in the main interest whereof the legal arrangement or legal entity has been created or is managed;

c) the natural person or persons who exercise control over more than 25 percent of the property of the legal arrangements or legal entity.

(6) When the scale of the qualified participating interest is determined, the voting rights according to Article 146 (1) of the Public Offering of Securities Act shall also be taken into account. When the scale of the qualified participating interest is determined, the voting rights or shares which investment intermediaries or credit institutions hold as a result of providing the services referred to in Article 5, Paragraph 2, Item 6 of the Markets in Financial Instruments Act shall not be taken into account, provided that such rights are not exercised or otherwise used for the purpose of exerting influence on the insurer's or

reinsurer's management, provided also that such rights are transferred within one year after acquisition.

(7) On a proposal by the Deputy Chairperson, the Commission shall make an assessment of the intended acquisition, or respectively increase of a qualified participating interest, with a view to ensuring the stable and prudent management of the insurer or reinsurer in respect of which the acquisition is to take place. When making the assessment, the Commission shall take into account the possible influence of the applicant on the insurer or reinsurer respectively, based on which it shall make an assessment whether the applicant is suitable and financially stable enough, by applying the following criteria:

1. reputation of the applicant;

2. reputation and professional experience of each person who shall manage the operations of the insurer or of the reinsurer as a result of the acquisition proposed;

3. financial stability of the applicant in connection with the operations performed or envisaged to be performed by the insurer or by the reinsurer, for which the acquisition is proposed; it shall be assumed that the applicant is financially stable, if on the basis of the documents submitted and on the basis of an analysis thereof, a reasonable assumption can be made that, within a time period of not less than 3 (three) years from the date of the acquisition, there is no danger that the applicant will experience financial difficulties and will have a financial standing which would secure the planned development of the insurer or of the reinsurer, including by rendering financial support thereto when necessary;

4. whether the insurer or the reinsurer respectively will be in a position to satisfy or continue to satisfy statutory requirements, and in particular, whether the group whereof the applicant is to become a part after the acquisition, is structured in a way allowing for effective supervision and effective information exchange between competent supervisory authorities and definition and distribution of responsibilities between them;

5. whether it could reasonably be assumed that money laundering within the meaning of the Measures Against Money Laundering Act or financing of terrorism within the meaning of the Measures Against the Financing of Terrorism Act is or was perpetrated or intended to be perpetrated in relation to the acquisition, or that the implementation of the acquisition applied for would increase such risk.

(8) On a proposal by the Deputy Chairperson, the Commission may prohibit the proposed acquisition only provided that the grounds for such prohibition according to the criteria specified in Paragraph 7 are present or provided that the information provided by the applicant is incomplete.

(9) The Commission and the Deputy Chairperson may not impose advance conditions in connection with the amount of the participating interest that must be acquired, nor consider the acquisition from the standpoint of the economic needs of the market.

(10) The Commission and the Deputy Chairperson may not require information which is not of any significance for making the assessment as to the compliance with the statutory requirements. In connection with the specific acquisition or increase of the qualified participating interest, the Deputy Chairperson may require additional information and evidence when these are necessary for making the assessment as to the compliance with the statutory requirements.

(11) In case two or more notifications of acquisition or increase of qualified participating interest in the same insurer or reinsurer have been submitted, the Deputy Chairperson shall assess each acquisition on a non-discriminatory basis.

(12) The prudential requirements shall be the requirements under Part Two, Chapters Seven to Ten, Title Three, Four and Seven, as well as those under the Supplementary Supervision of Financial Conglomerates Act, where this act is applied or shall be applied in regard to the insurer or to the reinsurer, wherein the acquisition of an equity stake will be effected.

(13) The Commission shall adopt decisions, instructions or a practice for application of guidelines or recommendations for assessment of an acquisition or an increase of qualified participating interest as adopted by the European Authority.

Information in the case of acquisition or increase of qualified participatory interest

Article 69. (1) The notification under Article 68 (1) shall be in writing and shall contain the information and the documents under Paragraphs 2 - 6. The following shall be specified in the notification:

1. the insurer or the reinsurer respectively, in which the applicant intends to acquire a participatory interest;

2. the amount of the envisaged participatory interest, including the number and the type of the shares owned by the applicant before and after the acquisition, share in the equity capital before and after the acquisition as a percentage and in cash, as well as share in the voting rights, when this is different from the share in the equity capital before and after the acquisition;

3. objective of the acquisition of the participatory interest;

4. comprehensive information on actions in coordination with other persons in connection with the acquisition, when there are such coordinated actions, or a statement as to the absence of such coordinated actions.

(2) When the applicant is a natural person, the notification shall be accompanied by the following:

1. data on the applicant - personal identification number, citizenship, country of usual residence, number, date and place of issue of the identity document (personal identity card), mailing address;

2. for Bulgarian citizens - a certificate showing no previous convictions and an affidavit showing no previous convictions outside the Republic of Bulgaria, and for persons who are not Bulgarian citizens - a certificate showing no previous convictions or an affidavit showing no previous convictions in cases where no official document is issued to attest to the lack of previous convictions in the state in which they are ordinarily resident; the documents under the previous sentence shall be recognised, if submitted within 6 months of their issuing;

3. curriculum vitae (CV) with detailed description of the education, qualification and professional experience of the applicant, as well as of all professional activities, positions and functions of the person, held until the date of submission of the notification;

4. an affidavit:

a) of the presence or absence of pending court criminal proceedings, in which the persons in drawn as a defendant, as well as of the outcome of such proceedings that have been completed;

b) of the presence or absence of pending civil lawsuits for unrepaid loans or unlawful damaging of the undertaking managed by the applicant, under which the applicant or a legal entity over which the applicant exercised control or a legal entity in the management or control body of which the applicant was a member or a procurator of was a defendant, as well as of the outcome of such lawsuits that have been completed;

c) of the presence or absence of pending or completed proceedings for imposing administrative penalties and/or for applying coercive administrative measures against the applicant for violations of the statutory acts in the financial sector;

d) as to whether the applicant had been a member of a management or control body of a company, which has been wound up by a ruling of the court because of performing an activity which is in contravention of the law or by which unlawful purposes are pursued;

e) as to whether the applicant had been a member of a management or control body or a general partner in a company, when the said company was terminated because of bankruptcy and unsatisfied creditors have remained;

f) as to whether a person, over which the applicant exercised control, was declared bankrupt or insolvent or in compulsory liquidation;

g) as to whether a legal entity, over which the applicant exercised control, or a legal entity, in the management or control body of which the applicant was a member or a procurator:

aa) has been penalised by an administrative penalty and/or by coercive administrative measures for violations of statutory acts in the financial sector;

bb) has been refused to be issued a licence or to be entered into a register, kept by the Commission, the Bulgarian National Bank or an analogous authorities from other countries, has been refused membership in a commercial or professional organisation or has had its licence withdrawn or has had its entry into a register deleted, where this shall also apply to the companies, in the management or control bodies of which these legal entities have participated;

h) as to whether the applicant was dismissed from office as a member of the management or control body of an insurer, reinsurer, credit institution or other financial institutions, the activities of which are subject to a licence procedure, as a result of a

coercive administrative measure imposed.

j) as to whether the applicant had been deprived of the right to hold a position with accountability for assets;

k) as to whether a previous identical assessment of the reputation of the applicant was performed by a competent supervisory authority in the financial sector or as to whether such an assessment was performed of a person controlled by the applicant, as well as to the identity of this supervisory authority and as to the result of the assessment;

l) as to whether an assessment of the applicant was performed by a competent supervisory authority outside of the financial sector or as to whether such an assessment was performed of a person controlled by the applicant, as well as the identity of this supervisory authority and as to the result of the assessment;

5. an affidavit by the applicant regarding:

a) its financial status, including information regarding the property possessed by the applicant, the liabilities assumed by the applicant, the pieces of collateral and the guarantees issued, as well as information regarding the sources and amount of its incomes for the last three years;

b) the existence of financial or other interests or links of the applicant with:

aa) the insurer or the reinsurer respectively, or with the group that they are part of;

bb) shareholders in the insurer or in the reinsurer respectively, or with other persons entitled to exercise voting rights in the general meeting of the insurer or of the reinsurer respectively;

cc) members of the management or control body or with other persons holding managerial positions in the insurer or in the reinsurer respectively;

dd) the existence of other vested interest which may lead to a conflict of interests with the insurer or with the reinsurer respectively, as well as a plan for overcoming the said conflict of interests;

6. a document regarding awarded rating and public reports of the commercial companies controlled by the applicant, if any.

(3) When the applicant is a legal entity, the following shall be submitted:

1. data on: the company name/designation, seat and registered address, mailing address, as well as identification number of the applicant, if any;

2. a certified transcript of a statute and/or a contract of incorporation, when the contract of incorporation is part of the registered documents of the entity;

3. a current certificate of entry into the respective commercial register of the entities registered outside of the Republic of Bulgaria;

4. a current and detailed description of the applicant’s activities;

5. a list containing the names of the persons who manage or represent the applicant and a curriculum vitae with exhaustive specification of the education, qualification and professional experience of each of the persons, as well as of all the professional activities, positions and functions of each of the persons as performed until the date of submission of the notification;

6. an affidavit by the applicant’s legal representative about the structure and allocation of the applicant’s capital, containing information under Item 1 up to the actual owner (actual beneficiary);

7. affidavits by the applicant regarding the circumstances under Paragraph 2, Item 4, Letters "b", "d" - "f", Letter "g", Letters "h", "k" and "l", as well as an affidavit under Paragraph 2, Item 5, Letter "b" regarding the existence of financial or other interests or links of the applicant and of the persons who manage and represent it;

8. a description of the structure of the group, if the applicant participates in a group as a subsidiary or a parent company, as well as a description of the activities performed by the group;

9. information about the entities within the group, over which financial or other supervision is exercised and specification of the

supervision authority by the seats of business of the respective entities;

10. annual financial statements of the applicant for the last three years after an audit performed, if such an audit is obligatory, including balance sheet, income statement, annual activity report and the other disclosures made as part of the annual financial statements for the respective period;

11. a document regarding a credit rating awarded to the applicant or to the group to which the applicant belongs, if such credit rating has been awarded.

(4) Together with the notification under Paragraph 1, the following attachments with supplementary information regarding the financing of the acquisition of the qualified participatory interest shall be submitted:

1. a declaration regarding the origin of the funds by means of which the qualified participatory interest is acquired;

2. information regarding the method of acquisition of the shares and the method of payment;

3. information about the method of financing of the acquisition of the shares, including about the access to capital sources and financial markets;

4. information about the use of borrowings from the banking system or about the issuing of financial instruments for the purpose of financing the acquisition, as well as about any financial relations with other shareholders of the insurer or of the reinsurer, including information about maturity dates, terms, pieces of collateral and guarantee provided;

5. information about assets of the applicant, of the insurer or of the reinsurer respectively, in which participatory interest is acquired and which are planned to be sold in the short term for the purpose of financing the acquisition, as well as information about the terms and price of the transaction.

(5) Together with the notification under Paragraph 1, the following attachments with supplementary information shall be submitted depending on the level of the qualified participatory interest acquired:

1. in case the acquisition of the qualified participating interest will be followed by a change of control over the insurer or the reinsurer respectively, an operational plan, which shall include:

a) a strategic development plan containing the main purposes of the acquisition and the main methods of their fulfilment, and in particular:

aa) reasons for the acquisition;

bb) medium-term financial targets, including targeted return on equity;

cc) main synergies which are expected to the realised;

dd) expected redirection of activities, clients and products, as well as expected reallocation of resources within the insurer or the reinsurer respectively;

dd) the material circumstances concerning the inclusion and integration of the insurer or of the reinsurer into the applicant's group structure, including the interaction to take place with other companies in the group, together with a description of the policy regulating intragroup relations;

b) projected financial statements of the insurer or of the reinsurer, on an independent and on a consolidated basis for three years to come, such statements including:

aa) a provisional balance sheet and income statement;

bb) projected prudential ratios, at least as regards the covering by own funds of the minimum capital requirement and the capital solvency requirements and of the minimum guarantee capital and the solvency margin, damage ratios and expense ratios;

cc) information on the risk exposures by types of risks, at least as regards the operating, credit, market and underwriting risks;

dd) a forecast of expected intragroup transactions;

c) summary description of the impact of the acquisition on the management of the insurer or of the reinsurer respectively, as

well as on its organisational structure;

2. when, after the acquisition of the qualified participating interest, the latter will not exceed 20 percent of the capital - a document on the applicant's strategy including:

a) term over which the applicant intends to hold its participating interest;

b) intentions of the applicant to increase, decrease or keep the same its participating interest in the foreseeable future;

c) information on the capability and will of the applicant to support the insurer or the reinsurer respectively by additional own funds in case of financial difficulties;

3. when, after the acquisition of the qualified participating interest, the latter will exceed 20 percent but will not exceed 50 percent of the capital - a document on the applicant's strategy under Item 2, including also:

a) information regarding the influence, which the applicant intends to exert over the financial condition of the insurer or of the reinsurer respectively (including over the dividend distribution policy), over its strategic development and as regards the allocation of its resources;

b) description of the intentions and expectations of the applicant as regards the activity of the insurer or of the reinsurer respectively in the medium term.

(6) When the qualified participating interest is acquired or the threshold under Article 68 (1) is surpassed in an indirect fashion, the notification under Paragraph 1 shall be submitted to the Commission upon acquisition of a participating interest in a current direct or indirect shareholder in the following cases:

1. acquisition of a qualified participating interest or increase of the participating interest, whereby 20, 30 or 50 percent participation in the equity capital of a shareholder who exercises control over the insurer or the reinsurer is exceeded,

2. acquisition of control over a shareholder who owns a qualified participating interest but does not exercise control over the reinsurer or the reinsurer respectively.

(7) In the case of intra-group acquisitions within the bounds of the group of an existing shareholder of an insurer or a reinsurer, as a result of which the actual owner (actual beneficiary) of the participating interest in the insurer's equity capital does not change, the documents under Paragraph 3, Item 6 shall be attached to the notification under Paragraph 1.

Acquisition of a qualified participating interest by financial undertakings

Article 70. (1) The Deputy Chairperson shall exchange information with the respective supervisory authorities when making an assessment of the acquisition, if the applicant is one of the following persons:

1. a credit institution, an insurer or a reinsurer, an investment intermediary or a managing company within the meaning of Article 1, Paragraph 2 of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 concerning the Coordination of Primary Legislation, Secondary Legislation and Administrative Provisions Regarding the Undertakings for Collective Investment in Transferrable Securities (OJ, L 302/32 of 17 November 2009), approved in another member state and or a sector other that the one in which the acquisition is proposed to the performed;

2. a parent company of a credit institution, an insurer or a reinsurer, an investment intermediary or a company managing Undertaking for Collective Investment in Transferrable Securities, approved in another member state or in a sector other than the one, in which the acquisition is proposed to be performed;

3. a natural person or a legal entity controlling a credit institution, an insurer or a reinsurer, an investment intermediary or a company managing Undertaking for Collective Investment in Transferrable Securities, approved in another member state or in a sector other than the one, in which the acquisition is proposed to be performed;

(2) The opinions and objections of competent authorities consulted as provided for by Paragraph 1 shall be stated in the Deputy Chairperson's decision referred to in Article 71, Paragraph 4 or 5.

(3) The Deputy Chairperson shall provide without delay any information which is of material significance for the assessment,

when the acquisition of a qualified participating interest is applied for by an entity under Paragraph 1 which is an insurer or a reinsurer with a seat of business in the Republic of Bulgaria, or a parent company, or a natural person or legal entity controlling an insurer or a reinsurer with a seat of business in the Republic of Bulgaria. In the cooperation process referred to in the first sentence, the Deputy Chairperson shall provide the relevant competent authorities upon their request or ex officio with any information needed or of significance to the inspection performed by them.

(4) The information under Article 69, Paragraph 2 and 3 shall not be required from the applicant, in case the supervision authority under Paragraph 1 is from a member state and submits a certificate attesting to the fact that the applicant is compliant with the requirements of Directive 2009/138/EC or of Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 for Amendment of Directive 92/49/EEA of the Council and Directives 2002/83/EC, 2004,39/EC, 2005/68/EC and 2006/48/EC as regards the procedural rules and criteria for making the preliminary assessment of acquisitions and of the increase of participating interest in the financial sector (OJ, L 247/1 of 21 September 2007).

(5) The information under Article 69, Paragraphs 2 and 3 shall not be required from an applicant, which has been subject to the supervision of the Commission and regarding which the documents under Article 69, Paragraphs 1 - 4 were being submitted in another procedure before the Commission.

(6) The information under Article 69, Paragraph 2 and 3 shall not be required from an applicant, which has been assessed in another procedure during the previous two years by the Deputy Chairperson or by the Commission and regarding which the documents under Article 69, Paragraph 2 and 3 were being submitted.

Notification procedure

Article 71. (1) Within a time limit of not more than two business days from the date of receiving the application with all the required documents under Article 69, the Commission, on a proposal by the Deputy Chairperson, shall confirm in writing to the applicant that it has received the application and shall inform the applicant of the date on which the time limit for pronouncement under Paragraph 4 expires. In case not all documents referred to in Article 69 have been enclosed with the application, the time limit for a ruling as referred to in Sentence One shall commence as of the date when all requisite documents are provided. The first sentence shall apply accordingly to each subsequent submission of documents by the applicant.

(2) On a proposal by the Deputy Chairperson, the Commission may request additional information needed for pronouncing a judgment on the application, but not later than within a 50-business days' time limit from the date of the confirmation under Paragraph 1. The request for additional information shall be in writing and shall specify what information is needed. The time limit for passing a judgment as referred to in Paragraph 4 shall be frozen for the period between the date of the request for additional information and the date whereon such information is received, but for no more than 20 business days. When the applicant's seat is outside the European Community, or the applicant is subject to supervision outside the European Community, or when the applicant is a natural person, or is a legal entity which is not an insurer, a credit institution or an investment intermediary, the maximum period for which the time-limit for passing a judgment may be frozen shall be 30 days as of the date of the written request for additional information. Subsequent requests for additional information shall not freeze the time limit for passing a judgment. In the case of each and every receipt of additional information, the 2-day time limit under Paragraph 1 shall apply.

(3) Within a time limit of 60 business days from the date of the confirmation under Paragraph 1, the Commission, on a proposal by the Deputy Chairperson, shall issue a prohibition on the acquisition of the participating interest applied for, if there are serious grounds for doing so under the criteria of Article 68 (7) or if the information submitted by the applicant is incomplete. The Commission's decision to issue a prohibition, together with the statement of the reasons for it, shall be sent to the applicant prior to the deadline for passing a judgment and no more than two days after the date when the decision was issued. The decision shall be published on the Commission's website or otherwise as appropriate.

(4) Within the time limit referred to in Paragraph 3, on a proposal by the Deputy Chairperson, the Commission may approve the change of the shareholding participating interest and determine a maximum time limit within which the acquisition referred to in Article 68, Paragraph 1 shall be completed, after the expiry whereof such approval shall be deemed null and void. The maximum time limit so determined may be extended upon the applicant's request, provided that there are reasonable grounds for that.

(5) If the applicant is not notified within the time limit under Paragraph 3 of the issued prohibition on the acquisition of the

participating interest applied for, the applicant shall have the right to acquire the participating interest applied for.

(6) A person, who acquires qualified participating interest or who surpasses another threshold under Article 68, Paragraph 1, Sentence One, without submitting the notification under Article 68 (1) prior to the expiration of the time limit under Paragraph 3 or in violation of the prohibition of the Commission, may not exercise the voting right under the shares thus acquired. When the person owns also other shares acquired prior to the acquisition of a qualified participating interest or prior to surpassing the other threshold under Sentence One, its voting rights under these particular shares shall remain valid. The voting right of the person under the new shares acquired under Sentence One shall not be taken into account when determining the existence or absence of quorum for the conducting the general meeting of the insurer or of the reinsurer respectively.

(7) The respective central depository, which has obtained a licence from the Commission and who keeps the book of shareholders of the insurer or the reinsurer respectively, shall notify the Commission of each acquisition of participating interest under Article 68 (1) or of a decrease under Article 68 (2), within a 3-day time limit of becoming aware thereof.

Powers of the supervision authority in the cases of qualified participating interests

Article 72. (1) In the cases of acquisition of a qualified participating interest prior to the expiration of the time limit under Article 71 (4) or without submitting the notification under Article 68, or in violation of a prohibition of the Deputy Chairperson and in the cases when there is a likelihood that the influence exerted by the persons specified in Article 68 (1) will harm the stable and prudent management of the insurer or the reinsurer, the Deputy Chairperson or the Commission respectively shall undertake appropriate measures, including, at the discretion of the authority, recommendations and administrative penalties for the members of the management and control bodies of the persons who failed to comply with the obligations for notification under Article 68, as well as a prohibition on the exercising of voting rights on the basis of the shares owned by the shareholders or members concerned.

(2) If the qualified participating interest is acquired in violation of a prohibition of the Deputy Chairperson, the Commission:

1. shall impose a prohibition on the exercising of the respective voting rights in the general meeting of the insurer or of the reinsurer respectively,

2. may request that the decision of the general meeting of the shareholders be declared null and void.

Acquisition of a non-qualified participating interest

Article 73. A person who acquires one or more percent, but not more than 10 percent of the shares of an insurer or of a reinsurer respectively, shall be obligated, within a time limit of not more than 14 days from the acquisition or from the increase of the participating interest, to identify itself up to the actual owner (actual beneficiary) before the Deputy Chairperson, by submitting the documents under Article 69, Paragraph 2, Item 1 or under Paragraph 3, Items 1 and 6 respectively.

Reporting of a qualified participating interest

Article 74. (1) The insurer or the reinsurer respectively shall inform the Deputy Chairperson of all acquisitions of or disposition transactions with participating interests in its capital, as a result of which the participating interests exceed or are reduced below any of the thresholds specified in Article 68 (1), when the insurer or the reinsurer becomes aware thereof.

(2) An insurer or a reinsurer respectively shall submit before the Commission, on an annual basis by the 31st of March, information according to template endorsed by the Deputy Chairperson about the persons who own qualified participating interests, as well as about the amount of these participating interests.

Chapter Seven
MANAGEMENT SYSTEM

Section I
Management, structure and organisation of operations of an insurer and a reinsurer

Responsibility of the management and control bodies of the insurer or of the reinsurer

Article 75. The management and control bodies of the insurer or of the reinsurer shall be responsible for the adoption and implementation in its activities of the necessary organisation and rules guaranteeing the compliance with:

1. this Code;

2. the secondary legislation regulations for its implementation;

3. the law of the European Union which is directly applicable in the field of insurance, reinsurance and supervision thereof;

4. the internal rules and regulations of the insurer or of the reinsurer.

Management system. General requirements

Article 76. (1) The insurer or the reinsurer shall be obligated to have an effective management system available for the purpose of securing the reliable and prudent management of operations.

(2) The management system shall include an adequate and transparent organisational structure with distinct segregation and appropriate division of responsibilities and an effective system ensuring the submission of information. The management system may also include supplementary components at the discretion of the insurer or the reinsurer.

(3) The management system must be based on the requirements under Article 77 - 100 and Articles 110 and 111.

(4) The management system must be conformant with the nature, volume and complexity of the operations of the insurer or the reinsurer.

(5) The insurer or the reinsurer respectively shall be obligated to review on a regular basis its management system and to introduce changes, where necessary for achieving the objectives under Paragraph 1.

Management System Organisation

Article 77. (1) The management or control body respectively, based on its powers according to the statute of the insurer or the reinsurer, shall be responsible for the adoption and implementation of:

1. a management and organisational structure of the insurer or the reinsurer, in which the following must be stipulated as a minimum:

a) the operations of the individual organisational units;

b) the management positions outside of the job positions under Article 80 (1), as well as their functions and powers;

c) the distribution of the functions and powers amongst the executive directors, as well as the appropriate segregation of functions amongst the members of the management body;

2. the programme of operations of the insurer or the reinsurer in accordance with Article 33 for a time period of 3 years to come, which shall be updated on an annual basis by the 31st of March of each year;

3. policies for:

a) risk management, including at least:

aa) the risk management policy for the risk associated with the underwriting operations and the earmarking of technical reserves;

bb) the operational risk management policy;

cc) the risk management policy through reinsurance and other risk mitigating techniques;

dd) policy for management of the assets and liabilities;

ee) investment risk management policy;

ff) liquidity risk management policy;

b) the internal control;

c) operating control, including rules and procedures for performance and reporting the activity of the separate organisational units;

d) the internal audit;

e) transfer of activities within the meaning of Article 110, where such transfer is made;

f) fulfilment of the obligations under Article 127 (7);

g) information system and document flow system;

h) the underwriting operations and the work with the insurance intermediaries;

i) the prevention of conflict of interests;

k) the valuation of assets;

l) the management of the capital;

m) other activities at the discretion of the management body or where envisaged by a law or by another statutory act;

4. the remuneration policy for the staff of the insurer and the reinsurer.

(2) The body under Paragraph 1 shall review at least once a year the documents under Paragraph 1 and shall introduce the necessary amendments or supplementations in response to significant changes in the subject matter regulated by these documents and shall submit before the general meeting of the shareholders and members the annual report on their implementation, including the implementation of the programme under Paragraph 1, Item 2.

(3) The insurer or the reinsurer respectively shall undertake reasonable measures to guarantee continuity and regularity in performing the operations, including by developing contingency plans. For that purpose, the insurer or the reinsurer shall use appropriate systems, resources and procedures consistent with the volume, nature and complexity of its operations.

(4) The Deputy Chairperson:

1. may receive the entire information on the management system of the insurer or the reinsurer and may order that an audit for ascertaining its status be performed.

2. assesses the potential risks identified by the insurers or by the reinsurers, which may impact their financial stability;

3. may order improvement or reinforcement of the management system in order to ensure compliance with the requirements of Article 76 (3).

(5) The Commission shall stipulate by an ordinance more detailed requirements to the management system of the insurers and the reinsurers in accordance with the principles provided for in this Chapter, where this is necessary for compliance with the

guidelines of the European Authority.

Functions in the management system

Article 78. (1) Within the management system, the insurer or the reinsurer shall create:

1. a risk management function;

2. a function monitoring the compliance with the statutory requirements (compliance function);

3. an internal audit function;

4. an actuarial function, and

5. other functions envisaged in this Code, as well as other functions depending on the judgement of the management and control bodies.

(2) A "function" within the meaning of Paragraph 1 shall be the internal capacity for implementation of practical tasks. The insurer or the reinsurer shall independently select the organisational form of the functions under Paragraph 1, unless otherwise envisaged by this Code. The functions under Paragraph 1 may be exercised by employees of the insurer or of the reinsurer or by means of transfer of operations under Article 110.

(3) The organisational structure under Article 77, Paragraph 1, Item 1 must clearly regulate all the functions under Paragraph 1.

(4) Articles 269 - 271 of Regulation (EU) 2015/35 shall also be applied to insurers without a right of access to the common market.

Section II
Requirements for qualification and reliability

Persons who participate in the management of the insurer or of the reinsurer, and persons fulfilling other key functions

Article 79. (1) The insurer or the reinsurer respectively shall guarantee that the persons who actually manage it - the members of its management and supervisory board or of the board of director in the case of joint stock companies or the members of the management and control board of the mutual insurance cooperative society, hereinafter referred to as "management and control bodies", the other persons who are authorised to manage or represent it, as well as the persons who fulfil key function under Article 78 (1), shall at all times meet the following requirements for:

1. qualification - their professional qualification, knowledge and experience shall be adequate to enable stable and prudent management, and

2. reliability - shall have good reputation.

(2) Article 258, Paragraph 1, Item "c" of Regulation (EU) 2015/35 shall also be applied to insurers without a right of access to the common market.

(3) The insurer or the reinsurer respectively shall be represented jointly by at least two natural persons. The insurer or the reinsurer respectively shall notify the Deputy Chairperson of any change in the persons who actually manage it or who fulfil key functions, by submitting the entire information necessary for assessment of the compliance with the requirements for qualification and reliability of the new persons.

(4) The insurer or the reinsurer respectively shall notify the Deputy Chairperson upon the dismissal of a person under Paragraph 1, as well as of the reasons for that, if the person has ceased to comply with the requirements of this Code, within a time limit of

not later than 7 days from the date of the dismissal.

(5) The board of directors or the supervisory board of the insurer or of the reinsurer respectively shall adopt and implement rules and procedures to guarantee that the persons under Paragraph 1 at all times comply with the requirements for qualification and reliability (policy for qualification and reliability).

Requirements for professional qualification and reliability

Article 80. (1) Each member of a management or control body of an insurer or of a reinsurer respectively, as well as each person authorised to manage and/or represent it must:

1. hold a higher education degree of "Master" and possess appropriate professional qualifications necessary to manage the operations of the insurer or of the reinsurer respectively;

2. possess professional experience in the field of economics or finance;

3. not have been convicted of a deliberate criminal act of general nature;

4. not have been a member, within the three years preceding the initial date of insolvency ruled by the court, of a managing or control body or a general partner in a company, with regard to which bankruptcy proceedings have been initiated or which has been dissolved due to bankruptcy, where creditors still remain unsatisfied;

5. not have been declared bankrupt and is not undergoing bankruptcy proceedings;

6. not be a spouse or a relative by direct or collateral line of descent up to the fourth degree of consanguinity inclusive of, or connected by marriage up to the third degree of affinity inclusive to, another member of the person's managing or control body;

7. not have been deprived of the right to hold an office accountable for assets;

8. not have been a member, within the one year immediately preceding the deed of the respective competent authority, of a managing or a control body or a general partner in a company whose licence has been withdrawn and whose activity is subject to licensing, except in cases where the licence has been withdrawn at the request of the company, or if the order for withdrawal of the issued licence has been repealed in due order;

9. not have been dismissed from office in a managing or control body of a commercial company on the basis of a coercive administrative measure imposed, except in cases where the order issued by the competent authority has been repealed in due order.

(2) The requirements under Paragraph 1 shall also apply to natural persons who represent legal entities: members of the managing and control bodies of a joint-stock insurance or reinsurance company.

(3) A member of a managing or control body of an insurer or a reinsurer, as well as a person empowered to manage or represent it, must be a person who enjoys a good reputation and does not jeopardise the person's management and the interests of the insurance service consumers and does not impede insurance supervision. In the approval proceedings under Paragraph 10, the applicant shall also submit declarations under Article 69, Paragraph 2, Item 4, Letters "a" - "d", "f" - "l".

(4) The executive director or the chairman of the cooperative society, or another person empowered to manage and represent the insurer or the reinsurer should not hold another paid position under employment relations, with the exception of a lecturer in an institution of higher education. Physical persons who are citizens of a third state must also hold a permit for long-term residence in the Republic of Bulgaria.

(5) The circumstances under Paragraph 1, Item 1 shall be attested to before the Deputy Chairman by a notary-certified copy of a diploma of higher education, acquired in the Republic of Bulgaria, or by a legalised translation of the diploma of higher education acquired in an institution of higher education outside of the Republic of Bulgaria.

(6) The circumstances under Paragraph 1, Item 2 shall be attested to before the Deputy Chairperson by a curriculum vitae, in which the following shall be stated: the place or places where the applicant has acquired his/her professional experience by giving precise details about them (name, legal form, seat of business, scope of activities, registration number, where applicable,

territorial scope of activities), the positions he/she held and their position in the organisational hierarchy of the undertaking or establishment, the time period during which each of the positions was held, detailed description of the position, its functions, powers and duties.

(7) The circumstances under Paragraph 1, Item 3 shall be attested to before the Deputy Chairperson for Bulgarian citizens - by a certificate of no previous convictions and by an affidavit of no previous convictions outside of the Republic of Bulgaria, and for the persons who are not Bulgarian citizens - only by a certificate of no previous convictions issued by the country of usual residence of the person. The circumstances under Paragraph 1, Items 4 - 9 shall be attested to by means of a declaration. The documents under Sentences One and Two shall be recognised if they have been submitted within three months of the date of their issue or their drafting, as the case may be. A permit for long-term residence in the Republic of Bulgaria for a person from a third country shall be submitted not later than three months from issue of the approval.

(8) When the member state of usual residence of the person or the member state from which the said person originates does not issue certificates of no previous convictions, the certificate of no previous convictions may be replaced by an affidavit or, in the member states in which no such affidavit is envisaged, by an official declaration made by the said person before a competent judicial or administrative authority, a notary public in the member state of origin or in the member state from which the person comes. The abovementioned authority or notary public shall issue a certificate confirming the authenticity and truthfulness of the affidavit or of the official declaration. The declaration of no previous bankruptcy under Paragraph 1 may also be made before a competent professional or commercial organisation in the respective member state.

(9) The curriculum vitae and any declaration of establishing of circumstances under Paragraphs 1 - 6 shall be signed by the applicant. A declaration shall also be submitted, signed by two of the members of the management or control body of the insurer and the reinsurer, as well as by the official of the insurer or the reinsurer who performed the verification of the truthfulness of the circumstances contained in the respective documents, stating that the verification was performed in accordance with the law and with the policy for qualification and reliability and that the person meets the requirements for the position. The person regarding whom an approval is sought shall give its written consent for the Deputy Chairperson to request confirmation of all the circumstances disclosed in the course of the approval procedure, as well for the Deputy Chairperson to obtain the necessary information from other authorities and persons in possession of the said information.

(10) The persons under Paragraphs 1 and 2 shall be subject to approval by the Deputy Chairperson prior to being selected for or appointed to the respective position. The Deputy Chairperson shall issue an opinion within a one-month period of application's submission.

(11) On establishment of any omissions or contravention of legal requirements in the documentation accompanying the application under Paragraph 10, the Deputy Chairperson shall request that the applicant eliminate the irregularities within one month. The term for the pronouncement of an opinion under Paragraph 10 shall cease to elapse during the period between forwarding of the notification on the elimination of irregularities and receipt of the additional documentation.

(12) Persons who have obtained approval under Paragraph 10 in a previous procedure shall not be subject to a new approval for qualification.

Independent members

Article 81. (1) At least one third of the board of directors or the supervisory board of the insurer shall comprise independent members – natural persons. Article 80 shall apply to the independent members.

(2) An independent board member may not be:

1. an employee of the insurer;

2. a party related to the insurer within the meaning of § 1, Item 22, Letters "a" and "c" of the Supplementary Provisions;

3. a person who is in permanent commercial relations with the insurer;

4. a member of a management or control body, a procurator or an employee of a person under Item 2 or Item 3;

5. a related party to another member of a management or control body of the insurer.

(3) The persons elected as independent members of the board of directors or of the supervisory board in respect of whom the circumstances under Paragraph 2 arise after the date of their election, shall notify immediately the relevant body of the insurer. In this case, the persons shall stop performing their functions and shall not receive remuneration.

(4) The applicants for independent members shall prove absence of the circumstances under Paragraph 2 with a declaration.

Requirements to the management and control bodies of an insurance holding and a mixed-activity financial holding.

Article 82. Each member of the management or control body, as well as any other person empowered to manage and/or represent an insurance holding or a mixed-activity financial holding with a seat of business in the Republic of Bulgaria, must meet the requirements of Article 80 (1). Articles 80, Paragraphs 2 - 12, Article 83, Paragraph 2 and Article 84 shall apply when the Deputy Chairperson performs the supervision over the group.

Professional experience

Article 83. (1) A person who is empowered to manage and/or represent an insurer or a reinsurer respectively, as well as a member of the management board of an insurer or a reinsurer respectively, shall be deemed to possess professional experience if:

1. the person held a position in a management body of an insurer, an insurance or financial holding, a mixed-activity insurance holding, a mixed-activity financial holding, a reinsurer or a pension insurance company, a bank or another undertaking from the financial sector for at least 3 (three) years, when the activity of the undertaking from the financial sector is comparable to the activity of the insurer or the reinsurer respectively.

2. the person held a position in a control body or a managerial position in an insurer, an insurance or financial holding, a mixed-activity insurance holding, a mixed-activity financial holding, a reinsurer or a pension insurance company, a bank or another undertaking from the financial sector for at least 5 (five) years , when the activity of the undertaking from the financial sector is comparable to the activity of the insurer or the reinsurer respectively, and for at least 3 (three) years - if the person has attained a higher education degree in economics or law.

3. the person held a position as an insurance broker's representative directly managing insurance intermediation activity for at least 5 (five) years, where the broker's insurance transaction activities are comparable to the activities of the insurer, and for at least 3 (three) years - if the person has attained a higher education degree in economics or law;

4. the person held a managerial position in the financial management of an undertaking from the non-financial sector for at least 10 years , where the assets of the said undertaking are comparable with value of the assets of the insurer or the reinsurer respectively, and for at least 5 (five) years - if the person has attained a higher education degree in economics or law;

5. the person held a managerial position with a government institution in the field of economy and finance or a managerial position in the financial management of other state institutions for least 10 (ten) years, or for at least 5 (five) years - if the person has attained a higher education degree in economics or law.

(2) Outside of the cases under Paragraph 1, member of a control body of an insurance joint stock company may be a person who has worked in another managerial position in an insurer, an insurance or financial holding, a mixed-activity insurance holding, a mixed-activity financial holding, a reinsurer, a pension insurance company, a bank, a state institution in the field of economy and finance or as an insurance broker’s representative, directly involved in the insurance intermediation activity for at least 3 (three) years, when the insurance transaction activity of the broker is comparable to the activity of the insurer, and for at least 2 (two) years - if the person has attained a higher education degree in economics or law.

Assessment of professional qualifications and experience

Article 84. The Deputy Chairperson shall refuse to issue approval in cases where, in spite of formal fulfilment of the requirements under Article 80, Paragraph 1, Item 1 and Article 83, he or she decides that the person does not have sufficient

professional qualifications and experience needed to participate efficiently in the management of the insurer or the reinsurer to which the application relates. The refusal shall be duly reasoned and forwarded to the insurer or to the reinsurer to which the application relates.

Requirements for persons occupying managerial positions

Article 85. (1) Persons occupying managerial positions in the organisational hierarchy of the insurer shall satisfy the requirements specified under Article 80, Paragraph 1, Items 3 and 4, and shall possess appropriate qualifications and experience.

(2) The rules under Article 79 (5) shall regulate the detailed requirements for qualification and experience of the persons under Paragraph 1 and may envisage supplementary requirements to the persons fulfilling key functions.

Section III
Risk management

Main principles

Article 86. (1) The insurer or the reinsurer must have a risk management system, which includes strategies, processes and procedures for reporting for the purpose of continuous identification, measurement, tracing, management and reporting of the risks, to which it is exposed or could be exposed, both in isolation and in their entirety, as well as of their interrelatedness.

(2) The risk management system must be effective and well integrated into the organisational structure and the decision-making processes of the insurer or of the reinsurer, where the said risk management system shall be taken into account, as appropriate, by the persons under Article 80 and by the persons who perform the functions under Article 78 (1).

(3) The risk management system shall cover the risks, which are included in the calculation of the capital solvency requirement and the risks, which would impact the own funds of the insurer or of the reinsurer and the cover of its guarantee capital and own-funds solvency margin, as well as the risks which are not wholly or partially included in this calculation.

(4) The risk management system shall encompass the following areas:

1. underwriting activity and formation of technical reserves;

2. management of the assets and liabilities;

3. investments and, in particular, derivative instruments and other similar liabilities;

4. risk management in the field of liquidity and concentration;

5. management of operational risk;

6. reinsurance and other risk mitigation techniques;

7. other areas at the discretion of the insurer or of the reinsurer.

(5) The risk management policy under Article 77, Paragraph 1, Item 3, Letter "a" shall include risk management policies in each and every of the areas under Paragraph 4.

(6) In connection with the investment risk, the insurers and the reinsurers shall have to prove that they comply with the rules under Article 124, 196 and 197.

Risk management rules in connection with the application of the equalising correction and the volatility correction

Article 87. (1) When the insurer or the reinsurer applies an equalising correction or a volatility correction, it shall prepare a liquidity plan, reflecting the cash inflows and outflows in regard to the assets and liabilities that are subject to these corrections.

(2) As regards the management of the assets and liabilities, the insurer or the reinsurer respectively shall make a regular assessment of the sensitivity of its technical reserves and eligible own funds to any change in the assumptions, on which the extrapolation of the respective term structure of the risk-free interest rate is based.

(3) As regards the management of the assets and liabilities and when the equalising correction is applied, the insurer or the reinsurer respectively shall make a regular assessment of:

1. the sensitivity of its technical reserves and eligible own funds to any change in the assumptions, on which the calculation of the equalising correction and the calculation of the main spread under Article 157, Paragraph 1, Item 2 is based, and the possible impact of a forced sale of assets on its eligible own funds;

2. the sensitivity of its technical reserves and eligible own funds to changes in the structure of the special purpose portfolio of assets;

3. the impact of reducing the equalising correction down to zero.

(4) As regards the management of the assets and liabilities and when a volatility correction under Article 158 is applied, the insurer or the reinsurer respectively shall make a regular assessment of:

1. the sensitivity of its technical reserves and eligible own funds to any changes in the assumptions, on which the calculation of the volatility correction is based, and the possible impact of a forced sale of assets on their eligible own funds;

2. the impact of reducing the volatility correction down to zero.

(5) The insurer or the reinsurer respectively shall submit on an annual basis the assessments under Paragraph 2 - 4 to the Deputy Chairperson as part of the information reported pursuant to Article 127. When the reduction of the equalising correction or of the volatility correction to zero would lead to non-compliance with the capital solvency requirement, the undertaking shall also submit an analysis of the measures, which it may apply in such a situation in order to recover the level of the eligible own funds for covering the capital solvency requirement or in order to reduce the risk profile for the purpose of restoring compliance with the capital solvency requirement.

(6) When the volatility correction under Article 158 is applied, the risk management policy under Article 77, Paragraph 1, Item 3, Letter "a" shall include a policy regarding the criteria for application of the volatility correction.

Assessment of the appropriateness of the external assessment of the credit rating

Article 88. (1) For the purpose of avoiding excessive trust in institutions for external credit rating assessment, when using the external assessment of the credit rating for calculation of the technical reserves and the capital solvency requirement, the insurer or the reinsurer respectively shall make an assessment of the appropriateness of these external credit rating assessments as part of the risk management process through the use of supplementary assessments, where possible, to avoid any automatic dependence on external assessments.

(2) An "institution for external credit rating assessment" shall be a credit rating agency registered or certified in accordance with Regulation (EC) No. 1060/2009 of the European Parliament and of the Council of 16 September 2009 concerning the Credit Rating Agencies (OJ, L 302/1 of 17 November 2009) or a central bank issuing credit ratings.

(3) The assessment of the external credit rating assessments shall be made according to the procedure stipulated by an act of the European Union.

Risk management function

Article 89. (1) The risk management function of the insurer or the reinsurer shall be structured in such a manner as to facilitate

the application of the risk management system.

(2) The person exercising the risk management function or the head of the unit/structure which exercises this function (the risk manager) must have appropriate qualification and experience in the field of risk management and must meet the requirements of Article 80, Paragraph 1, Item 3 - 9. Article 80, Paragraphs 3, 7 and 8 shall apply in this case.

(3) When the insurer or the reinsurer applies a partial or a full internal model, the risk management function shall also carry out the following tasks:

1. shall design and apply the internal model;

2. shall test and validate the internal model;

3. shall document the internal model and the subsequent changes made in it;

4. shall analyse the results from the application of the internal model and shall summarise them in reports;

5. shall inform the management body of the insurer or the reinsurer of the results from the application of the internal model, shall indicate areas where improvement is needed, and shall inform on a regular basis the management body of the status of the attempts at overcoming the weaknesses established earlier.

Proprietary assessment of the risk and the solvency

Article 90. (1) As part of the risk management system, each insurer or reinsurer shall make its proprietary assessment of the risk and the solvency.

(2) The assessment under Paragraph 1 shall cover:

1. the aggregate needs as regard the solvency, while taking into consideration the risk profile, the approved risk-taking limits and the business strategy of the insurer or of the reinsurer respectively;

2. whether the permanent capital solvency requirements, the minimum capital requirement, as well as the requirements in connection with the technical reserves, are being complied with;

3. the degree, to which the risk profile of the undertaking deviates from the assumptions under Article 170 (3), underlying the specified capital solvency requirement, calculated by using the standard formula or by means of a proprietary full or partial internal model.

(3) For the purposes of the assessment under Paragraph 2, Item 1, the insurer or the reinsurer respectively shall have in place processes, which are proportionate to the nature, volume and complexity of the inherent risks and which enable it to identify correctly and assess the risks it is confronted with in the short run or in the medium run and to which it is exposed or may be exposed. The insurer or the reinsurer respectively shall present to the Deputy Chairperson the methods used for this assessment.

(4) When the insure or the reinsurer respectively applies the equalising correction under Article 156 and the volatility correction specified in Article 158, it shall make an assessment of the compliance with the capital requirement under Paragraph 2, Item 2 with accounting for and without accounting for these corrections and transitional measures.

(5) In the cases under Paragraph 2, Item 3, when an internal model is used, the assessment shall be made in conjunction with recalibration, which transforms the internal risk results in the method for measuring the risk and calibrating the capital solvency requirement.

(6) The proprietary assessment of the risk and the solvency shall be an integral part of the business strategy and shall always be taken into consideration when the insurer or the reinsurer makes strategic decisions.

(7) The insurer or the reinsurer respectively shall make the assessment under Paragraph 1 on a regular basis, as well as promptly after any change in its risk profile.

(8) The insurer or the reinsurer respectively shall inform the Deputy Chairperson of the results of each proprietary assessment of the risk and the solvency. The time limits and conditions for submitting the information shall be stipulated in the ordinance

under Article 77 (5).

(9) The proprietary assessment of risk and solvency shall not be used for calculation of the capital requirements to the insurer or to the reinsurer. The capital solvency requirement shall be corrected only under the terms and procedure of Article 252 - 255, Article 259 and Article 584.

Supervision over the reinsurance with a limited risk transfer

Article 91. (1) The insurers and the reinsurers which conclude reinsurance contracts with a limited assumption of risk or which perform reinsurance operations with limited assumption of risk shall be obligated to determine, measure, monitor, manage, control and report in due fashion the risks stemming from these contracts or operations.

(2) "Reinsurance with limited risk assumption" is reinsurance where the determined maximum possible loss expressed as a maximum assumed economic risk which arises both from assumption of substantial insurance risk and due to assumption of time risk, exceeds the amount of the premium for the entire term of the contract by a limited but substantial amount whereby at least one of the following characteristics shall be in place as well:

1. express and actual accounting for the time value of money;

2. contractual covenants which equalise economic results between the parties for the entire term of the contract, in order to achieve the intended transfer of risk.

Section IV
Internal control. Internal audit

Internal control system

Article 92. The insurer or the reinsurer respectively shall set up an effective internal control system, which shall include:

1. administrative and accounting procedures;

2. regulations for implementation of the internal control;

3. suitable rules for reporting at all levels;

4. compliance function;

5. other components at the discretion of the insurer or of the reinsurer.

Compliance function

Article 93. (1) The compliance function of the insurer or of the reinsurer respectively shall boil down to:

1. providing advice to the management and supervisory bodies of the insurer or of the reinsurer regarding the compliance with the laws, secondary legislation acts, acts of the competent authorities of the European Union of immediate applicability and the internal regulations of the insurer or of the reinsurer respectively;

2. assessing the possible effect of changes in the legal environment on the activity of the insurer or of the reinsurer;

3. identifying and assessing the risk stemming from non-compliance with the laws, secondary legislation acts, acts of the competent authorities of the European Union of immediate applicability and the internal regulations of the insurer or of the reinsurer respectively.

(2) The insurers and reinsurers must have at their disposal appropriate systems and structures allowing them to provide the information which must be provided to the Commission according to this Code.

(3) The insurers and reinsurers shall stipulate how to ensure the adequacy at all times of the information published or submitted, by applying written internal rules approved by the management and supervisory bodies.

(4) The person who is in charge of the compliance function (head of the compliance function) shall be appointed by the management body of the insurer or of the reinsurer respectively, or by the manager of the branch - in the cases of a branch under the Commerce Act of an insurer or of a reinsurer from a third country.

(5) The person who is in charge of the compliance function must have appropriate qualification and experience in the field of supervision of the compliance with the rules and must meet the requirements under Article 80, Paragraph 1, Items 3 - 9, where Article 80, Paragraph 3 and Paragraphs 5 - 12 and Article 84 shall also apply accordingly.

Obligations of the compliance function

Article 94. (1) The person who is in charge of the compliance function shall inform immediately the management bodies of the violations in the insurer's or reinsurer's operations established by him/her.

(2) The person in charge of the compliance function shall elaborate an annual report on the operation of the department and shall submit it to the managing body and to the general meeting of the shareholders, or to the members respectively.

(3) The person in charge of the compliance function shall immediately inform the Deputy Chairperson in cases where, as a result of an inspection, infringements and weaknesses have been established in the organisation of the operations and management of the insurer or reinsurer respectively and for which he/she considers that the managing body has not undertaken sufficient measures for their elimination.

Internal audit function

Article 95. (1) The internal audit function of the insurer or the reinsurer must be efficient. It shall include an assessment of the adequacy and effectiveness of the internal control system and of the other components of the management system.

(2) The internal audit function shall be impartial and independent from the other operational functions. The persons who perform the internal audit function may not perform other activities simultaneously with the internal audit function within the insurer or the reinsurer.

(3) The person who performs the internal audit function or who is in charge of the internal audit department shall be appointed by the management body of the insurer or of the reinsurer respectively, and by the manager of the branch - in the cases of a branch under the Commerce Act of an insurer or a reinsurer from a third country. The said person must have appropriate qualification and experience in the internal audit field and must meet the requirements under Article 80, Paragraph 1, Items 3 - 9, where Article 80, Paragraph 3 and Paragraphs 5 - 12 and Article 84 shall also apply accordingly. The employees from the unit performing the internal audit function must have appropriate qualification and experience in the field of internal audit.

Obligations of the internal audit function

Article 96. (1) The internal audit function shall adopt and apply a plan for performance of audits, which shall encompass a period of at least 1 (one) year. At the discretion of the persons performing the internal audit function audits may be performed also outside of the plan adopted.

(2) The person who performs the internal audit function or who is in charge of the internal audit department shall inform immediately the management or supervisory bodies of the insurer or of the reinsurer respectively of the violations found in the activity. The management or supervisory bodies of the insurer or of the reinsurer shall be obligated to undertake measures for actual elimination of the violations and for fulfilling the recommendations of the internal audit function.

(3) The person who performs the internal audit function or who is in charge of the internal audit unit shall prepare an annual report on the activities of the internal audit department and shall submit it to the management body.

Section V
Actuarial function

Responsible actuary

Article 97. (1) The actuarial function of an insurer or a reinsurer must be efficient and must be performed by a responsible actuary who organises, manages and bears responsibility for the actuarial servicing of the insurer or the reinsurer. "Responsible actuary" shall be a natural person with a recognised legal competence or practice or a legal entity on behalf of which one or more natural persons with a recognised legal competence of a responsible actuary sign documents (an actuarial undertaking).

(2) The responsible actuary or the natural person who signs documents on behalf of an actuarial undertaking respectively must:

1. not have been convicted of deliberate crime of general nature;

2. not have been within the last three years, preceding the initial date of the insolvency set by the court, a member of a managing or a control body or a general partner in a company, with regard to which bankruptcy proceedings have been initiated or which has been dissolved due to bankruptcy, in case unsatisfied creditors have remained;

3. not have been declared bankrupt and is not undergoing bankruptcy proceedings;

4. not have been deprived of the right to hold an office accountable for assets;

5. hold a higher degree of education with educational qualifications of Master's or an academic degree, "Ph.D.", with a curriculum in higher mathematics in compliance with the requirements specified in an ordinance issued by the Commission;

6. have at least three years of experience as actuary with an insurer, re-insurer, pension insurance company, at agencies exercising supervision over the operations of the above persons, or as a lecturer with academic rank in insurance or actuarial science;

7. has a recognised legal competence to practice as a responsible actuary by the Commission after successfully passing an exam or has a recognised legal competence to practice as a responsible actuary in another member state;

8. have not been deprived of the legal competence on the grounds of Article 98, Paragraph 1, Items 1 - 3 and 5 and have not been deprived of the legal competence to practice as an actuary by a state or a public organisation in the Republic of Bulgaria or in another member state on grounds related to unconscientiousness in performing its duties as an actuary.

(3) The requirements under Paragraph 2, Items 2 and 3 shall also be applied to the actuarial undertaking.

(4) The procedure and the terms and conditions of said examination and of gaining recognised legal competence under Paragraph 2, item 7, as well as of recognising legal competence gained outside the Republic of Bulgaria, shall be specified in an ordinance issued by the Commission. For the purposes of the present Code, legal competence of the responsible actuary shall be recognised where it was gained in accordance with the procedure established in the Social Insurance Code, where the examination for recognition of legal competence has included an assessment of the knowledge in the field of insurance.

Depriving a person of the legal competence of a responsible actuary

Article 98. (1) Upon proposal of the Deputy Chairperson, the Commission shall deprive a responsible actuary of his/her legal competence in case it has been established that he/she:

1. no longer meets the requirements set under Paragraph 97, Paragraph 2, Item 1 - 4;

2. in carrying out actuarial services for an insurer or a reinsurer, he/she has committed gross or systematic violations of the provisions of the present Code or the regulations concerning its implementation;

3. has submitted false data or documents of untrue content, on the grounds of which his/her legal competence has been recognised;

4. has not carried out the activity for more than 7 consecutive years from recognition of the legal competence or from being dismissed from the office of responsible actuary, unless he/she carried out activity as actuary.

5. has been deprived of the legal competence to practice as an actuary by a state or a public organisation in the Republic of Bulgaria or in another member state on grounds related to unconscientiousness in performing his/her duties as an actuary.

(2) By withdrawing the legal competence on any of the grounds listed under Paragraph 1, the person's legal competence as responsible actuary that has been recognised in pursuance of the procedure established in the Social Insurance Code shall also be considered withdrawn.

Additional requirements to the responsible actuary

Article 99. (1) A responsible actuary may not be a spouse or a relative in direct or collateral line of consanguinity up to the fourth degree inclusive or connected by marriage up to the third degree of affinity to a member of a management or control body of the insurer or of the reinsurer respectively, as well as a member of a management or control body of another insurer or reinsurer respectively.

(2) A responsible actuary shall be appointed by the management body of the insurer or reinsurer, before which he/she shall attest to the non-existence of circumstances under Paragraph 1 in a declaration. The insurer or reinsurer shall advise the Deputy Chairperson of the resolution for appointment of a responsible actuary within 7 days of the date of passing such resolution, and shall also submit an authenticated copy of the declaration under sentence one.

(3) In case an amendment has been introduced into the circumstances under Paragraph 1, or upon withdrawal of a responsible actuary's legal competence under Article 98, Paragraph 1, the management body of the insurer or the reinsurer shall be obligated to dismiss the responsible actuary and to elect a new one within three months of gaining knowledge of these circumstances.

Main obligations of the actuarial function

Article 100. (1) A responsible actuary shall:

1. coordinate the calculation of the technical reserves;

2. guarantee the fitness of the used methodologies and basic models, as well as of the assumptions made in calculation of the technical reserves;

3. assess the sufficiency and quality of the data used in calculation of the technical reserves;

4. compare and juxtapose the best forecasting estimates to the practical results;

5. inform the management or control body regarding the reliability and adequacy of the calculation of the technical reserves;

6. exercise control over the calculation of the technical reserves by means of approximations and individual approaches for each specific case, when there is sufficient and appropriate data for application of reliable actuarial methods;

7. express an opinion on the overall underwriting policy;

8. express an opinion on the adequacy of the reinsurance contracts;

9. assist the effective application of the risk management system, including by participating in the creation of risk models underlying the calculation of the capital solvency requirement and of the minimum capital requirement and in the proprietary

assessment of risk and solvency.

(2) In relation to the operations under Paragraph 1, a responsible actuary shall:

1. draw up and certify the information submitted by the insurer or reinsurer with regard to actuarial operations;

2. draw up and submit before the Commission the annual actuarial report - within the time limit under Article 126, Paragraph 1, Item 1.

(3) In the performance of his/her obligations, a responsible actuary shall have access to all necessary information, the managing bodies and employees of an insurer or a reinsurer being obligated to give the actuary the necessary assistance.

(4) The form of actuarial authentication and the form and the content of the actuarial report and of the statistics certified by a responsible actuary shall be specified in an ordinance of the Commission.

(5) Articles 272 of Regulation (EU) 2015/35 shall also be applied to insurers without a right of access to the common market.

Section VI
External auditors

Audit and certification of the annual financial report

Article 101. (1) (Amended, SG No. 95/2016) The annual financial statements of an insurer, a reinsurer, an insurance holding or a financial holding with mixed activities with a seat in the Republic of Bulgaria, their consolidated financial statements, where applicable, as well as the annual information summaries, reports and appendices under Article 126 (1) shall be audited and certified by two audit companies which are registered auditors according to the Independent Financial Audit Act. When the insurer does not have a right of access to the common market under Article 16, the audit and the certification shall be implemented by a single audit company.

(2) The persons who have tangible interest in an insurer or in a reinsurer, other than those of an insured person or an insuring person, or who are employees or representatives of the insurer or of the reinsurer respectively, may not participate in the audit thereof.

(3) (Amended, SG No. 95/2016) An audit company whose registered auditors, who are to perform the certification on behalf of such audit company, have been deprived of the right to practice as an auditor in the Republic of Bulgaria or in another Member State and who do not meet the criteria under Article 101a (3) may not be an auditor under Paragraph 1.

(4) (Repealed, SG No. 95/2016).

Endorsement of auditors

Article 101a. (New, SG No. 95/2016) (1) The insurers, reinsurers, insurance holdings and financial holdings with mixed activities with a seat in the Republic of Bulgaria shall select their auditors under Article 101 (1) after preliminary coordination of their choice with the Financial Supervision Commission.

(2) The criteria for coordination of the choice of auditors under Paragraph 1 shall be approved by the commission in coordination with the Commission for Public Oversight over Registered Auditors.

(3) If the Financial Supervision Commission has not lodged an objection within a 14-day time limit from the date of the request for coordination, it shall be assumed that the proposal for choice of an auditor has been duly coordinated therewith.

Obligations of the auditors

Article 102. (1) The auditor of an insurer or of an reinsurer respectively shall be obligated to express an opinion regarding the truthfulness of the presentation in all material aspects of the information in the financial statements of the insurer or of the reinsurer on its financial condition, including on the sufficiency of its technical reserves. For the purpose of fulfilling the obligation under sentence one, the auditor shall be obligated to have an adequate capacity available.

(2) The auditor of an insurer or of a reinsurer, or of persons or entities participating in the group of insurers and/or reinsurers, shall be obligated to notify immediately the Deputy Chairperson of any piece of circumstances or decision that he or she became aware of in the course of performing the audit and that pertains to the insurer or to a person under Article 233, Paragraphs 4 or 5, when the insurer or the reinsurer is part of a group and that:

1. constitutes or may result in a significant violation of this Code and of the regulations for its implementation, as well as of the directly applicable law of the European Union;

2. affects or may affect adversely the implementation of the operations of the insurer or of the reinsurer respectively;

3. may constitute grounds for refusal to certify the financial statements or for expressing caveats;

4. results or may result in non-compliance with the cover by own funds of the solvency margin or the minimum guarantee capital, of the capital solvency requirements or the minimum capital requirement;

5. is related to actions of the persons under Article 80 or the persons at management positions in the insurer or the reinsurer respectively, whose actions cause or may cause significant damages to the insurer or to the reinsurer respectively, or to the consumers of the insurance services offered by the insurer;

6. is related to false or incomplete data in the statements, information sheets and reports, which the insurer or the reinsurer respectively submits to the Commission.

(3) Auditors under Paragraph 1 shall also notify the Deputy Chairperson of each circumstance under Paragraph 2 of which they have gained knowledge in the performance of the audit of a person related to the insurer or to the reinsurer respectively.

(4) In cases under Paragraphs 2 and 3, no restrictions shall apply on information disclosure, as have been provided for in a law, the secondary legislation or a contract. The auditor shall not be liable for the bona fide disclosure of information under Paragraphs 2 and 3 before the Commission and the Deputy Chairperson.

Responsibility of the auditors

Article 103. (Amended, SG No. 95/2016) The liability of the auditors under Article 101 (1) for damages in connection with the audit of an insurer or a reinsurer, regardless of whether the damages are a direct or indirect consequence of guilty actions or guilty omissions to act, or from deliberate unlawful conduct by persons who have participated in the audit on behalf of the auditors under Article 101 (1), shall be unlimited.

Section VII
Organisation of the operations for settlement of insurance claims

Internal rules

Article 104. (1) Within one month from issue of the licence for insurance, the insurer's management body shall adopt internal rules with regard to operations for the settlement of claims under insurance contracts. The rules shall not apply to settlement of claims in high risk insurances, unless otherwise provided for therein.

(2) The rules shall provide for the procedures, in pursuance of which an insurer shall accept claims under insurance contracts, collect evidence in order to establish the grounds for their existence and their amount, perform assessment of the damages

incurred, specify the amounts of indemnity, make payments to insurance service consumers and examine complaints submitted by them.

(3) The above rules may not come into contradiction with the law and must guarantee the consumers' rights to swift, transparent and fair settlement of their claims.

(4) The rules, along with any subsequent amendments and supplementations thereto, shall be submitted to the Commission within a 7-day period following adoption. The Deputy Chairperson may give binding instructions for the removal of contradictions with the law, as well as in the cases where the consumers' rights have been unreasonably restricted.

(5) The rules shall be public. Insurers shall publish them on their websites and shall secure free access thereto in their premises.

(6) By virtue of an ordinance, the Commission may stipulate additional requirements to the insurance claims settlement process, when this is necessary to comply with guidelines adopted by the European Authority.

Prohibition for taking into account sex as a factor in determining the insurance indemnity or amount

Article 105. (1) An insurer may not take into account sex in determining the insurance indemnity or amount.

(2) Costs related to pregnancy and maternity may not result in differences in determining the insurance indemnity or amount.

Filing insurance claims. Evidence

Article 106. (1) Insurance claims shall be filed with the insurer in accordance with the procedure and within the time limits provided for in accordance with the insurance contract and subject to compliance with Article 380 (1).

(2) The insurer shall be obligated to register the date of each claim filed, as well as to register the date of the subsequent receipt of any document under the claim, and to certify each of these circumstances separately or under an inventory list before the person filing the claim.

(3) Where a consumer of an insurance service is a damaged person under Third Party Liability Insurances or is a third beneficiary person under other insurances, the insurer shall notify him/her of the evidence that he/she is to submit, in order to establish the grounds for and the amount of his/her claim. Additional evidence may be required only in case the need for it may not have been envisaged on the date the claim was filed, and no later than 45 days of the date of submission of the evidence, as required under the filing under sentence one.

(4) Where the consumer of the insurance service is a party to an insurance contract, the insurer shall notify him/her of the additional evidence not later than 45 days following the submission of the evidence, as specified in the Contract and the rules of Article 104, where such evidence has not been envisaged under the insurance contract at the moment of its conclusion, and where it is necessary in order to establish the grounds for and the amount of the claim.

(5) It shall not be allowed to demand evidence, which the insurance service consumer could not obtain because of any statutory obstacle or a lack of a statutory standing to secure it, as well as such evidence that may be reasonably considered as having no substantial importance for the establishment of the claim in grounds and amount, and is intended to cause unjustified delay and prolongation of the procedure for the settlement of claims.

Cooperation from state agencies and third persons

Article 107. (1) For the purposes of establishing the existence of an insured event and of the damages thereby caused, the insurer, the person seeking to obtain indemnity, the Guarantee Fund under Article 518 or the National Bureau of Bulgarian Motor Insurers under Article 506, shall have the right to receive the information, which is kept by the agencies of the Ministry of Interior, the investigation authorities, various state agencies, the respective general practitioner, medical and health institutions and the persons who have the right to attest to the occurrence of circumstances, as well as authenticated copies of documents. Where the requested information constitutes material related to preliminary proceedings, the prosecutor shall authorise access

to it.

(2) Where the information under Paragraph 1 constitutes a secret protected by the law, upon its submission, in writing and in return for a signature to the requesting persons, their obligations not to disclose it shall be explained, as well as the consequences of non-regulated disclosure.

Conclusion made by the insurer. Time limits for pronouncement and performance

Article 108. (1) The insurer shall be obligated to pronounce an opinion on the claim under insurance policies under Section I of Annex No. 1 or under Items 1 - 3, 8 - 10 and 13 - 18, Section II, Letter "A" of Annex No. 1, other than big risk insurance policies, within 15 business days of the submission of all evidence under Article 106, by:

1. assessing and paying the insurance indemnity or amount, or

2. issuing a reasoned refusal to make payment.

(2) When all the pieces of evidence under Article 106 are not submitted under the insurance policies under Paragraph 1, with the exception of Third Party Liability Insurance of Motorists, the insurer shall be obligated to make a pronouncement in one of the manners under Paragraph 1 not later than 6 months from the date of the filing of the claim.

(3) In the cases of Third Party Liability Insurance of Motorists, where not all the evidence under Article 106 has been submitted, the time limit under Article 496 (1) shall apply.

(4) The response of the insurer under Article 496, Paragraph 2, Item 2 shall be interpreted as refusal to make payment within the meaning of Paragraph 1, Item 2.

(5) In operations for settlement of claims under big risk insurance, the time limit under Paragraph 1 may not be longer than 6 months and under Paragraph 2 - not longer than 1 year. In the cases of insurance policies under Item 5, 6, 11 and 12, Section II, Letter "A" of Annex No. 1, the time limits for making a pronouncement under Sentence One and under Paragraphs 1 and 2 shall not be applied.

(6) In the event of a complaint by an insurance service consumer, the insurer shall be obligated, within a 7-day time limit, to provide to the said consumer in writing factual and legal justification of the indemnity amount determined.

(7) When the insurance services consumer has granted his/her consent that the damages be remedied by an external contractor, the insurer shall be obligated, within the time limit under Paragraphs 1 or 5, to assign in writing to an external contractor the task to remedy the damages. In the cases under sentence one, the remedy of the damages shall be effected within a reasonable time limit for performance, unless a specific time limit has been agreed upon between the insurer and the consumer.

Peculiarities in the cases of big risks

Article 109. For the purposes of this section, a big risk is not:

1. the risk under insurance policies under Items 3 and 10 , Section II, Letter "A" of Annex No. 1 - in all cases;

2. the risk under insurance policies under Items 8, 9, 13, Section II, Letter "A" of Annex No. 1 - when the insured property, the insured liability or the incurred damages are not of extraordinary nature; the property, liability or damages are of ordinary nature, when they are commensurate with a property, liability or damages under insurance policies of the same type, which do not constitute a big risk.

Section VIII
Transfer of operations by an insurer or by a reinsurer to third parties

Definition

Article 110. (1) The transfer of operations by an insurer or by a reinsurer is a long-term assignment by virtue of an agreement in any form of a separate activity, service or process, which were supposed to be performed by the insurer or by the reinsurer respectively, to a third person (supplier of services) to perform directly or through a subcontractor.

(2) The insurer or the reinsurer respectively shall continue to be responsible for the performance of all its duties in connection with the functions or activities transferred to third persons. The insurer or the reinsurer respectively shall be liable for the activities of the supplier of services in much the same way as it is liable for its own actions.

(3) The insurer or the reinsurer respectively may not transfer a function within the meaning of Article 78, Paragraph 1, Items 1 - 4 or another important function or activity when:

1. the quality of its management system is impaired significantly;

2. the operating risk is increased unjustifiably;

3. the insurance supervision is impeded;

4. the interests of the insurance service consumers are jeopardised.

Performance of the operations transferred. Control. State supervision

Article 111. (1) The operations transferred shall be performed according to the established requirements for the insurer or for the reinsurer respectively.

(2) The operations transferred and the parties to whom these have been assigned shall be encompassed by the insurer's or by the reinsurer’s management and internal control systems.

(3) The insurer or the reinsurer respectively shall envisage in the contract for transfer of operations and shall take all other necessary measure to ensure that:

1. the supplier of services cooperates with the Commission and the Deputy Chairperson as regards the transferred function or operation;

2. the insurer or the reinsurer, its auditors, the Commission and the Deputy Chairperson have effective access to the information pertaining to the transferred functions and operations;

3. the Chairperson of the Commission, the Deputy Chairperson or the persons designated by them have effective access to the work premises of the supplier of services and are able to exercise this right of access.

(4) The contracts for transfer of a function within the meaning of Article 78, Paragraph 1, Items 1 - 4 or of another important function or operation shall be submitted to the Deputy Chairperson before being concluded. The insurer or the reinsurer respectively shall submit information on the performance of the transferred functions or operations according to the procedure stipulated in the ordinance under Article 77 (5). The Deputy Chairperson may order that an inspection be performed, including on the spot, of a third person, to whom an operations was transferred by an insurer or by a reinsurer. At the request of the Deputy Chairperson, the third person, to whom an operation has been transferred by an insurer or by a reinsurer, shall be obligated to provide any information in connection with the transferred operation.

(5) If, during the operations of a party to whom an insurer or a reinsurer has transferred operations, breaches of the law or practices have been established which jeopardise the stability of the insurer or of the reinsurer, the rights and interests of the insurance service consumers or the accurate and timely performance of the obligations under reinsurance contracts, or prevent the exercise of state insurance supervision, the Deputy Chairperson shall order their elimination within a term specified by him or her. If the order has not been fulfilled or if despite fulfilling the order the party continues to contravene the law, to jeopardise the stability of the insurer or of the reinsurer, the rights of the consumers or the accurate and timely performance of the obligations under reinsurance contracts, or to hinder insurance supervision, the Deputy Chairperson shall order the insurer to terminate its contract with the party in question.

(6) The insurer or the reinsurer shall not owe default penalties and other compensation for damages upon premature termination of a contract for transfer of an operation in fulfilment of an order under Paragraph 5.

(7) The Commission or the Deputy Chairperson respectively may apply in respect of the person, to whom the insurer or the reinsurer has transferred operations, and in respect of the transferred operations, all the other powers that they have in respect of the insurer or in respect of the reinsurer depending on the nature of the transferred operations.

Audits of a supplier of services in another member state

Article 112. (1) The Deputy Chairperson may order that an on-the-spot audit in the premises of the supplier of services in another member state be performed, after informing the authority in the respective member state which exercises supervision over the supplier of services. When the supplier of services is not subject to supervision in the respective state, the competent authority exercising insurance supervision in the member state shall be notified. The Deputy Chairperson may delegate the audit to the authority under sentence one or two.

(2) When the Deputy Chairperson is prevented from performing the audit under Paragraph 1, it may turn for assistance to the European Authority.

(3) When a competent authority exercising insurance supervision in the member state has notified of its intention to perform an audit of a supplier of services in the Republic of Bulgaria, the Commission shall render the necessary assistance and the Deputy Chairperson shall order that an audit be performed in the supplier of services, if the authority from the other member state has assigned such an audit.

Chapter Eight
REPORTING

Section I
Document flow and information system

Document flow and organisation of the accounting reporting

Article 113. (1) The insurer's or the reinsurer’s management and control bodies shall be responsible for setting the organisation and operations of accounting reporting, in order to guarantee accurate recording of its results and financial status.

(2) The bodies under Paragraph 1 shall adapt the procedures for document flow and accounting reporting to the specifics and volume of operations of the undertaking.

Information system

Article 114. (1) An insurer or a reinsurer respectively must set up and maintain a regularly updated information system, in which the information may be processed, stored and archived on a paper and/or other durable carrier in compliance with the insurer's internal regulations and which must contain up-to-date, complete, accurate and reliable data on:

1. the insurance and reinsurance contracts concluded for inward reinsurance with recording of:

a) the subscribed and received premiums;

b) the data under the contracts related to the measurement of the underwriting risk under them;

c) other data, at the discretion of the insurer or of the reinsurer respectively;

2. the filed claims with recording of:

a) the monetary amount claimed by the consumer under the filed claim and the date of filing the claim;

b) the fair valuation of the value of each filed claim on the basis of documents and other evidence or the statistical average value thereof on the basis of statistical methods, where the data on the amount of the filed claims shall be amended only in the light of newly-received documents and evidence, which result in a change in the amount of the claim filed;

c) amount and date of the payments made under each one of them;

d) other data, at the discretion of the insurer or of the reinsurer respectively;

3. accounting information, accurately and clearly recording the type, amount and grounds for the transactions concluded, their effect on the results and the financial standing of the insurer or of the reinsurer respectively;

4. the internal documents related to the management system;

5. the minutes of the proceedings of the sessions of the general meeting of shareholders or the general meeting of cooperative members and of the management and control bodies;

6. other data, at the discretion of the insurer or of the reinsurer respectively or on an order by the Deputy Chairperson.

(2) In regard to the information system, the insurer or the reinsurer respectively must apply internal processes and procedures which guarantee that:

1. the data for the purpose of the calculation of the technical reserves is appropriate, complete and reliable and in accordance with Article 19 of Regulation (EU) 2015/35;

2. the methods for calculation of the technical reserves and the assumptions underlying their calculation are juxtaposed on a regular basis with the practical results.

(3) The information system of the insurer or of the reinsurer respectively must be capable of providing the entire information necessary for supervisory purposes according to the requirements of Article 127.

(4) The management body of the insurer or of the reinsurer respectively shall guarantee that the information contained in the information system is up-to-date, complete, accurate and reliable and shall create conditions for guaranteeing its security.

(5) The insurer shall be obligated to provide to the Deputy Chairperson remote access to regular information summaries with contents and a format as stipulated by an ordinance of the Commission.

Section II
General financial requirements

General provisions

Article 115. With a view to guaranteeing the possibility for accurate performance of the obligations under insurance and reinsurance contracts, an insurer or a reinsurer shall be, at all times, under the obligation to:

1. set and apply in their operations premiums corresponding to the degree of risk undertaken and its expenses;

2. set aside technical reserves adequate in terms of type and amount pursuant to the requirements of the law;

3. report truthfully and accurately its financial status pursuant to the requirements of the law;

4. have sufficient own funds, which cover the capital solvency requirement and the minimum capital requirement or the solvency margin and the minimum guarantee capital respectively.

5. invest its assets in accordance with the "prudent investor" principle.

Insurance and reinsurance premiums

Article 116. (1) Insurance and reinsurance premiums should be sufficient, calculated on the basis of reasonable actuarial assumptions, so as to ensure fulfilment of all obligations of an insurer or a reinsurer, setting aside adequate technical reserves included.

(2) In order to implement the requirement under Paragraph 1, the insurer's financial condition and its long-term solvency shall solely be forecast on the basis of the premiums as an only source of income.

(3) Taking into account sex as actuarial factor in determining the insurance premium shall not be permitted.

(4) The costs related to pregnancy and maternity may not result in differences in determining the premiums.

Recalculation of financial indicators for supervisory purposes

Article 117. Where an insurer or a reinsurer has calculated the amount of technical reserves, the capital requirements, the value of assets, liabilities, revenues, expenses or other indicators specified in a financial report, another type of report and information sheets submitted to the Commission in breach of a primary or secondary legal act, the Commission may, on a proposal by the Deputy Chairperson and for the purposes of insurance supervision, revaluate each and any of these indicators by a statement of findings or may apply a coercive administrative measure under Article 587.

Types of reserves

Article 118. (1) An insurer or a reinsurer shall be under the obligation to set up general and technical reserves.

(2) General reserves shall consist of:

1. a Reserve Fund under Article 246 of the Commerce Act, or Article 34 of the Cooperatives Act respectively;

2. other funds if provided for by the statute of the company.

(3) The technical reserves are a liability of the insurer or of the reinsurer respectively and shall be reported in the liabilities part of its balance sheet.

(4) The types of technical reserves to be maintained by the insurer or by the reinsurer respectively shall be determined pursuant to Article 119.

(5) The increase of technical reserves shall be made part of the inherent costs, and the decrease - of the inherent revenue of the insurer or of the reinsurer respectively in forming the financial result.

Types of technical reserves

Article 119. (1) An insurer who has obtained a licence to perform insurance operations for the types of insurance policies under Section I of Annex No. 1, shall set up technical reserves as follows:

1. a reserve fund (equalising reserve);

2. an outstanding claims reserve;

3. an unearned premium reserve;

4. a mathematical reserve;

5. capitalised value of pensions;

6. a reserve for future income contribution;

7. life insurance investment fund-related reserves;

8. a bonuses and rebates reserve;

9. other reserves approved by the Deputy Chairperson or created under his/her prescription.

(2) An insurer who has obtained a licence to perform insurance operations under the types of insurance policies set out in Section II of Annex No. 1 shall set up technical reserves as follows:

1. a reserve fund (equalising reserve);

2. an outstanding claims reserve;

3. an unearned premium reserve;

4. reserves for unexpired risks;

5. a bonuses and rebates reserve;

6. other reserves approved by the Deputy Chairperson or created under his/her prescription.

(3) A branch office of an insurer from a third country who has obtained a licence to pursue insurance operations within the territory of the Republic of Bulgaria shall set up technical reserves under Paragraph 1 or Paragraph 2, which are to cover its obligations under insurance and reinsurance contracts concluded in the Republic of Bulgaria.

(4) A reinsurer shall set up technical reserves under Paragraph 1 for its operations under Section I of Annex No. 1 and the reserves under Paragraph 2 for its operations under Section II of Annex No. 1

General rules for the technical reserves

Article 120. (1) The insurer or the reinsurer respectively shall maintain technical reserves for all its insurance and reinsurance obligations under insurance and reinsurance contracts.

(2) The amount of technical reserves shall be calculated on the basis of the amount of obligations assumed by an insurer or a reinsurer, which are expected to be fulfilled in the future by virtue of insurance or reinsurance contracts having entered into force, the expenses related to fulfilment of these obligations, as well as the value of any possible unfavourable deviation from that expectation.

(3) The amount of the technical reserves must correspond to the present value that the insurer or the reinsurer should have to pay, if it were to transfer immediately its insurance and/or reinsurance obligations to another insurer or reinsurer.

(4) The calculation of the technical reserves shall be based on and shall be made consistent with the information received from the financial markets and from the generally accessible data on underwriting risks (consistence with the market).

(5) The technical reserves shall be calculated in a prudent, reliable and unbiased manner.

(6) The procedure and methodology for setting up technical reserves and the provisional fund, the principles that are applied to calculating their amount, as well as the maximum rate of technical interest for insurance policies under Section I of Annex No. 1 shall be stipulated in an ordinance of the Commission.

(7) The insurers applying Part Two, Title Four shall set up their technical reserves according to the requirements of the ordinance under Paragraph 6 and the requirements of Part Two, Title Four, whereas the insurers applying Part Two, Title Three shall set up their technical reserves according to the requirements of the ordinance under Paragraph 6 and the requirements of Part Two, Title Three and according to Regulation (EU) 2015/35.

(8) The basis of and methods for calculation of technical reserves for insurances under Section I of Annex No. 1, shall be public. The insurer shall be obligated to submit these to any interested party upon request.

(9) the data for calculation of the technical reserves must be appropriate, complete and accurate and must meet the requirements of Article 19 of Regulation (EU) 2015/35.

Sufficiency of the technical reserves

Article 121. (1) The insurer or the reinsurer respectively shall, at all times, maintain technical reserves that are sufficient in amount for each type of insurance and that correspond to its overall operations, by which it is to guarantee coverage of the insurance risks undertaken.

(2) At the request of the Deputy Chairperson, the insurer or the reinsurer respectively shall prove that the amount of its technical reserves is sufficient, that the methods used are applicable and relevant, as well as that the statistical data used as a basis is adequate.

Technical reserves in the case of coinsurance

Article 122. When performing coinsurance, an insurer shall set up the types of reserves under Article 119, accounting for its share therein in compliance with the terms and conditions of the coinsurance contract.

Violation of the requirements for the amount of the technical reserves

Article 123. When an insurer or a reinsurer does not comply with the requirements in respect to the technical reserves of this Code and of the regulation for its implementation, the Deputy Chairperson may prohibit the conclusion of disposition transactions with assets of the insurer or of the reinsurer respectively.

"Prudent investor" principle

Article 124. (1) Each insurer or reinsurer respectively shall invest its assets in accordance with the "prudent investor" principle under Paragraphs 2 - 7.

(2) As regards its entire portfolio of assets, the insurer or the reinsurer respectively may invest solely in assets and instruments, the risk of which it is able to determine, measure, monitor, control and report properly, while taking into consideration in an appropriate manner its aggregate needs as regards the solvency under Article 90, Paragraph 2, Item 1 when making the assessment.

(3) The assets for cover of the minimum capital requirement and the minimum guarantee capital respectively and of the capital solvency requirement and the solvency margin respectively, and all the other assets shall be invested in a manner that guarantees the security, quality, liquidity and return of the aggregate portfolio. In addition, the localisation of these assets shall be performed in such a manner as to guarantee their availability.

(4) The assets for cover of the technical reserves shall also be invested in an appropriate manner depending on the nature and duration of the insurance and reinsurance obligations. These assets shall be invested entirely in the interest of all insured persons and users, while taking into consideration any and all announced purposes of the assets investment policy.

(5) In the case of a conflict of interest, the insurer or the reinsurer respectively or the person managing its portfolio of assets

shall guarantee that the investment was made entirely in the interest of the insured persons and beneficiaries.

(6) In addition to the requirements of Paragraphs 2 - 5, the following rules shall also be applied in respect of the assets in connection with Life Insurance contracts, where the investment risk is born by the insured persons:

1. when the payments envisaged in the contract are directly related to the value of shares in collective investment vehicles for transferrable securities or to the value of assets included in an internal fund owned by the insurer and usually divided into shares, the technical reserves in respect of these payments shall be covered as fully as possible by these shares or by these assets - if shares have not been determined;

2. when the payments under the contract are directly related to the value of an index of stocks or to another reference value, other than the one under Item 1, the technical reserves in connection with these payments must be covered as fully as possible either by shares assumed to reflect the reference value, or in the cases where shares have not been determined - by assets with a suitable security and liquidity, which reflect as fully as possible these assets, on which the reference value is based;

3. when the payments under Items 1 or 2 include a guarantee of the result from the investment or another guaranteed payment, Paragraph 7 shall be applied to the assets for cover.

(7) In addition to the requirements under Paragraphs 2 - 5, the following rules shall also be applied in respect of assets, other than those under Paragraph 6:

1. the use of derivatives shall be permitted to the extent to which they contribute to risk mitigation or facilitate the efficient management of the portfolio;

2. the investments in assets which have not been admitted to trade on a regulated financial market must be limited to reasonable levels;

3. the assets shall be diversified in an appropriate manner so as to avoid excessive dependence on the particular asset, particular issue or group of undertaking or market, as well as to avoid the accumulation of too much risk in the portfolio as a whole;

4. the investments in assets issued by the same issuer or by issuers who belong to the same group should not expose the insurer to an excessive concentration of risk.

Section III
Annual financial statements and regular reports

Annual and regular reports of insurers and reinsurers

Article 125. (1) The insurers and reinsurers, the mixed-activity insurance holdings and financial holdings with a seat of business in the Republic of Bulgaria shall prepare annual financial statements and regular financial reports and information summaries.

(2) The insurers or the reinsurers shall prepare the annual financial statements and the regular financial reports and information summaries with a structure (form) and contents according to the ordinance of the Commission, by virtue of which the requirements of Directive 91/674/EEC of the Council of 19 December 1991 concerning the Annual Financial Statements and the Consolidated Financial Statements of the Insurance Undertakings and Other Reporting Requirements are introduced.

(3) (New, SG No. 95/2016) The management body of an insurance holding or of a financial holding with mixed activities with a seat in the Republic of Bulgaria, which is at helm of a group of companies, shall prepare and submit to the commission the company’s financial statements, as well as the consolidated financial statements audited in accordance with Article 101 (1) within a time limit of not later than 20 weeks after the end of the financial year.

Time limits, certification and presentation of the reports

Article 126. (1) For the purposes of financial supervision, an insurer or a reinsurer shall submit to the Commission:

1. annual financial statements - within the time limits of Regulation (EU) 2015/35;

2. annual information summaries, reports and appendices - within the time limits under Regulation (EU) 2015/35;

3. quarterly reports, information summaries and appendices - within the time limits under Regulation (EU) 2015/35;

4. monthly reports and information summaries - by the end of the month, following the month that they pertain to.

(2) The reports and information summaries referred to in Paragraph 1 shall be submitted as an electronic document executed by a qualified electronic signature according to the requirements of the ordinance under Article 125.

(3) (Amended, SG No. 95/2016) The annual financial statements and the annual information summaries, reports and appendices under Paragraph 1, Items 1 and 2 shall be certified by the auditors under Article 101 (1).

(4) The Commission shall stipulate by an ordinance the information and data from the reports and information summaries under Paragraph 1, which are subject to public disclosure in the register under Article 30, Paragraph 1, Item 8 of the Financial Supervision Commission Act.

Section IV
Submission of information to the supervision authorities. Public disclosure

Information provided for supervision purposes

Article 127. (1) The insurer or the reinsurer respectively shall submit to the Commission the entire information necessary for the purposes of insurance supervision in connection with the objectives under Article 2.

(2) The information under Paragraph 1 shall contain at least the information necessary for achieving the following objectives when performing the supervision review process:

1. assessment of:

a) the management system applied by the insurer or the reinsurer;

b) the operations performed by the insurer or the reinsurer respectively;

c) the principles underlying the assessment applied for the purposes of solvency determination;

d) the risk confronting the insurer or the reinsurer and the risk management systems;

e) the capital structure, the needs for capital and the management of capital by the insurer or by the reinsurer respectively;

2. adoption of expedient decisions as a consequence of the implementation of the supervisory powers by the Commission and by the Deputy Chairperson.

(3) The Deputy Chairperson may:

1. determine the nature, scope and format of the information under Paragraph 1 submitted by the insurers and by the reinsurers:

a) on a regular basis;

b) upon the occurrence of pre-determined events;

c) during on-the-spot audits and during audits based on documentation;

2. receive the entire information in connection with contracts, parties to which are intermediaries, or in connection with contracts concluded with third persons, and

3. require information from external experts, including from auditors or from actuaries.

(4) The information under Paragraph 1 - 3 shall encompass:

1. qualitative and quantitative components or any appropriate combination thereof;

2. historical, current and forecast components or any appropriate combination thereof, and

3. information from internal and external sources or any appropriate combination thereof.

(5) The information under Paragraph 1 - 3 must:

1. reflect the nature, volume and complexity of the operations of the respective insurer or reinsurer and, in particular, the risks associated with these operations;

2. be sufficient, comprehensive in all material aspects, comparable and consistent in the long run;

3. be pertinent, reliable and understandable.

(6) The information under Paragraphs 1 - 3 shall be submitted in the form of electronic documents signed by a qualified electronic signature, or on a paper carrier - at the discretion of the Deputy Chairperson.

(7) The insurer or the reinsurer respectively shall be obligated to have appropriate systems and structures to guarantee the implementation of the obligations under Paragraph 1 - 6, as well as a policy approved by its management body ensuring on a constant basis accuracy, completeness and timeliness of the information submitted.

Notifications

Article 128. (1) An insurer or a reinsurer respectively shall be hereby obligated to notify the Commission of:

1. newly arisen facts and circumstances subject to entry in the Commission Register;

2. changes in circumstances having been entered in the Commercial Register;

3. any change in its related parties, by submitting information for implementation of the ongoing control as to the occurrence of the circumstances under Article 35, Paragraph 1, Items 6 and 7.

(2) The obligation under Paragraph 1 shall be fulfilled within a 7-day time limit of occurrence or gaining knowledge of the relevant fact or circumstance, and where it is subject to entry into the Commercial Registry - within a 7-day time period of such registration.

Report on solvency and financial status

Article 129. (1) The insurer or the reinsurer respectively shall, on an annual basis and within the time limits under Regulation (EU) 2015/35, disclose to the public a report on its solvency and financial condition, while adhering to Article 127, Paragraphs 4 and 5. The report on solvency and financial condition shall be part of the annual financial statements of the insurer or of the reinsurer.

(2) The report on solvency and financial condition shall contain information presented in full or in the form of cross-references to equivalent information which , in nature and in scope, is disclosed to the public by virtue of other statutory requirements as follows:

1. description of the operations and results from the operations of the person;

2. description of the management system and assessment of its adequacy relative to the risk profile of the insurer or of the

reinsurer respectively;

3. separate description of each category of risk, risk exposure, concentration, reduction and sensitivity;

4. separate description of the assets, technical reserves and other liabilities, bases and methods used for their assessment, together with an explanation of each material inconsistency with the bases and methods used for valuation in the financial statements;

5. description of the management of capital, including at least:

a) structure and amount of the own funds, as well as quality thereof;

b) capital solvency requirement amount and minimum capital requirement amount;

c) information which enables the correct understanding of the main differences between the assumptions underlying the standard formula and the ones underlying each internal method used by the person for calculation its capital solvency requirement;

d) amount of each and every non-compliance, even if subsequently eliminated, with the minimum capital requirement or the minimum guarantee capital and of each and every significant non-compliance with the capital solvency requirement or with the solvency margin within the reporting period, together with an explanation of its origin and consequences, as well as of the measures undertaken for overcoming such non-compliance.

(3) When an equalising correction under Article 156 is applied, the description under Paragraph 2, Item 4 shall also include a description of the equalising correction of the portfolio of liabilities and special-purpose assets, for which the equalising correction is applied, as well as quantitative measurement of the impact of reducing the equalising correction to zero on the financial condition of the insurer or of the reinsurer. The description under Paragraph 2, Item 4 shall also include information of whether the person applies a volatility correction under Article 158 and shall also include quantitative measurement of the impact of reducing the volatility correction to zero on the financial condition of the insurer or of the reinsurer.

(4) The description under Paragraph 2, Item 5, Letter "a" shall include an analysis of each and every material change relative to the previous reporting period and explanation of each and every material inconsistency in connection with the value of these components in the financial statements, as well as a short description of the possibility for transfer of capital.

(5) The disclosure of the capital solvency requirement under Paragraph 2, Item 5, Letter "b" shall separately present the amount, calculated according to Chapter Thirteen, Section Two and Three, and the extra capital imposed in accordance with Article 584, or the impact of the specific parameters that the insurer or the reinsurer are required to use according to Article 174, together with a brief information on the arguments of the Commission.

(6) Where applicable, the disclosure of the capital solvency requirement shall be accompanied by the clarification that its ultimate amount is subject to assessment by the competent supervision authority.

Principles of public disclosure

Article 130. (1) The Deputy Chairperson allows for the insurer or the reinsurer not to disclose information in the following cases:

1. if, as a result of the disclosure of information, the competitors of the insurer or of the reinsurer respectively shall unjustifiably obtain significant unjustified advantages;

2. if there are obligations to insured persons or legal relations with other persons binding the said person to respect the secrecy and confidentiality of information.

(2) The person under Paragraph 1, that has been allowed by the Deputy Chairperson not to disclose information, shall make a declaration of this fact in its report on solvency and financial status and shall state the reasons.

(3) The Deputy Chairperson shall allow that a person under Paragraph 1 not take advantage of or not invoke public disclosures made by virtue of other statutory requirements, to the extent that these disclosures are equivalent in nature and scope to the information required under Article 129.

(4) Paragraphs 1 and 2 shall not be applied to the information under Article 129, Paragraph 2, Item 5.

Updating the report on solvency and financial condition

Article 131. (1) In case of occurrence of a significant event impacting considerably the meaning of the information disclosed according to Articles 129 and 130, the insurer or the reinsurer respectively shall be obligated to disclose appropriate information regarding the nature and consequences of this significant event.

(2) A significant event under Paragraph 1 shall be present at least when:

1. the minimum capital requirement or the minimum guarantee capital has not been complied with and the Deputy Chairperson assumes that the person won't be able to present a realistic short-term plan or the Deputy Chairperson has not received such a plan within 1 month of the date of the violation observed;

2. there is significant non-compliance with the capital solvency requirement or with the solvency margin respectively and the Deputy Chairperson has not received a realistic plan for restoring solvency within 2 months from the date of the non-compliance observed.

(3) In the cases under Paragraph 2, Item 1, the Deputy Chairperson shall order the respective person to immediately disclose the amount of non-compliance, together with an explanation of its origin and consequences, including the measures undertaken to overcome such non-compliance. If a short-term plan has been applied which was initially assessed as realistic but the non-compliance with the minimum capital requirement has not been eliminated within 3 months from being found, at the end of this period the non-compliance shall be disclosed, together with an explanation of its origin and consequences, including all measures undertaken for overcoming it and all further measures planned for overcoming it.

(4) In the cases under Paragraph 2, Item 2, the Deputy Chairperson shall order the respective person to immediately disclose the amount of the non-compliance, together with the measures undertaken for overcoming it. If a solvency recovery plan has been applied which was initially assessed as realistic but the significant non-compliance with the capital solvency requirement has not been eliminated within 6 months from being found, at the end of this period the non-compliance shall be disclosed, together with an explanation of its origin and consequences, including all measures undertaken for overcoming it and all further measures planned for overcoming it.

Supplementary voluntary information in the report on solvency and financial condition

Article 132. The insurer or the reinsurer respectively may disclose on a voluntary basis any information or clarifications pertaining to its solvency and financial condition, where the latter are not subject to obligatory disclosure under this section.

Organisation of public disclosure

Article 133. (1) The insurer or the reinsurer respectively:

1. shall set up appropriate systems and structures for implementation of the obligations under this section;

2. shall adopt internal rules for guaranteeing that any information disclosed under this section is constantly up-to-date.

(2) The annual financial statements, including the report on solvency and financial condition, shall be adopted by the management and control body of the insurer or of the reinsurer respectively and thereafter they shall be disclosed to the public on the internet page of the insurer or of the reinsurer respectively.

(3) When additional requirements to the information subject to disclosure and to the time limits for annual disclosure are stipulated by an act of the European Commission, these requirements shall be applied also by the insurers without a right of access to the common market.

Section V
Coinsurance in the European Union

Coinsurance operations in the European Union

Article 134. (1) The coinsurance operations in the European Union is coinsurance involving one or more of the risks of the types under Item 3 - 16, Section II, Letter "A" of Annex No. 1 and conformant to the following conditions:

1. the risk is a big risk;

2. the risk is covered by one contract in exchange for a single premium by two or more insurers for the same time period, where each of them is responsible for its portion as a coinsurer and one of them is the leading insurer;

3. the risk is located in a member state;

4. for the purposes of risk coverage, the leading insurer is treated as if it were covering the whole risk;

5. at least one of the coinsurers participates in the contract through its head office or branch established in a member state other than the member state of the leading insurer;

6. the leading insurer entire assumes the leading role in the coinsurance operation and in particular determines the terms of insurance and the price rates.

(2) Articles 46, 50 and 51 shall be applied to the leading insurer.

(3) The provisions of this section shall not be applied to coinsurance operations for which the conditions under Paragraph 1 are not met.

Participation in coinsurance in the European Union

Article 135. An insurer may participate in coinsurance operations in the European Union subject to compliance with the requirements of this section.

Technical reserves

Article 136. (1) The amount of the technical reserves of an insurer which participates in coinsurance in the European Union shall be determined depending on the rules stipulated by the respective member state of origin or - in the absence of such rules - according to the usual practice in this state.

(2) Regardless of Paragraph 1, the technical reserves must be at least equal to the reserves determined by the leading insurer according to the rules of its member state of origin.

Statistical data

Article 137. An insurer which participates in coinsurance in the European Union shall be obligated to keep statistical records showing the volume of the coinsurance operations in the European Union in which the said insurer participates and the volume of coinsurance operations in the respective member states.

Treatment of the coinsurance contracts in case of liquidation or bankruptcy

Article 138. In the cases of liquidation or bankruptcy of an insurer, its liabilities stemming from the participation in coinsurance contracts in the European Union shall be settled in much the same way as those stemming from the other insurance contracts of this insurer, regardless of the country of the insurance service consumers.

Exchange of information between the supervision authorities

Article 139. For the purposes of this section, the Commission and the Deputy Chairperson shall exchange the necessary information with the supervision authorities of the other member states.

Cooperation in implementation

Article 140. (1) The Deputy Chairperson shall cooperate with the European Commission and with the supervision authorities of the other member states for the solution of any difficulties in the implementation of this section.

(2) In the process of cooperation under Paragraph 1, practices which could indicate that the leading insurer does not assume a leading role in the coinsurance practice or that the cover of the risk evidently does not require the participation of two or more insurers shall be examined.

Chapter Nine
SEPARATE MANAGEMENT OF THE GENERAL INSURANCE OPERATIONS AND THE LIFE INSURANCE OPERATIONS

General requirements

Article 141. (1) An insurer performing simultaneously insurance under Section I and under an Accident and/or Sickness Insurance under Section II, Letter "A" of Annex No. 1 shall be organised in such a manner as to distinguish the life insurance operations from the general insurance operations.

(2) The interest of the insured persons under contracts under Section I of Annex No. 1 may not be infringed upon at the expense of the interest of the insured persons under Accident and/or Sickness Insurance, and similarly the interest of the insured persons under Accident and/or Sickness Insurance may not be infringed upon at the expense of the interest of the insured persons under contract under Section I of Annex No. 1. The profits from the operations under Section I of Annex No. 1 shall benefit only the insured persons under types of insurance under this type of operations as if the insurer were performing life insurance only.

Measures for separation of the management of life insurance and general insurance

Article 142. (1) Regardless of the obligation to maintain eligible own funds for cover of the capital solvency requirement and the minimum capital requirement or for cover of the solvency margin and the minimum guarantee capital respectively, the insurer shall calculate:

1. a conditional minimum capital requirement or guarantee capital respectively in respect of its life insurance operations and in respect of its reinsurance operations calculated as if the respective insurer performs this activity only on the basis of the separate financial statements under Article 143;

2. a conditional minimum capital requirement or guarantee capital respectively in respect of its general insurance operations and in respect of its reinsurance operations calculated as if the respective insurer performs this activity only on the basis of the separate financial statements under Article 143;

(2) An insurer under Article 141 (1) shall ensure coverage by means equivalent in size components of eligible own funds at least of:

1. the conditional minimum capital requirement and the guarantee capital respectively as regards the life insurance operations;

2. the conditional minimum capital requirement and the guarantee capital respectively as regards the general insurance operations;

(3) The minimum financial liabilities under Paragraph 2 as regards the life insurance and the general insurance operations may not be covered by the other type of operations.

(4) An insurer under Article 141 (1) may use, for cover of the capital solvency requirement and of the solvency margin respectively, explicit components of eligible own funds available to it for any of the operations provided that:

1. the minimum financial liabilities under Paragraph 2 and 3 have been complied with;

2. it has notified the Commission thereof.

(5) When exercising the insurance supervision over an insurer under Article 141 (1), the results both from the life insurance operations and from the Accident and Sickness insurance shall be analysed in order to guarantee compliance with Paragraphs 1 - 4, as well as with Article 141.

Additional requirements in connection with reporting

Article 143. (1) An insurer under Article 141 (1) shall prepare its financial statements in such a manner as to show separately the sources of the result from the life insurance operations and from the general insurance operations.

(2) All revenues, especially the premiums, the payments by reinsurers and the investment income, as well as expenses, especially insurance payments, additions to the technical reserves, reinsurance premiums and expenses for upkeep of the operations shall be broken down by origin.

(3) The components that are shared between the two types of operations shall be recorded in the reports in accordance with the methods for allocation approved by the Deputy Chairperson.

(4) On the basis of the financial statements under Paragraph 1, the insurer shall prepare a report, in which the components of the eligible own funds covering each conditional minimum capital requirement under Article 142 (1) shall be clearly determined in accordance with the requirements for eligibility according to the ordinance under Article 168.

Prohibition in the case of presentation of financial results

Article 144. An insurer which has been granted a licence under Section I of Annex No. 1, and an insurer which has been granted a licence under Section II of Annex No. 1, where the latter two are financially, commercially or administratively related, may not conclude agreements and apply different covenants that lead to incorrect presentation of their accounting results and might specifically affect the structure of their revenues and expenses.

Special requirements in the case of shortage of eligible core own funds

Article 145. (1) If the amount of the components of the eligible own funds in respect of one of the insurance operations is insufficient to cover the minimum financial liabilities under Article 142 (2), the Commission shall, on a proposal by the Deputy Chairperson, apply to this operation the measures under Article 215, irrespective of the results from the other operation.

(2) Regardless of Article 142 (3), the Commission may, on a proposal by the Deputy Chairperson, authorise a transfer of explicit components of eligible own funds from one insurance operation to the other insurance operation.

Chapter Ten
CONFLICT OF INTERESTS DISCLOSURE. INSURANCE SECRECY

Disclosing and avoiding a conflict of interests

Article 146. (1) Each member of a management or control body, each official with a governing function, as well as any other person authorised to manage and/or represent an insurer or a reinsurer respectively, shall notify in writing the management body of the insurer in case he/she enters a contract with the insurer or with the reinsurer respectively, which exceeds the insurer's or the reinsurer's regular operations or considerably deviates from the usual market conditions.

(2) The provision of Paragraph 1 shall also apply in case a party to a transaction with the insurer or with the reinsurer is:

1. a family member of a person under Paragraph 1;

2. a company, in which a person under Paragraph 1 or a member of their family holds directly or through related parties qualified participating interest under Article 68, Paragraph 1;

3. a company, in which a person under Paragraph 1 or a member of their family is a partner, a member of a management or control body, an official with governing functions, or a person authorised to manage or represent the company.

(3) Each person under Paragraph 1 shall notify in writing the management body of the insurer or of the reinsurer, at least once every 6 months, of companies in which the said person or members of their family hold directly or through related parties qualified participating interest under Article 68 (1), in which they are partners or shareholders, members of a management or control body, officials with governing functions, or persons authorised to manage or represent the company.

(4) A person under Paragraph 1 shall not participate in negotiations, discussions and the decision-making process concerning a transaction with the insurer or with the reinsurer respectively, to which the said person or a person under Paragraph 2 is a party.

(5) The insurer or the reinsurer respectively, the persons under Paragraph 1 and the other employees of the insurer or of the reinsurer respectively shall be obligated in performing their function to give preference to the interest of the insurer or the reinsurer respectively and of its insurance service consumers and assignors respective ahead of its own interests.

(6) The insurer shall be obligated to build an efficient internal organisation of its operations in a manner which prevents conflicts of interests under Paragraph 7 from exerting an adverse effect on the interest of its insurance service consumers.

(7) The insurer shall take all necessary measures to identify the conflict of interest which arises in the course of the operations for distribution of insurance products between:

1. the insurer, the members of its bodies, its other employees, other persons who concluded insurance contracts on its behalf, as well as the persons related to it directly or indirectly in terms of control, on the one hand, and the insurance service consumers, on the other hand;

2. one insurance service consumer and another such consumer.

(8) When the organisation under Paragraph 6 is not capable of guaranteeing with a sufficient degree of assurance that the risk of infringing on the interest of the insurance service consumer will be avoided, the insurer shall be obligated to clearly disclose to the consumer the nature and the sources of conflict of interests before commencing operations with him/her.

Special requirements for the avoidance of conflicts of interests

Article 147. An insurer, covering risks under a Legal Expenses Insurance, shall undertake the measures necessary to avoid a conflict of interests through compliance with at least one of the following requirements:

1. it shall not permit its employees to whom the settlement of claims or the provision of legal advice in relation to a Legal Expenses Insurance has been assigned to simultaneously perform any similar operations with regard to other types of insurances under Section II of Annex No. 1 at its expense or at the expense of another insurer, with whom the above insurer has business, financial or administrative relations;

2. in case it covers risks under Legal Expenses Insurances and under other types of insurance as per Section II of Annex No. 1, it shall transfer the settlement of claims under Legal Expenses Insurances to another legal person, in accordance with the terms and conditions and the procedure of Article 110, which shall meet the condition set under Item 1 above;

3. it shall notify the insured person of his/her right to authorise a lawyer at their own discretion to defend their interests from the moment at which the insured person's right to file a claim under the insurance policy has arisen.

Delegation

Article 148. The Commission may, by an ordinance, stipulate more detailed requirements for implementation of the obligations under Article 146, Paragraph 6 - 8.

Insurance Secrecy Safeguarding insurance secrecy

Article 149. (1) An insurer or reinsurer, members of the management and control bodies, auditors, actuaries, as well as all other persons working for an insurer or for a reinsurer respectively, including the persons with whom an insurer or a reinsurer has an agreement under Article 110, shall be obligated to keep in secret any and all information of which they have become aware in relation to the performance of their functions. The persons under Sentence One may not utilise the information acquired to their own personal benefit or in favour of another person, as well as for purposes other than the performance of their functions.

(2) The obligation under Paragraph 1 shall also apply to insurance and reinsurance intermediaries and their employees.

(3) Upon taking office, all employees and members of management and control bodies of an insurer or of a reinsurer respectively shall sign a Declaration on the Safeguard of Insurance Secrecy. The obligation under Sentence One shall also apply to the natural persons who represent legal persons - members of management and control bodies of an insurer, a reinsurer and an insurance or reinsurance intermediary.

(4) The insurance agents and the persons with whom the insurer or the reinsurer respectively has an agreement under Article 110 shall sign a declaration under Paragraph 3 upon the conclusion of the agreement, by virtue of which their relations with the insurer or with reinsurer are regulated. The persons under sentence one shall be obligated to acquaint their employees with the obligations under Paragraph 1.

(5) The provision of Paragraph 1 shall also apply to cases where persons under Paragraphs 1 - 4 have discontinued their legal relationships with the insurer, in relation to which the obligation to safeguard insurance secrecy had arisen.

Disclosure of insurance secrecy

Article 150. (1) Apart from disclosing information under Article 149, Paragraph 1 to the Commission, to the Deputy Chairperson and the authorised officials of the Commission's administration, the above information may only be disclosed:

1. upon express written consent of the persons to which such information refers;

2. before the judicial authorities, the public prosecution, the investigating authorities and the police authorities in pursuance of the procedure provided for in a law;

2a. (new, SG No. 103/2016) before the Commission for Withdrawal of Criminal Assets and the Directors of the Territorial Directorates in pursuance of the procedure provided for in a law;

3. before the State Agency for National Security in accordance with the terms and conditions and in accordance with the procedure provided for in the Measures Against Money Laundering Act;

4. before the Guarantee Fund and the National Bureau of Bulgarian Motor Insurers in relation to their activities in accordance with the present Code;

5. before and by the Guarantee Fund for the purposes of creation of information systems for prevention of insurance fraud and for the purposes of creation of a bonus-malus system;

6. before a director of a territorial directorate of the National Revenue Agency, where:

a) an act of a revenue authority has established that the inspected person has prevented carrying out an aspect inquiry or audit, or failed to maintain the requisite reporting documentation, as well as that the latter is incomplete or untrustworthy;

b) an act of a competent state authority has established the occurrence of an accident, which has resulted in the destruction of reporting documentation belonging to the inspected persons;

7. before the competent authority of the National Revenue Agency regarding the information as per the procedure of Title Two, Chapter Sixteen, Section IIIa of the Tax and Social Insurance Procedure Code;

8. before the Executive Director of the National Revenue Agency in relation to the implementation of Article 143h of the Tax and Social Insurance Procedure Code;

9. before a reinsurer where this is necessary in relation to conclusion and maintenance of a reinsurance contract;

10. before the legal heirs of an insured person or of a person who is entitled to an insurance payment;

11. (new, SG No. 62/2016, effective 9.08.2016) before the chief inspector or an inspector of the Inspectorate at the Supreme Judicial Council.

(2) At the request of the insuring person, the insurer may provide it with information regarding the indemnities or amounts paid under the insurance contract.

Prohibition of information on health status

Article 151. The insurer may not provide to the insuring person, when the latter is a person other than the insured person, information regarding the health status of the insured persons.

TITLE THREE
REQUIREMENTS TO THE FINANCIAL CONDITION OF INSURERS WITH A RIGHT OF ACCESS TO THE COMMON MARKET AND OF REINSURERS

Chapter Eleven
VALUATION OF ASSETS AND LIABILITIES

Valuation of the assets and the liabilities

Article 152. (1) Unless otherwise provided in this Code, in the regulations for its implementation or in the acts of the European Commission on implementation of Directive 2009/138/EC, the insurer or the reinsurer respectively shall value the assets and liabilities in the following manner:

1. the assets shall be valued at the value, for which they can be exchanged in a transaction at fair market conditions between independent, equal, informed and willing parties;

2. the liabilities shall be valued at the value, for which they can be transferred or settled in a transaction at fair market conditions between independent, equal, informed and willing parties.

(2) When valuing the liabilities under Paragraph 1, Item 2, no correction shall be made for the purpose of accounting for the proprietary credit position of the insurer or of the reinsurer.

Segmenting when calculating the technical reserves

Article 153. When calculating the technical reserves, the insurers and the reinsurers shall segment their insurance and reinsurance liabilities in homogeneous risk groups at least by types of operations (lines of business) within the meaning of Regulation (EU) 2015/35.

Calculation of the technical reserves

Article 154. (1) The amount of the technical reserves shall be equal to the sum total of the best forecast estimate and a risk supplement.

(2) The best forecast estimate corresponds to the probability-weighted average value of the future cash flows, while taking into account the time value of money (expected present value of future cash flows) in applying the respective term structure of the risk-free interest rate.

(3) The calculation of the best forecast estimate must be based on up-to-date and trustworthy information and on realistic assumptions and must be made by means of adequate, applicable and appropriate actuarial and statistical methods.

(4) The projection of the cash flow used for calculation of the best forecast estimate must take into account all cash inflows and outflows necessary for covering the insurance and reinsurance liabilities during the period of their existence.

(5) The best forecast estimate shall be calculated as a gross amount - without deducting the amounts recoverable from reinsurance contracts and from the special purpose vehicles for alternative insurance risk transfer. These amounts shall be calculated independently and in accordance with Article 161.

(6) The risk supplement shall be such as to guarantee that the amount of the technical reserves is equal to the amount which an insurer or a reinsurer respectively is expected to request for underwriting and meeting the insurance or reinsurance obligations.

(7) The insurer or the reinsurer respectively shall determine independently the best forecast estimate and the risk supplement.

(8) When the future cash flows associated with the insurance and reinsurance obligations can be replaced (replicated) in a reliable manner by means of financial instruments for which a fair market value is observed, the amount of the technical reserves associated with these future cash flows shall be determined on the basis of the market price of these financial instruments. In this case, no independent calculation of the best forecast estimate and of the risk supplement shall be required.

(9) When the insurer or the reinsurer determines on a separate basis the best forecast estimate and the risk supplement, the risk supplement shall be calculated by determining the expenses for ensuring eligible own funds equal in amount to the capital solvency requirement needed to guarantee the insurance and reinsurance obligations for the period of their existence.

(10) The price rate used for determining the price of the eligible own funds (cost of capital rate) shall be the same for all insurers and reinsurers and shall be re-examined on a regular basis.

(11) The used cost of capital rate shall be equal to the mark-up over the respective risk-free rate which is to be paid by the insurer or by the reinsurer, if it holds eligible own funds under Chapter Twelve equal to the capital solvency requirement, necessary for guaranteeing the insurance and reinsurance obligations for the time period of their existence.

(12) When calculating the technical reserves, the following shall also be taken into account:

1. the expenses related to meeting the obligations under insurance and reinsurance contracts;

2. the inflation, including the inflation of the claims and expenses;

3. all payment to insured persons, reinsured persons and beneficiaries, including future discretionary bonuses, that the insurer or the reinsurer expects to make regardless of whether these payment are contractually guaranteed.

(13) The additional requirements for calculation of the best forecast estimate and of the risk supplement shall be stipulated by an act of the European Commission and by virtue of the ordinance under Article 120 (6).

Extrapolation of the respective term structure of the risk-free interest rate

Article 155. (1) The determination of the respective term structure of the risk-free interest rate under Article 154 (2) shall be based on and shall be coordinated with the information extracted from the respective financial instruments. This determination shall take into account the respective financial instruments for the maturities, in the case of which the markets for these financial instruments, as well as the bond markets, are sufficiently deep, liquid and transparent. When it comes to maturities in the case of which the markets for the respective financial instruments or for bonds are no longer sufficiently deep, liquid and transparent, an extrapolation of the term structure of the risk-free interest rate shall be made.

(2) The extrapolated portion of the respective term structure of the prime risk-free interest rate shall be based on forward interest rates which are spliced smoothly (rolled over) from one interest rate or from a set of interest rates in the cases of the longest maturity dates of the respective financial instruments and of the bonds, which can be observed in a deep, liquid and transparent market, into an ultimate forward interest rate.

Equalising correction of the respective term structure of the risk-free interest rate

Article 156. (1) After an advance approval by the Deputy Chairperson, an insurer or a reinsurer respectively may apply the equalising correction of the respective term structure of the risk-free interest rate for calculation of the best forecast valuation of a portfolio of life insurance or reinsurance liabilities, as well as of liabilities for rent stemming from general insurance contracts.

(2) The conditions for granting approval under Paragraph 1 shall be as follows:

1. the insurer or the reinsurer respectively has earmarked a portfolio of assets consisting of bonds and other assets with similar characteristics of the cash flows for covering the best forecast valuation of the portfolio of the insurance or reinsurance liabilities and maintains this earmarking over the entire life cycle of the liabilities but not for the purposes of maintaining the replication of the expected cash flows between the assets and the liabilities, when the cash flows have changed significantly;

2. the portfolio of insurance and reinsurance liabilities, in respect of which the equalising correction is applied and the earmarked portfolio of assets are identified, organised and managed separately from the other operations of the insurer or of the reinsurer respectively and the earmarked portfolio of assets may not be used for the covering of losses arising from the other operations of the insurer;

3. the expected cash flows from the earmarked portfolio of assets replicate each of the future cash flows of the portfolio of the insurance and reinsurance liabilities in the same currency and there is no discrepancy or mismatch which gives rise to risks which are significant when it comes to the risks inherent in the insurance or reinsurance, to which the equalising correction is applied;

4. the contracts underlying the portfolio of insurance and reinsurance liabilities do not give rise to future payments of premiums;

5. the only underwriting risks associated with the portfolio of insurance and reinsurance liabilities are the risk of longevity, the expense-related risk, the risk of an audit and the risk of death;

6. when the underwriting risk associated with the portfolio of insurance and reinsurance liabilities includes risk of death, the best forecast valuation of the portfolio of the insurance or reinsurance liabilities does not increase by more than 5 percent upon a stress of the risk of death, which is calibrated in accordance with the principles of Article 170, Paragraphs 2 - 6;

7. contracts underlying the portfolio of the insurance or reinsurance liabilities do not include options of the persons who have rights under insurance contracts or include only a buy-out option, if the buy-out value does not exceed the value of the assets, assessed in accordance with Article 152, which covers the insurance and reinsurance liabilities as of the moment of exercise of the immediate buy-out option;

8. the cash flows of the special purpose portfolio of assets are fixed and may not be changed by the issuers of the shares of stock or by third persons;

9. the insurance or reinsurance liabilities of an insurance or reinsurance contract are not divided into different parts which are included in the composition of the portfolio of insurance or reinsurance liabilities for the purposes of this paragraph.

(3) Regardless of the provision of Paragraph 2, Item 8, the insurer or the reinsurer respectively may use assets in the case of which the cash flows are fixed, with the exception of the dependence on inflation, provided that these assets match the cash flows of the portfolio of insurance or reinsurance liabilities which are dependent on inflation.

(4) In case the issuers or third persons who have the right to change the cash flows of a given asset in such a manner as afford sufficient compensations to the investor to enable him/her to obtain the same cash flows through reinvestment in assets of equivalent or better credit quality, the right to change the cash flows shall not exclude the asset from eligibility to be included in the special purpose portfolio in accordance with Paragraph 2, Item 8.

(5) An insurer or a reinsurer respectively which applies an equalising correction to a portfolio of insurance or reinsurance liabilities may not revert to the approach which excludes equalising corrections. If the person who applies an equalising transaction is not able to comply in the future with the conditions under Paragraph 2, he/she shall inform immediately the Deputy Chairperson and shall undertake the necessary measures for restoring compliance with the said conditions. If the insurer or the reinsurer respectively is not able to restore compliance with these conditions within two months from the commencement date of the non-compliance, it shall cease to apply an equalising correction to its insurance or reinsurance liabilities and cannot apply the equalising correction prior to expiration of an additional time period of 24 months.

(6) The equalising correction shall not be applied in respect to insurance or reinsurance liabilities, where the respective term structure of the risk-free interest rate for calculation of the best forecast valuation of these liabilities does not include a volatility correction pursuant to Article 158.

Calculation of the equalising correction

Article 157. (1) For each specific currency, the equalising correction specified in Article 156 shall be calculated in accordance with the following principles:

1. the equalising correction shall be equal to the difference between:

a) the effective annual interest rate calculated as a single discount rate, which, when applied to the cash flows from the portfolio of the insurance or reinsurance liabilities, produces a value equal to the value in accordance with Article 152 of the portfolio of special purpose assets;

b) the effective annual interest rate, calculated as a single discount rate, which, when applied to the cash flows of the portfolio of insurance and reinsurance liabilities, produces a value which is equal to the value of the best possible forecast valuation of the portfolio of insurance and reinsurance liabilities, where the time value of money shall be taken into account when using the basic term structure of the risk-free interest rate.

2. the equalising correction shall not include the prime spread reflecting the risks maintained by the insurer or by the reinsurer;

3. regardless of Item 1, the prime spread shall be increased, where necessary, to guarantee that the equalising correction of the assets of sub-investment credit rating does not exceed the equalising correction of the assets of investment credit rating of the same duration and of the same class of assets.

4. the use of internal credit assessments in the calculation of the equalising correction shall be in accordance with an act of the European Commission.

(2) For the purpose of Paragraph 1, Item 2, the prime spread:

1. shall be equal to the sum total of:

a) the credit spread matching the probability of not achieving the planned level of assets;

b) the credit spread matching the expected loss from lowering the level of classification of the assets;

2. as regards the exposures to the central governments and the central banks, it is not lower than 30 percent of the long-term average amount of the spread above the prime risk-free interest rate of the financial assets of the same duration, same credit quality and belonging to the same category, as observed on the financial markets;

3. as regards the assets other than the exposures to the central governments and the central banks, it is not lower than 35 percent of the long-term average amount of the spread above the prime risk-free interest rate of the financial assets of the same duration, same credit quality and belonging to the same category, as observed on the financial markets;

(3) The probability of not attaining the requisite level as specified in Paragraph 2, Item 1, Letter "a" shall be based on long-term statistics of non-attainment, which are of importance for the assets as regards the duration, the credit quality and the class.

(4) When it is impossible to derive a reliable credit spread from the statistical data specified in Paragraph 3, the prime spread shall be equal to the portion of the long-term average size of the spread over the risk-free rake determined in Paragraph 2, Items 2 and 3.

Volatility correction of the respective term structure of the risk-free interest rate

Article 158. (1) After an advance approval by the Deputy Chairperson, an insurer or a reinsurer respectively may apply a volatility correction for the respective term structure of the risk-free interest rate for calculating the best possible forecast valuation under Article 154 (2).

(2) For each specific currency, the volatility correction for the respective term structure of the risk-free interest rate shall be based on the spread between the interest that could be earned from assets included in a benchmark portfolio for the specific currency and the values of the respective basic term structure of the risk-free interest rate for that specific currency. The benchmark portfolio for a given currency shall be representative for the assets which are denominated in this currency and which the insurance and reinsurance undertakings have invested for covering the best possible valuation of the insurance and reinsurance liabilities denominated in this currency.

(3) The size of the correction for volatility of the risk-free interest rate corresponds to 65 percent of the risk-adjusted currency spread.

(4) The risk-adjusted currency spread shall be calculated as the difference between the spread specified in Paragraph 2 and the portion of this spread which is due to a realistic assessment of the expected losses, of unexpected credit risk or of another risk for the assets.

(5) The volatility correction shall be applied only to the respective risk-free interest rate from the term structure, which was not obtained through extrapolation in accordance with Article 155. The extrapolation of the respective risk-free interest rate from the term structure shall be based on this adjusted risk-free interest rate.

(6) For each specific country, the volatility correction for the risk-free interest rate under Paragraph 3 - 5 for the currency of the respective country, prior to the application of a coefficient of 65 percent, shall be increased with the difference between the risk-adjusted spread of the country and risk-adjusted currency spread multiplied by two, where this difference is positive and where the risk-adjusted spread of the country is higher than 100 basis points. The increased volatility correction shall be applied for calculation of the best possible forecast valuation of the insurance and reinsurance liabilities of the products sold on the insurance market of this same country. The risk-adjusted spread of the country shall be calculated in the same manner as the risk-adjusted currency spread for the currency of that same country, but based on a benchmark portfolio which is representative for the assets which the insurers and the reinsurers have invested for covering the best forecast valuation of the insurance and reinsurance liabilities, related to products sold on the insurance market in this country and denominated in the currency of this country.

(7) The volatility correction shall not be applied in respect of insurance liabilities, when the respective term structure of the

risk-free interest rate for calculation of the best possible forecast valuation of these liabilities includes an equalising correction under Article 156.

(8) As an exception to the requirements of Article 170, the capital solvency requirements shall not cover the risk of loss of the core own funds, which result from the changes of the volatility correction.

Using technical information prepared by the European Authority and adopted by an act of the European Commission.

Article 159. (1) When calculating the best possible forecast valuation under Article 154, the equalising correction under Article 156 and the volatility correction under Article 158, the insurer or the reinsurer respectively shall use the technical information prepared by the European Authority and adopted by an act of the European Commission according to the procedure of Article 77e, Paragraph 2 of Directive 2009/138/EC.

(2) No volatility correction of the term structure of the respective risk-free interest rate shall be applied for the calculation of the best possible forecast valuation in respect to currencies and national markets, for which no such correction has been indicated in an act of the European Commission under Paragraph 1.

(3) The additional requirements for calculation of the best forecast valuation and of the risk supplement shall be stipulated by an ordinance of the Commission and by an act of the European Commission.

Valuation of the financial guarantees and contractual options forming part of the insurance and reinsurance contracts

Article 160. (1) When calculating the technical reserves, the insurer or the reinsurer respectively shall take into account the value of the financial guarantees and contractual options forming part of the insurance and reinsurance contracts.

(2) Any assumption made by the insurer or by the reinsurer respectively as regards the probability that the title holders of policies will exercise contractual options, including such for premature termination and buy-out, must be realistic and be based on current, up-to-date and trustworthy information. The assumptions shall, directly or indirectly, take into account the impact of future changes in the financial and non-financial conditions on the exercise of such options.

Recoverable amounts under reinsurance contracts and from special purpose vehicles for alternative insurance risk transfer

Article 161. (1) The insurer or the reinsurer respectively shall calculate the recoverable amounts under reinsurance contracts and from special purpose vehicles for alternative insurance risk transfer in accordance with Article 120 and Article 153 - 160.

(2) When calculating the recoverable amounts under reinsurance contracts and from special purpose vehicles for alternative insurance risk transfer, the insurer or the reinsurer respectively shall take into account the time period between the receivables and the actual payments.

(3) The result from the calculation shall be adjusted to take into account the expected losses as a result of non-performance by the counter party. This adjustment shall be based on an estimate of the probability of non-performance by the counter party and on the average amount of the loss as a result thereof (loss from non-performance).

Quality of data and application of approximate values, including approaches to each specific case, for determining the technical reserves

Article 162. (1) The insurer or the reinsurer shall have internal processes and procedures to guarantee that the data used when calculating the technical reserves is appropriate, complete and trustworthy.

(2) If, under any specific circumstances, the insurer or the reinsurer respectively has an insufficient amount of data of the appropriate quality to apply a reliable actuarial approach as regards a group or a sub-group of their insurance and reinsurance liabilities or of receivables under reinsurance contracts and from special purpose vehicles for alternative insurance risk transfer,

approximate values may be applied, including approaches to each specific case, for calculation of the best possible forecast valuation.

Juxtaposing with the actual results

Article 163. (1) The insurer or the reinsurer respectively shall have processes and procedures to guarantee regular juxtaposing of the best possible forecast valuations and assumptions involved in the calculation of these best possible forecast valuations with the actual results.

(2) When, as a result of the juxtaposing, a systematic discrepancy is established between the actual results and the best possible forecast valuations of the insurer or of the reinsurer respectively, it shall make appropriate corrections of the actuarial methods used and/or the assumptions made.

Chapter Twelve
OWN FUNDS

General requirements

Article 164. (1)The own funds of the insurer or of the reinsurer respectively shall include the core own funds and the supplementary own funds.

(2) Each insurer or reinsurer respectively shall be obligated to have at all times eligible own funds at least equal to the capital solvency requirement.

(3) Each insurer or reinsurer respectively shall be obligated to have at all times eligible core own funds at least equal to the minimum capital requirements and to the minimum guarantee capital respectively.

Core own funds

Article 165. (1) The core own funds shall include the following components:

1. the exceedance of the assets over the liabilities, valued according to Chapter Eleven;

2. subordinated liabilities.

(2) The exceedance under Article 1, Item 1 shall be reduced by the value of the own stocks held by the insurer or by the reinsurer respectively.

Supplementary own funds

Article 166. (1) The supplementary own funds shall include components, other than the core own funds, which may be procured to cover losses.

(2) The supplementary own funds may encompass the following components, to the extent that they do not form core own funds:

1. letters of credit and guarantees;

2. other legally binding receivables that have arisen in favour of the insurer or reinsurer respectively.

(3) In the cases of mutual insurance cooperative societies, the supplementary own funds may also encompass the future claims that the cooperative society could have against its members by virtue of an invitation for supplementary contributions within the next 12 months.

(4) If the supplementary own funds have been paid in or if their payment in has been required, they shall be treated as assets and shall stop being part of the components of the supplementary own funds.

Approval of the supplementary own funds and of their line classification

Article 167. (1) The amount of the supplementary own funds to be taken into account when determining the own funds shall be subject to preliminary approval by the Commission, on a proposal by the Deputy Chairperson.

(2) The value determined for each component of the supplementary own funds shall reflect the capability of the component to cover losses and shall be based on reasonable and realistic assumptions. When a component of supplementary own funds has a fixed nominal value, the value of this component shall be equal to its nominal value, when the nominal value reflects in an appropriate manner its capability to cover losses.

(3) On a proposal by the Deputy Chairperson, the Commission shall approve:

1. a cash value of each components of supplementary own funds, or

2. a method for determining the value of each component of supplementary own funds, where in this case the supervisory approval of the value determined according to the respective method shall be granted for a definite period only.

(4) For each component of supplementary own funds, the Commission, on a proposal by the Deputy Chairperson, shall grant its approval on the basis of an assessment of the following:

1. the condition of the respective counter parties as regards their ability and willingness to pay;

2. collectability of the cash resources, by taking into account the legal form of the component, as well as the condition which would impede the successful payment or collection of the component;

3. any information about the result from past requests to pay in such supplementary own funds made by the insurer or by the reinsurer respectively to the extent to which the said information can reliably be used for assessment of the expected result from future requests.

(5) The components of the own funds of the insurer or of the reinsurer respectively shall be classified in three lines pursuant to an act of the European Commission and the ordinance under Article 168. When a particular component of the own funds cannot be classified according to a list given in the act of the European Commission under Article 168, it shall be classified in the appropriate line by the insurer or by the reinsurer in compliance with the requirements of the ordinance under Article 168. The classification under sentence two shall be subject to approval by the Commission, on a proposal of the Deputy Chairperson.

Delegation

Article 168. The remaining qualitative and quantitative requirements for determination of the own funds, for their classification, as well as for their eligibility, shall be stipulated by an act of the European Commission and by an ordinance of the Commission.

Chapter Thirteen
CAPITAL SOLVENCY REQUIREMENT

Section I
General provisions

Capital solvency requirement

Article 169. The capital solvency requirement shall be calculated according to the standard formula or by means of a full or partial internal model.

Main principles for calculation of the capital solvency requirement

Article 170. (1) The capital solvency requirement shall be calculated on the basis of the presumption that the insurer or the reinsurer respectively shall carry on its operations as a going concern.

(2) The capital solvency requirement shall be calibrated to take into account all quantitatively measurable risks that the insurer or the reinsurer is exposed to. It shall encompass the present operations, as well as the future operations, which are expected to be underwritten during the next 12 months. As regards the present operations, it shall cover only the unexpected losses.

(3) The capital solvency requirement shall correspond to the value-at-risk of the core own funds of the insurer or of the reinsurer respectively, while adhering to a confidence interval of 99.5 percent for a period of one year.

(4) The capital solvency requirement shall encompass at least the following risks:

1. general insurance underwriting risk;

2. life insurance underwriting risk;

3. health insurance underwriting risk;

4. market risk;

5. credit risk;

6. operating risk.

(5) The operating risk under Paragraph 4, Item 6 shall include the legal risk but shall exclude the risk stemming from strategic decisions, as well as the reputational risk.

(6) When calculating the capital solvency requirement, the insurer or the reinsurer respectively shall take into account the effect of the risk mitigation techniques, provided that the credit risk and the other risks stemming from the use of such techniques are appropriately reflected in the capital solvency requirement.

Frequency of calculation

Article 171. (1) The insurer or the reinsurer respectively shall calculate the capital solvency requirement at least once a year and shall report the result from the calculation to the Commission.

(2) The insurer or the reinsurer respectively shall maintain eligible own funds covering the capital solvency requirement last reported.

(3) The insurer or the reinsurer respectively shall monitor constantly the amount of the eligible own funds and of the capital solvency requirement.

(4) If the risk profile of the insurer or of the reinsurer deviates considerably from the assumptions underlying the last reported capital solvency requirement, the insurer or the reinsurer respectively shall re-calculate immediately the capital solvency

requirement and shall report it to the Commission.

(5) When there is evidence, on the basis of which a conclusion can be drawn that the risk profile of the insurer or of the reinsurer has changed considerably since the date of the last reporting of the capital solvency requirement, the Deputy Chairperson may order the insurer or the reinsurer respectively to re-calculate the capital solvency requirement.

Section II
Calculation of the capital solvency requirement on the basis of the standard formula

Standard formula

Article 172. (1) An insurer or a reinsurer respectively, which has not obtained permission to apply a full or partial internal model, shall calculate the capital solvency requirement by means of the standard formula.

(2) The standard formula and the procedure for calculation of the capital solvency requirement by means thereof shall be stipulated by an act of the European Commission and by the ordinance of the Commission.

Replacement of part of the parameters of the standard formula with parameters specific to the insurer or reinsurer respectively

Article 173. (1) After an advance approval by the Commission, on a proposal by the Deputy Chairperson, the insurer or the reinsurer respectively may replace, within the structure of the standard formula, part of its parameters with parameters which are specific to it, for calculation of the modules of the life insurance underwriting risk, the general insurance underwriting risk or the health insurance underwriting risk.

(2) These parameters shall be calibrated on the basis of internal data of the respective insurer or reinsurer or on the basis of data that has direct bearing on its operations, while using standardised methods.

(3) In the approval granting procedure, the Commission, on a proposal of the Deputy Chairperson, shall check the completeness, accuracy and fitness of the data used.

Significant deviations from the assumptions underlying the calculation of the standard formula

Article 174. When it is inappropriate that the capital solvency requirement be calculated in accordance with the standard formula, because the risk profile of the respective insurer or reinsurer deviates significantly from the assumptions underlying the calculation of the standard formula, the Commission, on a proposal by the Deputy Chairperson and subject to compliance with Article 173, may impose an obligation, by a reasoned decision, on the insurer or reinsurer to replace part of the parameters used in the calculation of the standard formula with parameter specific to such insurer or reinsurer, for calculation of the modules of the life insurance underwriting risk, the general insurance underwriting risk or the health insurance underwriting risk. These specific parameters shall be calculated in such a manner as to guarantee compliance with Article 170, Paragraph 2 and 3.

Section III
Capital solvency requirement when using internal models

Full and partial internal models

Article 175. (1) An insurer or a reinsurer respectively may calculate the capital solvency requirement by using a full or a partial internal model after approval by the Commission on a proposal by the Deputy Chairperson.

(2) A partial internal model may be used for calculation of one or several of the following components:

1. one or more modules or sub-modules of the risk of the basic capital solvency requirement;

2. the capital requirement for operating risk;

3. the correction for the capacity for absorption of losses of the technical reserves and of the deferred tax liabilities.

(3) A partial internal model may be used for the entire operations of the insurer or of the reinsurer respectively or for one or several sizeable commercial divisions.

Test for application of an internal model

Article 176. (1) The internal model must be widely used and must have an important role in the management system of the insurer or of the reinsurer respectively and in particular:

1. in its risk management system and in the decision-making process;

2. in its processes for assessment and allocation of its economic capital and of its solvency capital, including in the assessment of the equity capital and solvency.

(2) The frequency of calculation of the capital solvency requirement through the internal model shall match the frequency with which the insurer or the reinsurer respectively uses the internal model.

(3) The management and control body of the insurer or of the reinsurer respectively must guarantee that the concept and the functioning of the internal model are appropriate and that the internal model continues to reflect in an appropriate manner the risk profile of the respective insurer or reinsurer.

Statistical quality standards

Article 177. (1) The internal model and the forecast for probability distribution, on which it is based, must meet the criteria under Paragraphs 2 - 9.

(2) The methods used for calculation of the forecast of the probability distribution shall be based on adequate, applicable and appropriate actuarial and statistical techniques and they shall be consistent with the methods used for calculation of the technical reserves. The methods used for calculation of the forecast of the probability distribution shall be based on current and trustworthy information, as well as on realistic assumptions. The insurer or the reinsurer respectively must be able to justify the assumptions underlying its internal model, before the Deputy Chairperson.

(3) The data used for the internal model must be accurate, complete and appropriate. The insurer or the reinsurer respectively shall be obligated to update the data bases used for calculation of the forecast of the probability distribution, at least once a year.

(4) A specific method for calculation of the forecast of the probability distribution shall be selected by the insurer or by the reinsurer respectively. Regardless of the selected calculation method, the capability of the internal model to classify the risk must be sufficient to guarantee its wide use and its role in the management system of the insurer or the reinsurer, as well as to guarantee the compliance with the other requirements under Article 176 (1). The internal model must cover all significant risks, to which the insurer or the reinsurer is exposed, while covering at least the risk under Article 170 (4).

(5) As regards the diversification effects, the insurer or the reinsurer respectively may take into account, in its internal model, relationships both within the risk categories and between the risk categories, provided that the Commission makes an assessment that the system for assessment of these diversification effects is adequate.

(6) The insurer or the reinsurer respectively may take into account the effect of the risk mitigation techniques in its internal model, provided that the credit risk and the other risks stemming from the use of such techniques are appropriately reflected in the internal model.

(7) The insurer or the reinsurer respectively shall be obligated to assess accurately in its internal model the specific risks associated with financial guarantees and contractual options, when these are significant. It shall also assess the risks associate both with the options of the insured person and with the contractual options for the insurer or the reinsurer respectively. For that purpose, it shall take into account the impact of future changes in the financial and non-financial conditions on the exercise of such options.

(8) In its internal model, the insurer or the reinsurer respectively may take into account the future actions of its management bodies, which are logically to be undertaken in these specific circumstances. In these cases, the time necessary to undertake such actions shall also be taken into account.

(9) In its internal model, the insurer or the reinsurer respectively shall be obligated to take into account all payments to insured persons or beneficiaries that the insurer or the reinsurer expects to make, regardless of whether these payment are contractually guaranteed or not.

Standards for calibration

Article 178. (1) For the purposes of the internal modelling, the insurer or the reinsurer respectively may use a different time period or method for measuring the risk than those under Article 170 (3), to the extent to which the results from the internal model allow calculation of the capital solvency requirement in such a manner as to guarantee protection to the insured persons and beneficiaries equivalent to the protection envisaged under Article 170.

(2) Where possible, the insurer or the reinsurer respectively shall derive the capital solvency requirement directly from the forecast of the probability distribution generated by its internal model by using the value-at-risk method under Article 170 (3).

(3) When the insurer or the reinsurer cannot derive the capital solvency requirement directly from the forecast of the probability distribution generated by the internal model, the Deputy Chairperson may authorise the use of approximate values in the process of calculation of the capital solvency requirement, if the respective person can prove that a level of protection equivalent to the one envisaged under Article 170 has been provided to the insured persons.

(4) The Deputy Chairperson may request from the insurer or from the reinsurer respectively to apply its internal model in regard to relevant portfolios which constitute a basis for comparison and by using assumptions based in internal rather than external data to establish the calibration of the internal model and to check whether its specifications conform to the generally accepted market practice.

Review of the sources of profit and loss

Article 179. The insurer or the reinsurer respectively shall, at least once a year, review the causes and sources of profits and losses for each significant division of operations and shall demonstrate in exactly what manner the categorisation of the risk selected in the internal model explains the causes and sources of profits and losses. The categorisation of risk and the review of the sources of the loss must reflect the risk profile of the insurer or the reinsurer respectively.

Standards for validation

Article 180. (1) The insurer or the reinsurer respectively shall have a regular cycle for validation of the model, which shall include monitoring of the results from the application of the internal model, reporting of the constant fitness of its specifications and testing of the results therefrom relative to the actual results.

(2) The process of validation of the model shall include an internal effective statistical process for validation of the internal model, which enables the insurer or the reinsurer respectively to prove before the Deputy Chairperson that the capital

requirements derived are appropriate.

(3) The applied statistical methods shall check the fitness of the forecast of the probability distribution not only relative to losses sustained but also relative to all significant new data and information related thereto.

(4) The model validation process includes an analysis of the stability of the internal model and in particular testing of the sensitivity of the results from the internal model to changes in key assumptions underlying it. It shall also include assessment of the completeness, accuracy and fitness of the data used by the internal model.

Standards for documentation

Article 181. (1) The insurer or the reinsurer respectively shall be obligated to document the concept and the operating details of the internal model.

(2) The documentation must:

1. certify compliance with the requirements of Article 176 - 180;

2. provide a detailed review of the theory, assumptions, mathematical and empirical basis on which the internal model depends;

3. specify the circumstances under which the internal model cannot function effectively.

(3) The insurer or the reinsurer respectively shall document all significant changes in its internal model pursuant to Article 186.

External model and data

Article 182. The use by the insurer or by the reinsurer respectively of model and data obtained from third persons is not valid grounds for waiving any of the requirements under Article 176 - 181.

Application of the acts of the European Commission

Article 183. The supplementary conditions to the internal models shall be stipulated by an act of the European Commission, as well as by an ordinance of the Commission.

General provisions in connection with the approval of a full or a partial internal model

Article 184. (1) The insurer or the reinsurer respectively shall submit a request to the Deputy Chairperson for approval of an internal model. Written evidence that the model meets the requirements under Article 176 - 181 shall at least be attached to the request. When the request by the insurer or by the reinsurer pertains to approval of a partial internal model, the requirements under Article 176 - 181 shall be adapted to reflect the limited field of application of the model. The Deputy Chairperson may require all necessary evidence, where Article 7 of the Act Restricting Administrative Regulation and Administrative Control over Economic Activity shall not be applied.

(2) The Commission shall, on a proposal by the Deputy Chairperson, pronounce an opinion within 6 months from the receiving the request under Paragraph 1, accompanied by all necessary evidence.

(3) The Commission shall approve the internal model only if it believes that the systems of the insurer or of the reinsurer for determining, measuring, monitoring, managing and reporting the risk are adequate and that the internal model meets the requirements under Paragraph 1.

(4) The decision to deny the request under Paragraph 1 shall be properly justified.

(5) The Deputy Chairperson may, by means of a reasoned decision, impose an obligation on an insurer or on a reinsurer which

has obtained approval to use the internal model to submit a forecast valuation of the capital solvency requirements according to the standard formula.

Specific provisions for the approval of a partial internal model

Article 185. (1) The Commission shall, on a proposal by the Deputy Chairperson, approve a partial internal model, if the requirements under Article 184 and the following supplementary conditions are met:

1. the reasons for the limited field of applicability of the model has been duly justified by the insurer or by the reinsurer respectively;

2. the derived capital solvency requirement reflects more accurately the risk profile of the insurer or of the reinsurer and is made consistent with the principles under Section One;

3. the concept of the partial internal model is conformant with the principles of Section One, making it possible for the partial internal model to be fully integrated into the standard formula of the capital solvency requirement.

(2) In the process of considering a request for use of a partial internal model covering only particular sub-modules of a specific module of the risk or some of the commercial divisions of the insurer or the reinsurer respectively, in connection with a specific risk module or part of the two above, the Deputy Chairperson may request from the applicant to present a realistic transitional plan for expanding the field of applicability of such model. The transitional plan must present the manner, in which the insurer or the reinsurer respectively plans to expand the field of applicability of the model onto other sub-modules or commercial divisions to guarantee that the model covers the predominant part of their operations as regards the specific risk module.

Policy for changing a full or a partial internal model

Article 186. (1) As part of the initial process of approving an internal model, the Commission shall, on a proposal by the Deputy Chairperson, approve a policy for changing the model of the insurer or of the reinsurer respectively. The insurer or the reinsurer respectively may change its internal model in strict compliance with this policy only.

(2) The policy under Paragraph 1 shall stipulate the significant and the insignificant changes in the internal model.

(3) The significant changes in the internal model, as well as the changes in the policy under Paragraph 1, shall be subject to preliminary approval by the Commission, on a proposal by the Deputy Chairperson.

(4) The insignificant changes in the internal model shall not be subject to a preliminary approval, when developed in accordance with the policy under Paragraph 1.

Responsibility of the management bodies

Article 187. (1) The management body of the insurer or of the reinsurer respectively shall approve the request for approval of the internal model, as well as the request for approval of significant subsequent changes in it.

(2) The management body of the insurer or of the reinsurer respectively shall be responsible for the introduction of systems guaranteeing the correct and uninterrupted functioning of the internal model.

Reverting to the standard formula

Article 188. After obtaining an approval for use of a full or a partial internal model, the insurer or the reinsurer respectively may not revert to calculating the capital solvency requirement in accordance with the standard formula, with the exception of well-grounded necessity and after approval by the Commission, on a proposal by the Deputy Chairperson.

Non-compliance with the internal model

Article 189. (1) If, after obtaining an approval for use of an internal model, the insurer or the reinsurer respectively ceases to comply with the requirements of Article 176-181, it shall immediately submit to the Commission a plan for restoring the compliance with the model within a reasonable time limit or it shall prove that the consequences from the non-compliance are insignificant.

(2) In case the insurer or the reinsurer respectively fails to apply the plan under Paragraph 1, the Commission may, on a proposal by the Deputy Chairperson, order the insurer or the reinsurer to revert to the standard formula for calculation of the capital solvency requirement.

Significant deviations from the assumptions underlying the calculation of the standard formula

Article 190. When it is not appropriate for the capital solvency requirement to be calculated in accordance with the standard formula, because the risk profile of the respective insurer or reinsurer deviates significantly from the assumptions underlying the calculation of the standard formula, the Commission may, on a proposal by the Deputy Chairperson, order by a reasoned decision the respective persons to use an internal model for calculation of the capital solvency requirement or of some of its risk modules.

Chapter Fourteen
MINIMUM CAPITAL REQUIREMENT

Definition

Article 191. The minimum capital requirement shall be the minimum amount, to which the eligible core own funds of the insurer or of the reinsurer must be equal.

Calculation of the minimum capital requirement

Article 192. (1) The minimum capital requirement shall be calculated in accordance with the following principles:

1. it shall be calculated in a clear and simple manner which is possible to audit;

2. it must correspond to such a level of eligible core own funds, below which the insured persons and the users shall be exposed to unacceptable level of risk, if the insurer or the reinsurer continues to carry on its operations;

3. the linear formula under Paragraph 3, which is used for calculation of the minimum capital requirement, shall be calibrated relative to the value-at-risk of the core own funds of the insurer or of the reinsurer subject to compliance with a confidence interval of 85 percent for one year.

(2) The minimum capital requirement may not be less than the following absolute minimum amounts:

1. five million levs - for an insurer, including a captive insurer, which has obtained an insurance licence that covers one or several types of insurance under Items 1 - 9 and Items 16 - 18, Section II, Letter "A" of Annex No. 1, with the exception of the cases under Item 2, Letter "b" when the absolute minimum amount envisaged therein shall be applied.

2. seven million and four hundred thousand levs - for an insurer, which has obtained an insurance licence that encompasses one or several types of insurance under:

a) Section I of Annex No. 1;

b) Items 10 - 15, Section II, Letter "A" of Annex No. 1;

3. seven million and two hundred thousand levs - for a reinsurer;

4. two millions and four hundred thousand levs - for a captive reinsurer;

5. the sum total of the amounts under Items 1 and 2 for the insurers which performs operations under Section I of Annex No. 1 and under Item 1 and/or 2, Section II, Letter "A" of Annex No. 1 simultaneously.

(3) Subject to compliance with Paragraph 4, the minimum capital requirement shall be calculated as a linear function of all or part of the following variables: technical reserves, subscribed premiums, capital-at-risk, deferred tax liabilities and administrative expenses of the insurer or of the reinsurer respectively. The variables used shall be measured by deducting the share of the reinsurers.

(4) Regardless of Paragraph 2, the minimum capital requirement may not be less than 25 percent and may not exceed 45 percent of the capital solvency requirement calculated according to the standard formula or by using an internal model, and including all capital supplements imposed under Article 584.

(5) The insurer or the reinsurer respectively shall calculate the minimum capital requirement at least once a quarter and shall report the result from the calculation to the Commission. The insurers or reinsurers respectively shall not be obligated to calculate the capital solvency requirement once a quarter in the cases of the restrictions under Paragraph 4.

(6) When the minimum capital requirement of an insurer or of a reinsurer is determined by any of the restrictions specified in Paragraph 4, the insurer or the reinsurer respectively shall submit an explanation for that to the Commission.

(7) The methods for calculation of the minimum capital requirement shall be stipulated by an act of the European Commission.

Chapter Fifteen
SUBMISSION OF INFORMATION TO THE SUPERVISION AUTHORITIES

Relief in connection with the regular submission of information

Article 193. (1) The Deputy Chairperson may relieve an insurer or a reinsurer from the obligation to submit information under Article 127, Paragraph 2, Item 1, when the time limit for submission thereof is shorter than one year, provided that:

1. the submission of such information would constitute an excessive administrative burden as regards the nature, scale and complexity of the risks associated with its operations;

2. this information is submitted at least once a year.

(2) Paragraph 1 shall not be applied to the quarterly reporting of the result from the calculation of the minimum capital requirement under Article 192, Paragraph 5, Sentence One.

(3) Paragraph 1 shall not be applied in respect of insurers or reinsurers which are part of a group within the meaning of Article 233, Paragraphs 1 or 2, unless they prove in a well-grounded manner to the Deputy Chairperson that regular supervisory reporting on a more frequent basis than once a year is inappropriate in view of the nature, scale and complexity of the risks associated with the operations of such group.

(4) The relief under Paragraph 1 shall be granted to insurers or reinsurers respectively, which do not constitute more than 20 percent of the market of life insurance or general insurance respectively, and of the market of reinsurance, where the market share in the case of general insurance shall be determined on the basis of the gross subscribed premiums, whereas the market share in the case of life insurance shall be determined on the basis of the gross technical reserves.

(5) When applying the relief under Paragraph 1, the smallest insurers and reinsurers respectively shall enjoy preferential treatment.

Relief in connection with the submission of detailed information

Article 194. (1) The Deputy Chairperson may relieve an insurer or a reinsurer of the obligation for detailed submission of information (component by component), provided that:

1. the submission of such information would constitute an excessive administrative burden as regards the nature, scale and complexity of the risks associated with its operations;

2. the submission of such information is not necessary for exercising effective supervision over the insurer or the reinsurer;

3. the relief does not infringe on the stability of the respective financial systems in the European Union;

4. the insurer or the reinsurer respectively may submit the information at any time upon request.

(2) Paragraph 1 shall not be applied in respect of insurers or reinsurers which are part of a group within the meaning of Article 233, Paragraphs 1 or 2, unless they prove in a well-grounded manner to the Deputy Chairperson that detailed submission of information (component by component) is inappropriate in view of the nature, scale and complexity of the risks associated with the operations of such group, and if this will not infringe on the financial stability.

(3) Article 193, Paragraphs 4 and 5 shall be applied to the relief under Paragraph 1.

Criteria for application of relief as to the submission of information

Article 195. (1) For the sake of application of Article 193 and 194 and as part of the process of supervisory review, the Deputy Chairperson shall make the assessment of whether the submission of information would constitute an excessive administrative burden as regards the nature, scale and complexity of the risks of the insurer or of the reinsurer, while taking into account at least:

1. the volume of its premiums, technical reserves and assets;

2. the variability of the claims and indemnity amounts;

3. the market risks arising because of the investments;

4. the level of risk concentration;

5. the total number of types of life insurance and general insurance, for which a licence has been granted;

6. the possible consequences from the asset management on the financial stability;

7. the systems and structures of the insurer or of the reinsurer respectively should provide information for the purposes of the supervision and policy as regards the submission of information under Article 127 (7);

8. the fitness of its management system;

9. the level of the own funds for covering the capital solvency requirements and the minimum capital requirement;

10. whether the person is a captive insurer or reinsurer, which cover only risks associated with the industrial or commercial group to which it belongs.

(2) When determining the market share under Article 193 (4) and Article 194 (3) in connection with Article 193 (4), the Deputy Chairperson shall apply the guidelines adopted by the European Authority.

Chapter Sixteen
INVESTMENTS

Freedom of investment

Article 196. (1) The insurer or the reinsurer respectively may not be placed under an obligation to invest in specific asset categories.

(2) The investment decision of the insurer or reinsurer or of the persons managing the investment operations may not be subject to a preliminary approval or to a notification procedure.

(3) The Commission may, by an ordinance, limit the assets or the benchmark values, with which the insurance policies related to investment funds are to be associated.

Location of the assets and prohibition to pledge assets

Article 197. (1) The assets for covering the technical reserves as regards risk located within the boundaries of the European Union may be located in any member state, as well as in a third state.

(2) Paragraph 1 shall also be applied to the assets for covering the reserves for receivables from a reinsurer with a seat of business in the Republic of Bulgaria, in another member state or in a third state, whose solvency legislative framework has been recognised to be equivalent.

(3) The Commission may not impose a requirement for instituting a pledge of assets for covering the unearned premium reserve or the outstanding claims reserve, when the reinsurer is an insurance or reinsurance company licensed in the Republic of Bulgaria or in another member state.

TITLE FOUR
REQUIREMENTS TO THE FINANCIAL CONDITION OF INSURERS WITHOUT A RIGHT OF ACCESS TO THE COMMON MARKET

Chapter Seventeen
REQUIREMENTS TO THE TECHNICAL RESERVES AND TO THE ASSETS FOR COVERING THE TECHNICAL RESERVES

Supplementary rules for setting up technical reserves

Article 198. (1) The technical reserves of an insurer without a right of access to the common market shall be calculated for each type of insurance, under which an activity is performed, where the share of the reinsurers or the retrocessionaires shall not be deducted.

(2) In case liabilities under insurance or reinsurance contracts are set in a foreign currency, or the contract makes an arrangement for recalculation in a foreign currency, the technical reserves shall be set up in the same currency.

(3) When the liabilities under Paragraph 1 are not set in a specific currency, the technical reserves shall be set up in Bulgarian

levs. In the aforesaid case, an insurer may set up reserves in the currency of the premium as agreed, if a well-grounded conclusion can be made that the indemnity payment shall be effected in that same currency.

(4) In case a claim for payment in a particular currency has been presented, said currency differing from the currency identified under Paragraph 1 or 2, the outstanding claims reserve shall be set up in the currency of the claim presented.

(5) In case the amount of the claim has been set in a currency, other than the one specified under Paragraphs 1-3, and this is known to the insurer, the latter may set the outstanding claims reserve in that same currency.

General rules for the cover of the technical reserves

Article 199. (1) The insurer without a right of access to the common market shall be obligated at all time to cover the amount of the technical reserves with matching assets under the conditions of this Chapter.

(2) The Commission may, on a proposal by the Deputy Chairperson, prohibit an insurer under Paragraph 1 from making discretionary disposition transactions with its assets, if the said insurer does not comply with the obligation under Paragraph 1 or under Article 200 (3).

Types of assets eligible to cover technical reserves

Article 200. (1) Only the following assets may be utilised to cover the technical reserves:

1. securities admitted for trading on a regulated market or a multilateral trading facility (MTF) in the Republic of Bulgaria or in another Member State, as well as shares, qualified bonds and other qualified debt securities, admitted for trade on internationally recognised and liquid regulated markets or multilateral trading facilities in a third state;

2. securities issued or guaranteed by the Republic of Bulgaria or by another Member State, as well as qualified debt securities issued or guaranteed by third states, their central banks or international organisations of which the Republic of Bulgaria or another Member State is a member, as well as transferrable loans, for which no bonds underwritten by the Republic of Bulgaria or by another member state are issued;

3. units issued by collective investment vehicles, and units and shares of national investment funds under the Collective Investment Schemes and Other Undertakings for Collective Investments Act, as well as units of collective investment vehicles headquartered in another Member State;

4. property rights in land and buildings;

5. receivables from reinsurers, including the reinsurers' share in technical reserves, and from special purpose vehicles for alternative insurance risk transfer;

6. deposits and receivables from assignors;

7. receivables from insured parties and intermediaries ensuing from insurance and reinsurance contracts;

8. receivables from loans against life insurance policies;

9. cash in hand and current accounts or deposits with banks with the right to pursue bank operations in the Republic of Bulgaria or in another Member State;

10. deferred acquisition costs;

11. indisputably established receivables in relation to tax refunds.

(2) Qualified debt securities within the meaning of Paragraph 1 shall be debt securities with an investment rating by an internationally recognised rating agency.

(3) All assets shall be valued in compliance with the prudence concept, accounting for the risk of possible failure to turn these

into cash. The amount of receivables recognised as cover for technical reserves shall be calculated observing the prudence concept, accounting for the risk of their possible non-settlement.

(4) Security derivatives, including options, futures and swaps related to activities covering the technical reserves shall be recognised as cover for technical reserves only in case these contribute to the decrease of investment risk or facilitate effective portfolio management. These shall be valued observing the prudence concept and may be taken into consideration in the valuation of the underlying assets.

(5) Receivables from third persons shall be recognised as cover for technical reserves upon deduction of all counter-obligations towards said third persons.

(6) The following shall not be recognised as cover for technical reserves:

1. property rights encumbered with pledge, mortgage or other burdens;

2. investments in a subsidiary;

3. receivables that have remained outstanding for more than three months after maturity.

(7) Under extraordinary circumstances, and upon an advance reasoned request of the insurer, the Commission may temporarily allow the utilisation of some other types of assets in order to cover technical reserves provided that the requirements set under Article 124 have been observed.

General rules for diversification

Article 201. (1) An insurer without a right of access to the common market shall invest the gross amount of technical reserves set up in assets under Article 200 in compliance with the following restrictions:

1. up to 20 per cent in real estate, but not more than 10 per cent in a single property or in a group of properties that may be regarded as one investment because of their location;

2. up to 80 per cent in securities under Article 200, Paragraph 1, Items 1 and 3, but not more than 30 per cent in assets other than qualified bonds and other qualified debt securities;

3. without any restriction whatsoever in assets under Article 200, Paragraph 1, Item 2;

4. up to 5 per cent in securities of a single issuer, where this restriction shall not apply to assets specified in Article 200, Paragraph 1, item 2;

5. up to 50 per cent in bank deposits, but not more than 25 per cent of the gross amount with one bank;

6. up to 3 per cent in cash in hand and under current accounts.

(2) The maximum amount of investments in real estate under Paragraph 1, Item 1 may not exceed 30 per cent of the difference between the gross amount of technical reserves and the receivables from reinsurers transformed in accordance with the procedure established in Article 202, Paragraphs 1 and 2.

(3) The maximum amount under Paragraph 1, Item 4 may be 10 per cent in case an insurer invests not more than 40 per cent of the technical reserves' gross amount in securities of issuers, the exposure of the above insurer to which exceeds 5 per cent of its assets. The maximum amount under Paragraph 1, Item 4 may be 20 per cent in case an insurer invests technical reserves in debt securities issued by a credit institution having its seat of business in a Member State, subject to special supervision, for the purpose of protecting the holders of such securities. More specifically, contributions received in return for the issuance of securities under sentence two shall be invested, pursuant to the provisions of the law, in assets that throughout the duration of the securities may cover the receivables from such securities and that in the case of issuer insolvency shall be utilised for the preferential satisfaction of the receivables for the principal and the interest accrued. The investment in units and shares in national investment funds cannot exceed 15 per cent of the gross amount of technical reserves, also applying Paragraph 1, Item 4 and provided that the requirements referred to in Article 124 have been observed.

(4) The assets under Paragraph 1 may not be pledged, mortgaged or encumbered with any other burdens.

(5) The assets needed to cover the technical reserves shall be diversified and distributed in such a way, as to ensure that no category of assets, investment market or separate investment has a significant share.

(6) Investment in categories of assets, with a high degree of risk inherent to their nature or the issuer's characteristics, as well as the share of low liquidity assets needed to cover technical reserves shall be limited to reasonable levels.

Investment in receivables

Article 202. (1) A receivable from a reinsurer, including the reinsurer's share in the technical reserves, may be acknowledged as cover for the technical reserves after deduction of the deposits retained and the liabilities to the relevant reinsurer.

(2) A receivable or a share under Paragraph 1, respectively, shall be acknowledged as cover for technical reserves up to:

1. the value transformed under Paragraph 1 without limitation in case a reinsurer has an investment credit rating awarded by at least one of the rating agencies specified in a resolution of the Commission;

2. 50 per cent of the value transformed under Paragraph 1 in case a reinsurer has a credit rating, other than investment class, awarded by at least one of the rating agencies under item 1;

3. 20 per cent of the value transformed under Paragraph 1 in case a reinsurer has no credit rating awarded by any of the rating agencies under item 1.

(3) Insurers shall declare to the Deputy Chairperson the reinsurers with whom they have concluded reinsurance contracts, as well as information about their credit rating, within a 7-day period after the respective contract has been concluded. The Deputy Chairperson has the right to fix amounts other than the ones set out in paragraph 2 for the acknowledgement of a receivable from a certain reinsurer or of a share of certain reinsurer in the technical reserve for cover for the technical reserves, provided circumstances exist that allow a different objective judgement of the stability of the reinsurer to be made. The Deputy Chairperson may not prohibit conclusion of a reinsurance contract with a reinsurer licensed under this Code or with a reinsurer from a Member State.

(4) Deposits with assignors and receivables from assignors shall be acknowledged as cover for technical reserves up to the amount thereof set up in relation to reinsurance contracts concluded with the respective assignor.

(5) Receivables from insured parties, ensuing from insurance contracts, shall be acknowledged as cover for the technical reserves up to the difference between the gross amount of the unearned premium reserve set up, the mathematical reserve or the capitalised value of pensions, and the reinsurer's share in these, transformed in accordance with the procedure set out in compliance with Paragraphs 1 and 2. Receivables from insurance intermediaries, ensuing from insurance contracts, shall be acknowledged as cover for the technical reserves to a value of up to 20 per cent of the difference between the gross amount of the unearned premium reserve set up, the mathematical reserve or the capitalised value of pensions, and the reinsurer's share in these, transformed in accordance with the procedure set out in compliance with Paragraphs 1 and 2.

(6) Receivables from loans granted with regard to life insurance policies shall be acknowledged as cover for the technical reserves up to the amount of the redemption value of the relevant policies in relation to which such loans have been granted.

(7) Paragraphs 1 – 3 shall furthermore apply to receivables under reinsurance contracts concluded with insurers as well as to the share in the technical reserves of such insurers which carry out inward reinsurance.

Receivables from Special Purpose Vehicles

Article 203. (1) A receivable from a special purpose vehicle for alternative insurance risk transfer may be acknowledged as cover for the technical reserves after deducting the liabilities to the respective special purpose vehicle and provided that it is licensed in the Republic of Bulgaria or in another Member State and meets the requirements of Directive 2009/138/EC.

(2) A receivable shall be acknowledged as cover for the technical reserves up to:

1. eighty per cent of the transformed value under Paragraph 1 if the vehicle has an investment credit rating from at least one of

the rating agencies under Article 202, Paragraph 2, Item 1;

2. forty per cent of the transformed value under Paragraph 1 if the vehicle has a credit rating other than an investment grade from at least one of the rating agencies under Article 202, Paragraph 2, Item 1;

3. two per cent of the transformed value under Paragraph 1 if the vehicle has no credit rating from any of the rating agencies under Article 202, Paragraph 2, Item 1.

(3) Insurers shall declare to the Deputy Chairperson the special purpose vehicles for alternative insurance risk transfer with which they have concluded contracts, as well as data about their credit rating, within 7 days from conclusion of the contract. The Deputy Chairperson shall have the right to determine amounts other than those set out in Paragraph 2 for acknowledgement of a receivable from a specific special purpose vehicle as cover for the technical reserves if circumstances exist which allow a different objective assessment of the stability of the vehicle to be made. The Deputy Chairperson may also acknowledge as cover for the technical reserves receivables from a special purpose vehicle licensed in a third country should said vehicle meet requirements which are similar to the requirements referred to in Paragraph 1 and an objective assessment of its stability and solvency can be made.

Deferred acquisition costs

Article 204. Deferred acquisition costs, less the related reinsurance commissions, deferred to a future period, shall be acknowledged as cover for the gross amount of the technical reserves set up.

Territorial distribution rules

Article 205. (1) The technical reserves shall be covered by assets located on the territory of the Republic of Bulgaria or on the territory of a member state. By permission of the Deputy Chairperson, issued in each specific case, technical reserves may also be covered by assets, located within the territory of a third country.

(2) The requirement for territorial distribution of assets under Paragraph 1 shall not apply to cases where the technical reserves are covered by investments in receivables from reinsurers in the proportion set under Article 202.

(3) The assets' location shall be:

1. For ownership of real estate - the real estate's location;

2. For securities:

a) the issuing enterprise's seat of business;

b) the bank's seat of business - in case the securities are guaranteed by a bank;

c) the Depository's seat of business - in the case of dematerialised securities;

3. For deposits - the place where the deposit contract has been concluded;

4. For any other receivables - the debtor's seat of business;

5. For shares in investment funds - the location of assets included in the fund with a predominant share, fixed pursuant to the terms and conditions under Items 1 - 4.

Currency conformity rules

Article 206. (1) In case the cover under an insurance contract has been fixed in a particular currency, the insurer's liabilities shall be reported as payable in the same currency. The assets covering the technical reserves shall be in the same currency as the liabilities ensuing from contracts under which the technical reserves have been set up.

(2) An insurer may not apply Paragraph 1 in covering the technical reserves, including the mathematical reserve, by assets, if the application of this principle would lead to maintenance of assets in this currency at the amount of no more than 7 per cent of the assets in other currencies.

(3) Paragraph 1 shall not apply to the cover for technical reserves in a currency other than BGN or the currency of one of the Member States, where investments in that currency are regulated, where the currency is subject to transfer restrictions, or the currency is not adequate to cover the technical reserves for other similar reasons.

(4) Up to 20 per cent of the total amount of technical reserves may be covered by assets in a currency other than the one in which they have been set up, provided that the total amount of assets for cover of technical reserves in all currencies is at least equal to the total amount of liabilities in all currencies.

(5) In case the technical reserves have been set up in BGN, EUR or another currency of a Member State, the assets for their cover may be in EUR.

Special rules for the cover of reserves for the investment fund-related life insurance

Article 207. (1) Articles 201, 202 and 206 shall not apply for the assets for cover of reserves under Life Insurance related to an investment fund, where Article 124 shall apply.

(2) In cases under an investment fund-related life insurance, part of the insurer's liabilities are guaranteed, the technical reserves for their amount shall be covered by assets in compliance with the general rules.

Chapter Eighteen
OWN FUNDS. SOLVENCY MARGIN. GUARANTEE CAPITAL

Own funds

Article 208. (1) The own funds of an insurer without a right of access to the common market, reduced by the intangible assets, shall be at any time at least equal to the solvency margin or to the minimum amount of the guarantee capital in case it is higher than the solvency margin.

(2) The own funds of the person under Paragraph 1 shall consist of its assets, reduced by the foreseeable liabilities. The elements included in the calculation of the amount of own funds shall be determined in an Ordinance.

(3) An insurer without a right of access to the common market, which is a mutual insurance cooperative society, shall be obligated to maintain own funds to an amount equal to the solvency margin or to the minimum guarantee capital under Article 210, in the cases where the latter is higher than the former.

Solvency margin

Article 209. (1) The solvency margin shall be the minimum amount of the own funds of an insurer without a right of access to the common market, reduced by the intangible assets required to ensure the performance of the person's contractual obligations in the long run, in accordance with the total volume of its operations.

(2) The insurer without a right of access to the common market shall maintain adequate own funds necessary for ensuring performance of its contractual obligations in the long run in accordance with the total volume of its operations.

(3) The solvency margin and the methods for its calculation shall be specified in the ordinance under Article 208 (2).

Guarantee capital

Article 210. The guarantee capital shall be one third of the solvency margin, but may not be less than:

1. Four million six hundred thousand Bulgarian levs - for an insurer who has obtained a licence for the performance of insurance operations including the types of insurance under Items 1-9 and Items 16-18, Section II, Letter "A" of Annex No. 1;

2. seven million - for an insurer, which has obtained an insurance licence that encompasses the types of insurance under Section I of Annex No. 1;

3. the sum total of the amounts under Items 1 and 2 - for the insurers which performs operations under Section I of Annex No. 1 and under Item 1 and/or 2, Section II, Letter "A" of Annex No. 1 simultaneously.

Chapter Nineteen
SUPPLEMENTARY REQUIREMENTS TO THE SOLVENCY OF INSURERS THAT ARE PART OF A GROUP

Information about the transactions undertaken within an insurance group

Article 211. (1) The transactions of an insurer without a right of access to the common market which is part of a group, with the following persons shall be subject to supervision:

1. A related company;

2. A company holding interest in it;

3. A company related to a company holding interest in it;

4. A natural person who holds a participating interest in the insurer that is part of a group, or who participates in a company related to such natural person;

5. A natural person holding interest in a company that holds interest in the insurer that is part of an insurance group;

6. A natural person holding interest in a company related to a company holding interest in the insurer that is part of an insurance group;

(2) The transactions under Paragraph 1 shall include:

1. Loans and other forms of lending;

2. Guarantees and off-balance sheet operations;

3. Transactions with the use of own funds, which serve to cover the solvency margin;

4. Investments;

5. Reinsurance operations;

6. Distribution of expenditures;

7. Others.

(3) The procedures for risk management, internal control and accounting of an insurer - part of a group - shall ensure appropriate conditions for monitoring, assessment and control of the transactions under Paragraph 1. The Deputy Chairperson may prescribe amendments and supplements to the above procedures where they fail to provide an adequate guarantee of the solvency of the insurer that is part of a group.

(4) Along with the quarterly information, the insurer which is part of a group shall submit a report on significant transactions under Paragraph 1.

(5) If, on the basis of the review of the procedures under Paragraph 3 or on the basis of the information submitted under Paragraph 4, the Commission makes an assessment, on a proposal by the Deputy Chairperson, that the solvency is jeopardised, it shall apply the following measures:

1. Order production of a plan under Article 215, and/or

2. Impose any of the coercive administrative measures under Article 587.

Adjusted solvency of insurers within a group

Article 212. (1) The adjusted solvency of an insurer, which is a participating undertaking in at least one insurer, shall be calculated by methods stipulated by an ordinance of the Commission.

(2) In the calculation of the solvency adjusted in compliance with Paragraph 1, included shall be companies:

1. related to the participating insurer under Paragraph 1;

2. participating in the participating insurer under Paragraph 1; and

3. related to the companies participating in the participating insurer under Paragraph 1.

(3) In case the adjusted solvency calculated in accordance with the procedure established by Paragraph 1 is a negative value, the Commission shall, on a proposal by the Deputy Chairperson, apply the measures under Article 211 (5) against the participating insurer under Paragraph 1.

Supplementary supervision over an insurer the parent company of which is a mixed-activity insurance or financial holding

Article 213. (1) A method for supplementary supervision stipulated by an ordinance of the Commission shall be applied in respect of the insurers the parent company of which is a mixed-activity insurance holding or financial holding.

(2) When applying the method under Paragraph 1, the operations of all companies related to the mixed-activity insurance holding or financial holding respectively shall be taken into account.

(3) In case as a result from the method applied under Paragraph 1 it has been established that the solvency of the insurer is or may be at risk, the Commission, on a proposal by the Deputy Chairperson, shall apply against it the measures under Article 211 (5).

TITLE FIVE
RECOVERY MEASURES

Chapter Twenty
FINANCIAL STATUS RECOVERY MEASURES

Establishing and notification of impaired financial status

Article 214. (1) The insurer or the reinsurer respectively shall be obligated to adopt and apply procedures for establishing a deteriorating financial status and shall be obligated to immediately notify the Commission thereof.

(2) The insurer shall obligatorily notify the Commission when it establishes that:

1. there aren't sufficient eligible own funds for cover of the solvency margin and of the capital solvency requirement respectively (non-compliance with the capital solvency requirement) - not later than 3 business days after establishing that fact;

2. there aren't sufficient eligible core own funds for cover of the guarantee capital or of the minimum capital requirement (non-compliance with the minimum capital requirement) respectively - not later than 3 business days after establishing that fact;

3. there is a risk of non-compliance under Items 1 or 2 in the following three months - not later than 5 days after establishing that fact.

Solvency recovery plan and short-term plan

Article 215. (1) Within a 2-month time limit from establishing non-compliance with the capital solvency requirement or with the solvency margin respectively, the insurer or the reinsurer respectively shall be obligated to prepare and present for approval to the Commission, on a proposal by the Deputy Chairperson, a realistic plan for attaining solvency, which shall envisage within a time limit of 6 months from the date of establishing the non-compliance:

1. restoring of the eligible own funds to a level ensuring cover of the capital solvency requirement or of the solvency margin respectively, and/or

2. limiting the risk profile in such a manner as to guarantee compliance of the capital solvency requirement with the available eligible own funds.

(2) Within a 1-month time limit from establishing non-compliance with the minimum capital requirement or with the guarantee capital respectively, the insurer or the reinsurer respectively shall be obligated to prepare and present for approval to the Commission, on a proposal by the Deputy Chairperson, a realistic short-term plan, which shall envisage within a time limit of not less than three months from the date of establishing the non-compliance:

1. restoring the eligible core own funds to a level ensuring cover of the minimum capital requirement and of the guarantee capital, and/or

2. limiting the risk profile in such a manner as to guarantee compliance of the minimum capital requirement with the available eligible core own funds.

(3) In case the circumstances under Paragraphs 1 or 2 have been established by the Deputy Chairperson, he/she shall immediately give an order to the insurer or to the reinsurer to prepare the relevant plan and shall fix the time limit for its drafting, which may not exceed the time limits under Paragraph 1 or Paragraph 2 respectively.

(4) The plans under Paragraphs 1 and 2 shall also include data and evidence for:

1. a forecast valuation of the acquisition, administrative and other managerial expenses, including commission for insurance or reinsurance intermediaries;

2. a forecast valuation of the revenues and expenses in relation to the direct insurance activity, inward and outward reinsurance;

3. a projected balance sheet;

4. a projected estimate of the financial resources intended to cover the technical reserves, the capital solvency requirement and the solvency margin, as well as the minimum capital requirement and the guarantee capital respectively;

5. the overall policy in the field of reinsurance;

6. measures for limiting the risk profile, where such are envisaged, and the way in which they affect the capital requirement;

7. other specific measures for attaining compliance with the requirements of the Code;

8. sources of the financial resources for implementation of the plan;

9. supplementary requirements stipulated by an act of the European Commission in respect to the insurer applying Title Three and in respect to the reinsurers.

(5) The Commission, on a proposal by the Deputy Chairperson, shall issue a ruling within 30 days from the plan's submission, refusing to approve it in case the requirements under Paragraphs 1, 2 or 4 have not been complied with and in case the measures proposed are not realistic or do not sufficiently guarantee the insurer's solvency, the interests of the insured parties or the performance of the obligations arising from reinsurance contracts, or in case other prescriptive provisions of the law have been violated.

Extending the time limits for implementation of the solvency recovery plan

Article 216. (1) The Commission, on a proposal by the Deputy Chairperson, may extend the 6-month time limit under Article 215 (1) by not more than three months, if it makes an assessment that this is necessary for the purposes of restoring the financial health of the insurer or the reinsurer respectively, provided that this will not jeopardise the interest of the insured persons or the implementation of the obligations stemming from the reinsurance contracts.

(2) In case of an exceptionally adverse situation established by the European Authority and, where necessary, after consultations with the European Council for Systemic Risk, in case this situation affects insurers and reinsurers accounting for a considerable share of the market or of the affected types of operations, the Commission may extend in respect of the affected persons the time limit under Paragraph 1 by not more than 7 years, while taking into account all relevant factors, including the average duration of the technical reserves.

(3) An insurer or a reinsurer which takes advantage of an extension of the time limit under Paragraph 2 shall submit a progress report to the Commission once every quarter. This report shall be submitted not later than 15 days after the end of the respective quarter to which it pertains and shall contain the measures undertaken and the progress made for restoring the level of eligible own funds for cover of the capital solvency requirement and for reducing the risk profile for guaranteeing compliance with the capital solvency requirement.

(4) The extension under Paragraph 2 shall be repealed by the Commission, when the progress report shows that there is no significant progress towards achieving a recovery of the level of eligible own funds for covering the capital solvency requirement or for reducing the risk profile for guaranteeing compliance with the capital solvency requirement, between the date of establishing the non-compliance with the capital solvency requirement and the date of submission of the progress report.

(5) The Commission may request from the European Authority to establish the adverse situation under Paragraph 2, when:

1. insurers or reinsurers accounting for a considerable share of the market or of the affected types of operations are not able to overcome the non-compliance with the capital solvency requirement within the time limit under Article 215, Paragraph 1 or within the time limit under Paragraph 1 respectively;

2. one or several of the following circumstances exists on the market:

a) unexpected, sharp and severe collapse on the financial markets;

b) prolonged conditions of low interest rates;

c) calamitous events of considerable impact;

d) another pieces of circumstances stipulated by an act of the European Commission.

(6) After establishing an adverse situation under Paragraph 2, the Commission shall cooperate with the European Authority in giving a current assessment of whether the premises for establishing an adverse situation persist in their existence and shall notify the European Authority of the disappearance thereof.

Non-compliance with the capital requirements

Article 217. The Commission may, on a proposal by the Deputy Chairperson, prohibit an insurer or a reinsurer from making discretionary disposition transactions with its assets, if non-compliance with the following is established:

1. the minimum capital requirement and the guarantee capital;

2. the capital solvency requirement and the solvency margin respectively, and the Deputy Chairperson makes an assessment that there is a threat that the financial status of the insurer or of the reinsurer will deteriorate further.

Supplementary coercive measures

Article 218. (1) When, irrespective of the measures under Article 215, the financial status of an insurer or of a reinsurer respectively continues to deteriorate, the Deputy Chairperson and the Commission may apply also other coercive administrative measures for protecting the interest of the insurance service consumers and for guaranteeing the fulfilment of the obligations under reinsurance contracts.

(2) The measures under Paragraph 1 shall be commensurate with the gravity of the financial difficulties of the insurer or of the reinsurer respectively and with their length in time.

TITLE SIX
TRANSFER OF PORTFOLIO. RESTRUCTURING

Chapter Twenty-One
TRANSFER OF AN INSURANCE AND/OR A REINSURANCE PORTFOLIO

Transfer of portfolio

Article 219. (1) An insurer (transferring insurer) may transfer all or part of its insurance portfolio to another insurer (undertaking insurer) following written authorisation by the Deputy Chairperson.

(2) The transfer of an insurance portfolio shall be allowed, provided that:

1. the undertaking insurer holds a licence for the types of insurance and the risks thereunder included in the insurance portfolio, which makes the object of transfer;

2. the undertaking insurer has the right to cover the risks under the contracts included in the insurance portfolio, in the countries in which the said risks are located;

3. after the transfer the undertaking insurer will have the necessary eligible own funds for cover of the capital solvency requirement and of the solvency margin respectively;

4. the undertaking insurer does not implement measures for recovery of its financial status;

5. the transfer of an insurance portfolio shall not affect the interests of the insured persons.

Application form for authorisation of the transfer of an insurance portfolio

Article 220. (1) An application form shall be submitted for issuance of an authorisation for transfer of an insurance portfolio, to

which the following shall be attached:

1. a written contract for transfer of the insurance portfolio, which shall contain a list of the transferred insurance contracts or a clear indication of the transferred insurance contracts, including the types of insurance and the risks thereunder, and of the territorial distribution of the covered risks by countries;

2. the details of the undertaking insurer, when these are not evident from the contract for transfer of the portfolio, and, when the undertaking insurer does not have its seat of business in the Republic of Bulgaria - details of the member states in which it has the right to cover risks;

3. information on the technical reserves and on the subscribed premiums corresponding to the contracts subject to transferral;

4. the primary input data on the technical reserves corresponding to the contracts subject to transferral; the primary input data on the technical reserves shall be presented in the form of an electronic document signed by a qualified electronic signature, in a format and with a content stipulated by an order of the Deputy Chairperson;

5. list of the assets to the transferred and their individualisation, as well as evidence of the ownership title to these assets;

6. data on guarantees provided by the transferring insurer or by a third person in respect to a potential increase of the reserves and payments under the insurance contracts included in the portfolio to be transferred;

7. an actuarial report and a declaration by the responsible actuary of the transferring company on the sufficiency of the technical reserves corresponding to the transferred insurance contracts;

8. a forecast of the amount of the capital solvency requirement and of the solvency margin respectively, as well as of the eligible own funds of the undertaking insurer after the transfer of the portfolio;

9. a forecast of the amount of the capital solvency requirement and of the solvency margin respectively, as well as of the eligible own funds of the transferring insurer after the transfer of the portfolio;

10. appropriate information on the management and organisational structure of the undertaking insurer, proving its capability to service the insurance services consumers under the transferred insurance contracts.

(2) After receiving the documents and the data under Paragraph 1, the Deputy Chairperson may require that other data and evidence be submitted in order to ascertain the financial stability of the undertaking insurer and its capability to service the insurance service consumers under the transferred insurance contracts after the transfer takes place.

(3) The Deputy Chairperson shall issue an opinion on the application for transfer of an insurance portfolio within a two-month period of receipt of the application. Article 34, Paragraphs 2, 4 and 5 shall apply mutatis mutandis and the time limit for removal of any irregularities or the submission of additional information shall not be shorter than 14 days.

(4) The Deputy Chairperson shall refuse to issue an authorisation in case the requirements set in accordance with the present Code and the regulations concerning its implementation have not been observed or the interests of the insured persons have not been protected.

Notification of the parties concerned. Right to contract termination

Article 221. (1) The undertaking insurer shall notify in writing the insured persons of a transfer of the insurance portfolio and of its terms and conditions within a 14-day time limit after the transfer according to the procedure of Article 222 (1). The notification shall be deemed to have been made also if it is published on the internet page of the transferring and undertaking insurer, as well as in at least two central daily newspapers. In the case of transfer of a portfolio of insurance under Section I of Annex No. 1, the notification published on the internet page of the transferring and undertaking insurer shall be maintained until the term of limitation of each of the transferred contracts expires.

(2) The insured person shall have the right to terminate the contract by notifying in writing the undertaking insurer within a 60-day time limit from receiving the notification or from the date of the last publication in a central daily newspaper under Paragraph 1, Sentence Two respectively.

(3) Persons insured under Life Insurance shall have the right to obtain the premium, which corresponds to the insurance

contract as of the day of transfer, and those insured under other insurances - the respective amount of premium, which corresponds to the remaining contract term, with a proviso that no insurance indemnity has been paid or is forthcoming.

Effect of transfer

Article 222. (1) The transfer of an insurance portfolio shall have effect from the entry into force of the authorisation under Article 219 (1), where, the assets for covering the technical reserves shall also be transferred simultaneously with the transfer of the insurance contracts.

(2) In case the insured person has not taken advantage of his or her right under Article 221 (2), the transfer shall have effect with regard to all persons with any rights or obligations under that same insurance contract.

(3) After the transfer under Paragraph 1, the transferring insurer shall be exempted from its liabilities under the insurance contracts transferred.

Transfer of an insurance portfolio within the European Union

Article 223. (1) An insurer may transfer all or part of its insurance portfolios of contracts, including those concluded in accordance with the terms and conditions of the right of establishment or of the freedom to provide services, to an undertaking insurer, having its seat of business in another Member State, following authorisation by the Deputy Chairperson, where Articles 219 - 222 shall apply accordingly.

(2) The Deputy Chairperson shall issue an authorisation upon receipt of a document, certifying that following transfer, the undertaking insurer shall have at its disposal the necessary eligible own funds for cover of the capital solvency requirement, if said document is submitted by the competent authority of the Member State of origin of the undertaking insurer.

(3) In case an insurer transfers insurance contracts concluded through one of its branch offices, the Deputy Chairperson shall request the opinion of the competent authority in the Member State at the branch office's seat of business.

(4) In the cases under Paragraphs 1 and 3, the Deputy Chairperson shall issue the authorisation after obtaining the consent of the competent authorities of the member states, where the insurance contracts have been concluded under the conditions of the right of establishment or of the freedom to provide services.

(5) In the case where the Deputy Chairperson has not received a reply by the competent authorities of the Member States under Paragraphs 2 - 4 within a 3-month period, it shall be reckoned that a positive opinion or implicit consent respectively has been given.

(6) In the cases under Paragraphs 1 and 3, the undertaking insurer shall publish a notification of transfer of the insurance portfolio in compliance with the legislation of the Member State where the insurance risk is located.

Transfer of insurance portfolio by a branch office of an insurer from a third country within the European Union

Article 224. (1) A branch office of an insurer from a third country, registered in the Republic of Bulgaria, may transfer all or part of its insurance portfolios to an undertaking insurer having its seat in the Republic of Bulgaria or in another Member State following authorisation by the Deputy Chairperson. Articles 219 - 222 shall apply in this case.

(2) Upon transfer of an insurance portfolio to an undertaking insurer from another Member State, the Deputy Chairperson shall issue an authorisation following receipt of a document, certifying that after transfer the insurer will have at its disposal the necessary eligible own funds for cover of the capital solvency requirement, said document being issued by the competent authority in the Member Sate of origin of the undertaking insurer.

(3) In the case of transfer of an insurance portfolio to an undertaking insurer from a third country through a branch registered in the Republic of Bulgaria, the Deputy Chairperson shall issue an authorisation, if, following the transfer, the branch has the necessary eligible own funds for cover of the capital solvency requirement. When the branch of the undertaking insurer from a

third country is subject to supervision by a competent authority under Article 62 (3) of another member state, the Deputy Chairperson shall issue an authorisation upon receipt of a document, certifying that, following transfer, the insurer shall have at its disposal the necessary eligible own funds for cover of the capital solvency requirement, if said document is submitted by the said competent authority. In the cases where the insurance portfolio is transferred to a branch office of an insurer from a third country, whose branch office has been established within the territory of another Member State, the Deputy Chairperson shall issue an authorisation following receipt of a document issued by the competent authority of the Member State where the branch office is located, or, if necessary, by the competent authority under Article 62, Paragraph 3, certifying that after transfer the undertaking insurer shall have at its disposal the necessary eligible own funds for cover of the capital solvency requirement, that the legislation of the Member State where the branch office is located allows for such transfer, and that the competent authority consents to such transfer.

(4) In cases under Paragraphs 1 - 3, the Deputy Chairperson shall issue an authorisation upon receipt of a consent by the competent authority of the Member State where the risk is located, in cases said country is not the Republic of Bulgaria.

(5) In the case where the Deputy Chairperson has not received a reply by the competent authorities under Paragraphs 2 - 4 within a 3-month period of the query, it shall be reckoned that a positive opinion or implicit consent respectively has been given.

(6) In the cases under Paragraphs 1 - 3, the undertaking insurer shall publish a notification of the transfer of the insurance portfolio in compliance with the legislation of the Member State where the risk is located.

(7) The transfer of an insurance portfolio in which there are insurance contracts covering risks located in the Republic of Bulgaria to a branch of an insurer from a third country with a seat of business in another member state shall be strictly prohibited.

Granting consent in the case of a transfer of an insurance portfolio within the European Union

Article 225. (1) Upon transfer of an insurance portfolio within the European Union, including insurance contracts to which the Republic of Bulgaria is the Member State where the risk is located, the Deputy Chairperson shall give consent for the transfer within a 3-month period of receipt of the request from the authority competent to issue the transfer authorisation, in case the interests of the insured persons are protected.

(2) Upon transfer of an insurance portfolio within the European Union, including insurance contracts to which the Republic of Bulgaria is the Member State of the seat of business of a branch of a transferring insurer from another member state, the Deputy Chairperson shall give consent for the transfer within a 3-month period of receipt of the request from the authority competent to issue the transfer authorisation, in case the interests of the insured persons are protected.

(3) In case no opinion has been issued within the timeframe set under Paragraph 1 or under Paragraph 2 respectively, it shall be reckoned that implicit consent has been given.

(4) The Deputy Chairperson shall refuse to grant consent, when insurance contracts, under which risks located in the Republic of Bulgaria are covered, are transferred to:

1. a branch of an insurer from a third country with a seat of business in another member state;

2. an insurer from a member state which does not have the right to cover risks on the territory of the Republic of Bulgaria.

Certification of the capital solvency requirement of an insurer with a seat of business in the Republic of Bulgaria upon transfer of insurance portfolio by an insurer from another Member State

Article 226. (1) Within a 3-month period from receipt of a request from the relevant competent authority of the home Member State of the transferring insurer, who intends to transfer an insurance portfolio of contracts concluded under the conditions of the freedom to provide services or of the right of establishment to an insurer with a seat of business in the Republic of Bulgaria, the Deputy Chairperson shall issue a document, certifying that upon transfer the undertaking insurer will have at its disposal the necessary eligible own funds for cover of the capital solvency requirement.

(2) For the purposes of the issuing of the certificate under Paragraph 1, the Deputy Chairperson shall require from the insurer with a seat of business in the Republic of Bulgaria the documents under Article 220, Paragraph 1, Items 1, 3, 5 - 8 and 10.

(3) The Deputy Chairperson shall refuse to issue the document under Paragraph 1, if the undertaking insurer does not have the right to cover the risks under the contracts included in the insurance portfolio in any of the countries in which these risks are located, as well as if, following the transfer, the undertaking insurer shall not have at its disposal the necessary eligible own funds for cover of the capital solvency requirement, as well as if the undertaking insurer is in the process of implementation of a recovery plan and therefore the interest of the insurer persons are jeopardised.

Certification of the capital solvency requirement of an insurer with a seat of business in the Republic of Bulgaria upon transfer of insurance portfolio by an insurer from a third country established in a Member State through a branch

Article 227. (1) Within a 3-month time limit of receipt of a request by the relevant competent authority of the Member State at the branch office of an insurer from a third country, who intends to transfer an insurance portfolio to an insurer having a seat of business in the Republic of Bulgaria or to a branch office of an insurer from a third country registered in the Republic of Bulgaria, as well as in case the Commission is the competent authority under Article 62 (3), the Deputy Chairperson shall issue a document, certifying that, following the transfer, the undertaking insurer will have at its disposal the necessary eligible own funds for cover of the capital solvency requirement.

(2) In order to issue the document under Paragraph 1, the Deputy Chairperson shall require from the insurer or from the branch of the insurer from a third country with a seat in the Republic of Bulgaria the documents under Article 220, Paragraph 1, Items 1, 3, 5 - 8 and 10.

(3) The Deputy Chairperson shall refuse to issue a document under Paragraph 1, if, following the transfer, the undertaking insurer or the branch of an insurer from a third country registered in the Republic of Bulgaria respectively will not have at its disposal the necessary eligible own funds for cover of the capital solvency requirement and therefore the interest of the insured person are jeopardised.

(4) The Deputy Chairperson shall refuse to issue a document under Paragraph 1, if, as a result of the transfer a branch of an insurer from a third country with a seat of business in the Republic of Bulgaria will undertake a portfolio of contracts covering risks located in other member states.

Special rules for transfer of a reinsurance portfolio

Article 228. This Chapter shall apply for transfer of a portfolio of reinsurance contracts between reinsurers, between insurers or between an insurer and a reinsurer, except for Article 219, Paragraph 2, Item 5, Article 223, Paragraphs 3 - 6, Articles 224 and 225.

Chapter Twenty Two
TRANSFORMATION OF AN INSURER OR A REINSURER

Terms for transformation of an insurer or a reinsurer

Article 229. (1) Transformation of an insurer or of a reinsurer respectively shall be performed following authorisation of the Commission in accordance with the following conditions:

1. the rights of the insurance service users and the fulfilment of the obligations under reinsurance contracts shall be guaranteed;

2. after the transformation, the person has at its disposal the necessary eligible own funds for cover of the capital solvency requirement and of the solvency margin respectively.

(2) Insofar as it is not otherwise provided in accordance with the present Chapter, the procedure set out in the Commerce Act or the Cooperatives Act shall apply mutatis mutandis. No transformation through an amendment to legal form or a change in the objectives shall be allowed.

(3) Transformation through merger or take-over shall be performed only between insurers where the requirement set under Article 24, Paragraph 1 is observed or between reinsurers respectively.

(4) In case of transformation through a spin-off or separation, the newly established companies shall also be insurers or reinsurers respectively.

Authorisation for transformation of an insurer or a reinsurer

Article 230. (1) For the issuing of an authorisation under Article 229 (1), an application shall be submitted, to which the following shall be attached:

1. a resolution of the competent body of each of the successor and/or transforming companies for the transformation;

2. a contract or transformation programme;

3. a report by the management body of each of the transforming and succeeding companies under Article 262i of the Commerce Act, also specifying the reasons necessitating the transformation;

4. an estimate of the amount of the capital solvency requirements and of the solvency margin respectively and the eligible own funds of each company participating in the transformation, at the time of taking the decision on transformation;

5. a forecast of the amount of the capital solvency requirements and of the solvency margin respectively and the eligible own funds of each company originating after the transformation;

6. a balance sheet and an income statement of each company participating in the transformation as of the end of the month preceding the date of filing the application;

7. an authorisation by the Commission for Protection of Competition – upon transformation through merger or take-over;

8. the annexes under Article 31, Paragraph 1, Items 1, 2 and 5 - 9 for each insurance company or reinsurance company originating after the transformation, as well as for each receiving insurer or reinsurer respectively with reflected changes as a result of the transformation;

9. the annexes under Article 31, Paragraph 1, Items 5-9 and Paragraph 3, Items 1 and 2 for each mutual insurance cooperative which originates after the transformation, as well as for each receiving cooperative with reflected changes as a result of the transformation;

10. other documents relating to establishing the circumstances under Article 229 (1) at the request of the Commission.

(2) The Commission shall decide on the application for transformation within a 4-month period of submission of the above application. In the case where irregularities are established or should additional information be needed, Article 34, Paragraphs 2, 4 and 5 shall apply mutatis mutandis, and the time period for the removal of the irregularities or the submission of additional information shall not be shorter than 15 days. The application under Paragraphs 1 shall be considered after payment of the documents consideration fee.

(3) The Commission shall issue the authorisation for transformation simultaneously with the issuance of a licence for insurance or reinsurance operations to the newly-established companies.

(4) The Commission shall refuse to issue an authorisation, if the requirements of this Code have not been complied with, if the interest of the insured persons are not protected and if the fulfilment of the obligations under reinsurance contracts is not guaranteed.

(5) Insurers participating in the transformation shall be obligated to notify the insured persons of the transformation effected in strict compliance with Article 221 and Articles 223 - 228 respectively.

TITLE SEVEN
INSURERS AND REINSURERS THAT ARE PART OF A GROUP AND SUPERVISION THEREOF

Chapter Twenty Three
GENERAL RULES

General provisions

Article 231. This title shall regulate:

1. the supervision over insurers and reinsurers that are part of a group;

2. the powers of the Commission and of the Deputy Chairperson in connection with the supervision of groups.

Supervision over a group

Article 232. (1) The insurers or the reinsurers respectively which are part of a group shall be subject to supervision at the group level in accordance with this title.

(2) An insurer or a reinsurer with a seat of business in the Republic of Bulgaria, which is part of a group, shall separately continue to be faced with all the obligations and shall be subject to supervision under this Code, unless otherwise provided in this title.

(3) The insurers with a seat of business in the Republic of Bulgaria, which are part of a group and which apply Title Four, shall be subject to supervision at the group level according to the Title Four.

(4) When the Commission is a supervision authority in respect of a group, the powers for supervision of the group shall be exercised by the Deputy Chairperson, unless otherwise provided in this Code.

(5) The Commission shall adopt an ordinance for the implementation of this title for the purpose of applying the guidelines of the European Authority.

Group

Article 233. (1) A "group" is a group of undertakings, which consists of a participating undertaking and its subsidiary undertakings. The following shall be included in the group: the undertakings in which the participating undertaking or its subsidiary undertakings have participating interests, the undertakings which are managed jointly by virtue of a contract or by virtue of their articles of incorporation or statutes, undertaking in which more than half of the members of the management or control bodies are the same persons during the respective financial year and until the date preparation of the consolidated financial statements.

(2) A "group" shall also be a group of undertakings which is based on the creation, by contract or otherwise, of strong and sustainable financial links between the said undertakings and which may include mutual insurance cooperative societies or associations of the mutual insurance type, provided that:

1. one of these undertakings actually exerts by coordination on a central level a dominant influence on the decisions, including

financial ones, of the other undertakings which are part of the group, and

2. the establishment or termination of such links for the purposes of the group supervision are subject to preliminary approval by the supervision authority of the group.

(3) The undertaking under Paragraph 2, exercising coordination on a central level, shall be considered to be the parent undertaking and the other undertakings under Paragraph 2 shall be considered to be the subsidiaries.

(4) A participating undertaking shall be:

1. a parent undertaking;

2. an undertaking which, directly or indirectly, owns 20 or more than 20 percent of the capital or of the voting rights of another undertaking;

3. an undertaking related to another undertaking by virtue of common management, by virtue of a contract or by virtue of their articles of incorporation or statutes;

4. an undertaking where more than half of the members of its management or control bodies also are more than half of the members of the management or control bodies of another undertaking during the respective financial year until the date of preparation of consolidated financial statements.

(5) A "related undertaking" shall be a subsidiary undertaking, a undertaking in which a participating interest within the meaning of Paragraph 4, Item 2 is held or an undertaking related to another undertaking under the terms of Paragraph 4, Items 3 and 4.

(6) For the purposes of supervision over a group, as well as for the purposes of identification of a group, the Commission, the Deputy Chairperson or another authority of the member state which exercises supervision over the group shall consider as:

1. parent undertaking - each undertaking for which they make an assessment that it actually exerts dominant influence over another undertaking;

2. a subsidiary undertaking - each undertaking for which they make an assessment that it is under the dominant influence of any parent undertaking;

3. a participating interest - the possession, directly or indirectly, of voting rights or capital in an undertaking which they make an assessment is actually under considerable influence exercised.

(7) "Undertakings" shall be the proprietors, the legal entities which are not proprietors and the non-personified formations performing operations in the Republic of Bulgaria or outside the Republic of Bulgaria.

(8) An "insurance holding" shall be a parent undertaking other than a mixed financial holding company whose primary activity involves acquisition and holding of participating interests exclusively and mainly in subsidiary undertakings which are insurers or reinsurers, including insurers or reinsurers from a Member State or from a third country, where at least one of these subsidiary undertakings is an insurer or a reinsurer with a seat of business in the Republic of Bulgaria or in another member state.

(9) A "mixed insurance holding" shall mean a parent undertaking other than an insurance undertaking, insurance undertaking from a third country, reinsurance undertaking, reinsurance undertaking from a third country, mixed insurance holding company or mixed financial holding company, where at least one of its subsidiary undertakings is an insurance undertaking or a reinsurance undertaking with a seat of business in the Republic of Bulgaria or in another member state.

(10) "Mixed financial holding company" shall mean a financial holding company within the meaning of § 1, Item 14 of the supplementary provisions of the Supplementary Supervision of Financial Conglomerates Act.

Applying supervision over a group

Article 234. (1) The supervision at the group level shall be applied in respect of:

1. an insurer or a reinsurer respectively which is a participating undertaking in at least one insurer or one reinsurer, an insurer or a reinsurer from a third country, where the supervision over the group shall be implemented according to the procedure of

Chapters Twenty Four and Twenty Five;

2. an insurer or a reinsurer, the parent undertaking of which is an mixed insurance holding or financial holding with a seat of business in a member state, where the supervision over the group shall be implemented according to the procedure of Chapters Twenty Four and Twenty Five;

3. an insurer or a reinsurer, the parent undertaking of which is an insurance holding or a mixed financial holding with a seat of business in a third country or an insurer or reinsurer from a third country, where the supervision over the group shall be implemented according to the procedure of Chapter Twenty Six, Section One;

4. an insurer or a reinsurer, the parent undertaking of which is an mixed insurance holding, where the supervision over the group shall be implemented according to the procedure of Chapter Twenty Six, Section Two.

(2) In the cases under Paragraph 1, Items 1 or 2, when the participating insurer or reinsurer, or an mixed insurance holding or financial holding with a seat of business in a member state is a related undertaking of the person subject to supervision or is a person subject to supervision or a mixed financial holding itself, which is subject to supplementary supervision pursuant to the Supplementary Supervision of Financial Conglomerates Act, the Deputy Chairperson may, after coordination with the other supervision authorities concerned, decide not to perform at the level of this participating insurer or reinsurer, or mixed insurance holding or financial holding supervision over the concentration of risk pursuant to Article 263, supervision over the intra-group transactions pursuant to Article 264 or both of the above two types of supervision.

(3) When in respect of a mixed financial holding, equivalent provisions are in effect under this Code or under the Supplementary Supervision of Financial Conglomerates Act in the field of supervision based on the risk, and when the Commission is a supervision authority of a group, the Deputy Chairperson, after coordination with the other supervision authorities concerned, may apply only the respective provisions of the Supplementary Supervision of Financial Conglomerates Act.

(4) When in respect of a mixed financial holding, equivalent provision are in effect under this Code and under the Credit Institutions Act in the field of supervision based on the risk, and when the Commission is a supervision authority of a group, the Deputy Chairperson, after coordination with the consolidating supervision authority in the banking and investment sector, may apply only the respective provisions which are applied to the most significant sector within the meaning of Article 3, Paragraphs 1 - 4 of the Supplementary Supervision of Financial Conglomerates Act.

(5) When the Commission is a supervision authority of a group, the Deputy Chairperson shall notify the European Authority, the European Banking Authority and the European Securities and Markets Authority of the decisions under Paragraphs 3 and 4.

(6) The cases under Paragraph 1 are not mutually excluding each other and the Deputy Chairperson may apply more than one approach of supervision under Paragraph 1 in respect of one and the same group.

Scope of the supervision of a group

Article 235. (1) The exercising of supervision over a group in accordance with Article 234 shall not include an obligation for the supervision authority to have a supervision role on an individual level in respect of the insurer or the reinsurer from a third country, the insurance holding, the mixed financial holding and the mixed insurance holding separately, with the exception of the powers under Article 82 in respect of a mixed insurance holding and financial holding.

(2) When the Commission is a supervision authority over a group, the Commission may, on a proposal by the Deputy Chairperson decide separately for each specific case not to include in the supervision of a group under Article 234 any of the undertakings that is part of the group, when:

1. the undertaking is in a third country, in which there are legal obstacles to providing the necessary information, where the rules for calculation of the own funds under Article 250 shall be applied in this case;

2. the undertaking, which must be included, is of insignificant interest for the purposes of the supervision of a group;

3. the inclusion of the undertaking would be inappropriate or misleading for the purposes of the supervision of a group.

(3) When several undertakings from the same group, taken separately, may be excluded according to the procedure under Paragraph 2, Item 2, they shall be included, if, taken together, they are not of insignificant interest for the purposes of the supervision of the group.

(4) Prior to making a decision under Paragraph 2, Items 2 or 3, the Deputy Chairperson shall consult the opinion of the other supervision authorities concerned.

(5) Paragraphs 2 - 4 shall also apply when the Commission is a supervision authority of the group, headed by an insurer, reinsurer, mixed insurance holding or financial holding with a seat of business in another member state.

(6) If, on the grounds under Paragraph 2, Items 2 or 3, a supervision authority of a group, other than the Commission, does not include a local insurer or reinsurer in the scope of the supervision of the group, the Deputy Chairperson may request from the person heading the group any information necessary for the supervision over the insurer or the reinsurer. If, according to the procedure under Paragraph 2, Items 2 and 3, the Commission does not include an insurer or reinsurer in the supervision of the group, the supervision authority of the member state, in which the seat of business of the insurer or reinsurer is located, may request from the person heading the group in the Republic of Bulgaria any information necessary for the supervision over the insurer or reinsurer.

Ultimate parent undertaking with a seat of business in the European Union

Article 236. (1) When the participating insurer or reinsurer or the mixed insurance holding or financial holding under Article 234, Paragraph 1, Items 1 or 2 is a subsidiary undertaking of another insurer, reinsurer, mixed insurance holding or financial holding with a seat of business in a member state, Chapters Twenty Four and Twenty Five shall be applied only at level of the ultimate parent undertaking - an insurer, a reinsurer, a mixed insurance holding or financial holding with a seat of business in a member state.

(2) When the ultimate parent undertaking, which is an insurer or reinsurer, or a mixed insurance holding or financial holding with a seat of business in a member state under Paragraph 1, is a subsidiary undertaking of an undertaking which is subject to supplementary supervision pursuant to Article 5, Paragraph 2 of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 concerning the supplementary supervision over the credit institutions, the insurance undertakings and the investment intermediaries belonging the a single financial conglomerate and for amendment of directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC of the Council and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council, the Deputy Chairperson, may, after consulting the other supervision authorities concerned, decide not to implement at the level of this ultimate parent undertaking or holding supervision over the risk concentration pursuant to Article 263, supervision over the intra-group transactions pursuant to Article 264 or both of the above two types of supervision.

Ultimate parent undertaking at the national level

Article 237. (1) The Commission may, on a proposal by the Deputy Chairperson, apply group supervision over a local insurer, reinsurer, mixed insurance holding or financial holding, heading a group within the meaning of Article 234, Paragraph 1, Items 1 or 2, when the ultimate parent undertaking has its seat of business in another member state, after coordination with the supervision authority of the group and with the ultimate parent undertaking in the other member state. The decision shall be justified before the supervision authority of the group and before the ultimate participating undertaking in another member state. When the Commission is a supervision authority of the group and has received a decision within the meaning of Sentence Two from another supervision authority, the Commission shall notify thereof the remaining members of the supervision collegium.

(2) Paragraph 1 shall not be applied, when the ultimate parent undertaking at the national level is a subsidiary undertaking of a parent undertaking from another member state, which has received authorisation to apply Chapter Twenty Four, Section I, Subsection VI to this subsidiary undertaking.

(3) The Commission may, on a proposal by the Deputy Chairperson, limit the group supervision at the level of the parent undertaking in the Republic of Bulgaria to one or several sections under Chapter Twenty Four.

(4) When the Commission, on a proposal by the Deputy Chairperson, decides to apply Chapter Twenty Four, Section I at the

level of the ultimate parent undertaking at a national level, the Commission shall recognise as final and shall apply the method for calculation of the solvency of a group chosen by the group supervision authority in respect of the parent undertaking from another member state.

(5) When the Commission, on a proposal by the Deputy Chairperson, decides to apply Chapter Twenty Four, Section I at the level of the ultimate parent undertaking at a national level, the Commission shall recognise as final and shall apply the decision for approval of an internal model approved at the level of the ultimate parent undertaking for calculation of the capital solvency requirement of the group and of the capital solvency requirement of the insurers and reinsurers which are part of the group.

(6) When, in the case under Paragraph 5, the Commission, on a proposal by the Deputy Chairperson, makes an assessment that the risk profile of the ultimate parent undertaking at a national level significantly deviates from the internal model approved at the group level, and if this parent undertaking does not fulfil the orders of the Commission, the Commission may:

1. impose an obligation to add capital to the capital solvency requirement of a group, calculated by the internal model, or

2. in extraordinary cases, where the addition of capital under Item 1 would not be appropriate, the Commission may order the parent undertaking to calculate the capital solvency requirement of a group according to the standard formula.

(7) The decision of the Commission under Paragraph 6 shall be justified before the supervision authority of the group and before the ultimate participating undertaking in the other member state. When the Commission is a group supervision authority and has received a decision within the meaning of Sentence One from another supervision authority in respect of a group, the ultimate participating undertaking of which is located in the Republic of Bulgaria, the Commission shall notify thereof the remaining members of the supervision collegium.

(8) When the Commission, on a proposal by the Deputy Chairperson, decides to apply Chapter Twenty Four, Section I at the level of the ultimate parent undertaking at a national level, this undertaking may submit a request for application of Chapter Twenty Four, Section I, Subsection VI in respect of a subsidiary undertakings of its.

(9) Chapters Twenty Four and Twenty Five shall be applied to the supervision of a group headed by an ultimate parent undertaking at a national level, unless otherwise provided in Paragraphs 2 - 8.

Parent undertaking encompassing several member states

Article 238. (1) The Commission may conclude an agreement with a supervision authority of another member state, where another related ultimate parent undertaking exists, for the purpose of implementing group supervision at the level of the subgroup encompassing several member states.

(2) When the Commission has concluded an agreement within the meaning of Paragraph 1, no group supervision at the level of the ultimate parent undertaking within the meaning of Article 237 may be applied in respect of a ultimate parent undertaking in a member state, other than the member state, where the subgroup under Paragraph 1 is located.

(3) The arguments for conclusion of the agreement under Paragraph 1 shall be submitted to the supervision authority of the group. When the Commission is a supervision authority of a group and has received arguments for an agreement from other supervision authorities, the Deputy Chairperson shall notify thereof the remaining members of the supervision collegium.

(4) Article 237, Paragraphs 2 - 9 shall apply accordingly.

(5) The conditions for making a decision for conclusion of an agreement under Paragraph 1 shall be stipulated by an act of the European Commission.

Chapter Twenty Four
FINANCIAL STATUS

Section I
Solvency of a group

Subsection I
General provisions

Supervision over the solvency of a group

Article 239. (1) When implementing the supervision over the solvency of a group, Paragraphs 2 and 3, Article 265 and Chapter Twenty Five shall be applied.

(2) In the cases under Article 234, Paragraph 1, Item 1, the participating undertaking which is an insurer or a reinsurer shall guarantee that the available eligible own funds in the group are at all times at least equal to the capital solvency requirement of the group calculated in accordance with Subsection II, III and IV.

(3) In the cases under Article 234, Paragraph 1, Item 2, the insurers or a reinsurers in the group shall guarantee that the available eligible own funds in the group are at all times at least equal to the capital solvency requirement of the group calculated in accordance with Subsection V.

(4) When the Commission is a supervision authority of a group, the Deputy Chairperson shall implement supervisory review as to the compliance with the requirements within the meaning of Paragraphs 2 and 3 in accordance with Chapter Twenty Five. Article 214, Paragraph 1, Paragraph 2, Items 1 and 3, Article 215, Paragraphs 1 and 3 - 5 and Article 216 shall be applied accordingly for this case.

(5) When the Commission is a supervision authority of a group, the Deputy Chairperson shall immediately notify the other authorities that are members of the supervision collegium, when the undertaking heading the group, regardless of whether it is local or not, has notified the Commission of non-compliance with the capital solvency requirement of the group or of a risk of such non-compliance in the next three months. The supervision collegium shall analyse the situation in the group.

Frequency of calculation of the capital solvency requirement of a group

Article 240. (1) At least once a year, the local insurer or reinsurer, which is a participating undertaking, shall calculate the capital solvency requirement of the group and shall report the result and the respective data on making the calculation before the supervision authority of the group.

(2) At least once a year, the local mixed insurance holding or the local mixed financial holding shall calculate the capital solvency requirement of the group and shall report the result and the respective data on making the calculation before the supervision authority of the group. The supervision authority of the group may, after coordination with the other supervision authorities concerned, as well as with the group itself, designate an insurer or a reinsurer from the group who shall report the information under Sentence One.

(3) The local insurer or reinsurer respectively, which is a participating undertaking, or the local mixed insurance holding or the local mixed financial holding respectively shall monitor on a constant basis the capital solvency requirement of the group. If the risk profile of the group deviates considerably from the assumptions underlying the last reported capital solvency requirement, the person under Sentence One shall re-calculate immediately the capital solvency requirement of the group and shall report it to the supervision authority of the group. The supervision authority of the group may request re-calculation of the capital solvency requirement of the group, if its risk profile has changed significantly after the date of the last reporting of its capital solvency requirement.

(4) When the Commission is a supervision authority of a group, the Deputy Chairperson shall have:

1. the power under Paragraph 2, Sentence Two even when the seat of business of the mixed insurance holding or of the mixed financial holding heading the group is not in the Republic of Bulgaria;

2. the power under Paragraph 3, Sentence Three even when the seat of the insurer or reinsurer, or of the mixed insurance holding or mixed financial holding heading the group is not in the Republic of Bulgaria.

Subsection II
Methods for calculation of the capital solvency requirement of a group and main principles

Choice of calculation method

Article 241. (1) The calculation of the solvency at the level of a group of insurers and/or reinsurers under Article 234, Paragraph 1, Item 1 shall be made in accordance with the technical principles and according to one of the following methods:

1. Method based on accounting consolidation - Method 1 (main method);

2. Method of deduction and aggregation - Method 2 (alternative method).

(2) A local insurer or reinsurer, which is a participating undertaking under Article 234, Paragraph 1, Item1, shall calculate the solvency of the group according to Method 1. When the Commission is a supervision authority of the group, the Deputy Chairperson shall require that Sentence One be applied even when the insurer or reinsurer, which is a participating undertaking under Article 234, Paragraph 1, Item 1, is from another member state.

(3) A local insurer or reinsurer, which is a participating undertaking, by an authorisation by the supervision authority of the group, may calculate the solvency of the group by Method 2 or by a combination of Method 1 and Method 2, where the application of Method 1 only would be inappropriate. When the Commission is a supervision authority of a group, the Deputy Chairperson shall adopt a decision on Sentence One after coordination with the concerned supervision authorities from the other member states and after coordination with the group. Sentence Two shall be apply also when the Commission is a supervision authority of a group headed by an insurer or by a reinsurer from another member state.

Inclusion of a proportionate share

Article 242. (1) When calculating the solvency of a group, the proportionate share held by the participating undertaking in the undertakings related to it shall be taken into consideration.

(2) For the purposes of Paragraph 1, the proportionate share shall encompass one of the following two:

1. the percentages used for preparing the consolidated financial statements, when Method 1 is used;

2. the proportionate share of the subscribed capital held directly or indirectly by the participating undertaking, when Method 2 is used.

(3) Regardless of the method used, when the related undertaking is a subsidiary undertaking and does not have at its disposal sufficient eligible own funds to cover the capital solvency requirement, the total shortage of funds in the subsidiary undertaking shall be taken into account.

(4) When, at the discretion of the supervision authorities, the liability of the parent undertaking holding a share of the capital is strictly limited to this share in the capital, the Deputy Chairperson, when implementing the functions of a supervision authority of a group, or the supervision authority of another member state respectively, which is implementing this function, may, nevertheless, permit that the shortage of funds in the subsidiary undertaking be taken into account on a proportionate basis.

(5) The Deputy Chairperson, when implementing the functions of a supervision authority of a group, or a supervision authority of another member state, which is implementing this function, after coordination with other concerned supervision authorities

and with the group, shall determine the proportionate share which is taken into account in the following cases:

1. there are no capital links between any of the undertakings in the group;

2. a supervision authority has determined that voting rights or capital of an undertaking, held directly or indirectly, may be classified as a participating interest, since, in the opinion of the supervision authority, considerable influence is actually exerted over the undertaking concerned;

3. a supervision authority has determined that one undertaking is a parent undertaking of another undertaking, since, in the opinion of the supervision authority, the former actually exerts dominant influence over the latter.

Exclusion of the double use of eligible own funds

Article 243. (1) The double use of own funds eligible for cover of the capital solvency requirements between different insurers or reinsurers which participate in the calculation shall be strictly prohibited.

(2) For that purpose, when calculating the solvency of the group, the following amounts shall be excluded, even though the methods described in Subsection IV do not envisage doing so:

1. the value of each asset of a participating undertaking which is an insurer or a reinsurer, where the said asset constitutes a source of financing of own funds eligible for cover of the capital solvency requirement of any of its related undertakings, which is an insurer or a reinsurer;

2. the value of each asset of a related undertaking which is an insurer or a reinsurer of a participating undertaking which is an insurer or a reinsurer, where the said asset constitutes a source of financing of own funds eligible for cover of the capital solvency requirement of such participating undertaking, which is an insurer or a reinsurer;

3. the value of each asset of a related undertaking which is an insurer or a reinsurer of a participating undertaking which is an insurer or a reinsurer, where the said asset constitutes a source of financing of own funds eligible for cover of the capital solvency requirement of any other related undertaking, which is an insurer or a reinsurer of such participating undertaking, which is an insurer or a reinsurer.

(3) Regardless of the provision of Paragraphs 1 and 2, the following elements may be included in the calculation, to the extent that they are eligible for cover of the capital solvency requirement of the respective related undertaking:

1. funds at the expense of the positive result arising in a related undertaking, which is a life insurer or a life insurance reinsurer of the participating insurance or reinsurance undertaking, for which solvency of a group is calculated;

2. subscribed but unpaid capital of a related undertaking, which is an insurer or a reinsurer of the participating insurance or reinsurance undertaking, for which solvency of a group is calculated.

(4) Regardless of Paragraph 3, the following shall be excluded from the calculation in any case:

1. subscribed but unpaid capital, which constitutes a potential liability of the participating undertaking;

2. subscribed but unpaid capital of a related insurance or reinsurance undertaking, which constitutes a potential liability of a related insurance or reinsurance undertaking;.

3. subscribed but unpaid capital of a related insurance or reinsurance undertaking, which constitutes a potential liability of another related insurance or reinsurance undertaking of the same participating insurance or reinsurance undertaking.

(5) When the Deputy Chairperson or a supervision authority of another member state makes an assessment that some of the own fund eligible for cover of the capital solvency requirement of a related insurance or reinsurance undertaking, other than those specified in Paragraphs 3 and 4, may actually not be available to cover the capital solvency requirement of a participating insurance or reinsurance undertaking, whose group solvency is calculated, such own funds may be included in the calculation to the extent that they are eligible for cover of the capital solvency requirement of the related undertaking.

(6) The amount of the own funds specified in Paragraphs 3, 4 and 5 may not exceed the capital solvency requirement of the related insurance or reinsurance undertaking.

(7) The eligible supplementary own funds of a related insurance or reinsurance undertaking of a participating insurance or reinsurance undertaking, for which group solvency is calculated, where these eligible supplementary own funds are subject to preliminary approval by a supervision authority, may be included in the calculation, if they are duly approved by the supervision authority competent for the supervision of the related undertaking.

Exclusion of intra-group generation of capital

Article 244. (1) When calculating the solvency of a group, the own funds eligible for cover of the capital solvency requirement which arise from reciprocal financing between the participating insurance or reinsurance undertaking and any of the following undertaking shall not be taken into account:

1. related undertaking;

2. participating undertaking;

3. other undertaking related to any of its participating undertakings.

(2) When calculating the solvency of a group, the own funds eligible for cover of the capital solvency requirement of a related insurance or reinsurance undertaking of a participating insurance or reinsurance undertaking, for which the solvency of a group is calculated, where the respective own funds arise from reciprocal financing with any other related undertaking of this participating insurance or reinsurance undertaking, shall not be taken into account.

(3) It shall be deemed that there exists reciprocal financing at least in the following case: when an insurer or a reinsurer, or any of its related undertakings owns stocks or shares or extends loans to another undertaking, which directly or indirectly owns own funds eligible for cover of the capital solvency requirement of the former undertaking.

Valuation

Article 245. The valuation of the assets and liabilities shall be made in accordance with Article 152.

Subsection III
Application of calculation methods

Related insurance or reinsurance undertakings

Article 246. (1) When an insurer or a reinsurer has more than one related insurance or reinsurance undertakings, the solvency of a group shall be calculated by excluding each related insurance or reinsurance undertaking.

(2) When the seat of business of a related insurance or reinsurance undertaking of the insurer or reinsurer, for which the solvency of a group is calculated, is in a member state, other than the Republic of Bulgaria, the calculation shall take into account, as regards the related undertaking, the capital solvency requirement and the own funds eligible for cover of this requirement, as provided for in the other member state.

Intermediate insurance holdings

Article 247. (1) When calculating the solvency of a group of an insurer or a reinsurer, which, through a mixed insurance holding or through a mixed financial holding, owns a participating interest in a related undertaking which is insurer, reinsurer, insurer from a third country or reinsurer from a third country, the condition of this intermediate mixed insurance holding or mixed financial holding shall be taken into account.

(2) Solely for the purpose of this calculation, the intermediate mixed insurance holding or mixed financial holding shall be treated as an insurer or a reinsurer, in respect of which the rules under Chapter Thirteen are applied as regards the capital solvency requirement and under Chapter Twelve as regards the own funds eligible for cover of the capital solvency requirement.

(3) In case the intermediate mixed insurance holding or mixed financial holding owns subordinated debt or other eligible own funds, which are subject to limitations, they shall be recognised as eligible own funds up to the amount calculated when applying the limitations pursuant to the ordinance under Article 168 to the total amount of the eligible own funds at the group level in respect of the capital solvency requirement at the group level.

(4) The eligible supplementary own funds of the intermediate mixed insurance holding or mixed financial holding, for which a preliminary approval by the supervision authority under Article 167 would be required, where these eligible supplementary own funds are owned by an insurer or a reinsurer, may be included in the calculation of solvency of a group only if they have been approved by the supervision authority of the group. For the purposes of Sentence One, subscribed but unpaid capital of the intermediate mixed insurance holding or mixed financial holding may be recognised as supplementary own funds.

Insurers from third countries and equivalence of the framework in connection with insurers from third countries

Article 248. (1) When calculating the solvency of a group of an insurer or of a reinsurer, which is a participating undertaking in an insurer or in a reinsurer from a third country in accordance with Article 255, the insurer from the third country shall be treated as a related local insurance or reinsurance undertaking solely for the purposes of the said calculation.

(2) When, in the third country of the seat of business of the insurer or of the reinsurer under Paragraph 1, it is required that it should be subject to licensing and be subject to solvency requirements, which are at least equivalent to the requirements under Title Four, when calculating the solvency of a group as regards this insurer or reinsurer, the capital solvency requirement and the own funds eligible for compliance with this requirement shall be taken into account, as stipulated in the respective third country.

(3) In the cases when the European Commission has adopted an act for equivalence or temporary equivalence of the supervision requirements in a third country under Article 227, Paragraph 4 or 5 of Directive 2009/138/EC, it shall be assumed that the requirements in the respective third country are equivalent to the requirements under Title Four.

(4) When no act for equivalence under Paragraph 3 has been adopted and when the Commission is a supervision authority of a group, the assessment of equivalence shall be made by the Commission in cooperation with the European Authority and after coordination with the other concerned supervision authorities of the member states. When, in respect of that same third country, a decision regarding the equivalence of the supervision framework was adopted earlier by a supervision authority in another member state, the Commission may not adopt a different decision, unless significant changes arising in the framework under Title Four or in the supervision framework of the third country have to be taken into account.

(5) The assessment of the equivalence of the supervision framework in the third country shall be made according to criteria adopted by an act of the European Commission.

(6) When the Commission is not a supervision authority of a group and in the case of dissent with a decision regarding the equivalence of the supervision framework in a third country adopted by another supervision authority of a group, the Commission may, within a 3-month time limit from notification of the adopted decision, refer the matter for consideration by the European Authority in accordance with Article 19 of Regulation (EU) No. 1094/2010.

Credit institutions, investment intermediaries and financial institutions

Article 249. (1) When calculating the solvency of a group of an insurer or of a reinsurer, which is a participating undertaking in a credit institution, an investment intermediary or a financial institution, the participating local insurance or reinsurance undertaking may apply Method 1 or Method 2 respectively for calculation of supplementary capital adequacy under the Annex to Article 6 and 7 of the Supplementary Supervision of Financial Conglomerates Act. Method 1 may be applied only when the supervision authority of a group has made an assessment that the level of the integrated management and the internal control in respect of the companies included in the scope of the consolidation is satisfactory. The method chosen shall be applied consistently over time.

(2) When the Commission is a supervision authority of a group, the Deputy Chairperson may, ex officio or at the request of the participating undertaking, deduct any participation under Paragraph 1 from the own funds eligible for cover of the solvency of the group of the participating undertaking.

Absence of the necessary information

Article 250. (1) When information necessary for calculation of the solvency of the group is lacking, in connection with a related undertaking in a member state or in a third country, the accounting value of such undertaking shall be deducted from the eligible own funds for cover of the solvency of the group.

(2) In this case, the unrealised profits, which are associated with the participation in this undertaking, shall not be recognised as eligible own funds for cover of the solvency of the group.

Subsection IV
Calculation methods

Method based on accounting consolidation - Method 1 (main method)

Article 251. (1) According to the Method of Accounting Consolidation, the local insurer or reinsurer heading the group shall calculate the solvency of the group on the basis of the consolidated financial statements.

(2) The solvency of the group of the local insurer or reinsurer heading a group shall be equal to the difference between the eligible own funds for cover of the capital solvency requirement, calculated on the basis of the consolidated data, and the capital solvency requirement at the group level, calculated on the basis of the consolidated data.

(3) The eligible own funds and the capital solvency requirement shall be calculated according to Chapter Twelve and Chapter Thirteen at the group level on the basis of the consolidated data.

(4) The capital solvency requirement on the basis of consolidated data (consolidated capital solvency requirement of a group) shall be calculated either in accordance with the standard formula subject to compliance with the principles under Chapter Thirteen, Sections One and Two, or in accordance with an approved internal model subject to compliance with the principles under Chapter Thirteen, Sections One and Two.

(5) The consolidated capital solvency requirement of a group may not be less than the sum total of the minimum capital solvency requirement of the insurer or of the reinsurer heading the group and the proportionate share of the minimum capital requirement of the related insurers and reinsurers.

(6) The minimum amount of the consolidated capital solvency requirement of the group shall be covered by eligible core own funds determined according to the ordinance under Article 168. The principles under Subsection III shall be applied accordingly in order to determine whether these eligible funds may be used for the cover of the minimum consolidated capital requirement of a group. Article 214, Paragraph 2, Items 2 and 3 and Article 215, Paragraphs 2 - 5 shall also be applied accordingly.

Internal model of a group

Article 252. (1) A local insurer or reinsurer, which is participating undertaking, together with its related insurers and reinsurers, as well as the related insurers of a local mixed insurance holding or of a local mixed financial holding, may submit an application to the competent supervision authority of the group for authorisation to calculated the consolidated capital requirement of the group, as well as the capital solvency requirement of the insurers and of the reinsurers in the group, by means of an internal model. When an insurer or a reinsurer with a seat of business in the Republic of Bulgaria is a related undertaking within a group,

it shall have the right to participate in the application under Sentence One on the initiative of the participating insurer or reinsurer, or on the initiative of another insurer or reinsurer, which is a related undertaking with an mixed insurance holding or with a mixed financial holding.

(2) When the Commission is a supervision authority of a group and receives an application under Paragraph 1, the Commission shall inform the supervision authorities which participate in the supervision collegium and shall send them immediately the application, together with all the documents attached thereto.

(3) In the case of an application under Paragraphs 1 or 2, the Commission, in its capacity of a supervision authority of the group or of a member of the supervision collegium, shall cooperated with the other members of the supervision collegium for adopting, within 6 months of receiving the application with all the documents by the supervision authority of the group, a mutual decision to issue or to refuse to issue authorisation for using an internal model, as well as on the possible conditions given which the authorisation would be issued.

(4) When a mutual decision is achieve on the application for approval of a group's internal model, the Commission or the other supervision authority respectively, in the capacity of group's supervision authority, shall hand the mutual decision over to the applicant, together with the comprehensive arguments thereof.

(5) When no mutual decision is achieved within the time limit under Paragraph 3, the Commission shall, in the capacity of a group's supervision authority, adopt its own decision on the application for approval of a group's internal model, after discussing the remarks and objections made by the other supervision authorities within the 6-month time limit. The independent decision of the Commission shall be justified by arguments and shall be handed over to the other members of the supervision collegium and to the applicant. The decision shall be considered final and shall be subject to implementation. Sentence One, Town and Three shall be applied accordingly when the Commission is not a supervision authority of the group.

(6) When no mutual decision has been achieved and the time limit under Paragraph 3 has not expired, the Commission may notify the European Authority according to the procedure of Article 19 of Regulation (EU) No. 1094/2010. When the Commission is a group's supervision authority and the European Authority has been notified according to the procedure of Article 19 of Regulation (EU) No. 1094/2010, the Commission shall postpone the taking of an independent decision pending the pronouncement of opinion by the European Authority and shall take a decision in accordance with such pronounced opinion. The decision of the Commission or of another group's supervision authority respectively, that pertains to an application for approval of a group's internal model and that was adopted in accordance with the opinion pronounced by the European Authority according to the procedure of Article 19, Paragraph 3 of Regulation (EU) No. 1094/2010, shall be considered final and shall be subject to implementation.

(7) If, in accordance with Article 41, Paragraphs 2 and 3 and with Article 44, Paragraphs 1 and 3 of Regulation (EU) No. 1094/2010, the decision proposed by the work group is rejected, the decision on the application for approval of a group's internal model shall be made by the Commission or by the other supervision authority of the group. This decision shall be considered final and shall be subject to implementation. The 6-month time period shall be considered a reconciliation period within the meaning of Article 19, Paragraph 2 of Regulation (EU) No. 1094/2010.

(8) The unified conditions for the mutual decision making process shall be stipulated by an act of the European Commission.

Deviations from the assumptions underlying a group's internal model at the level of a specific insurer or reinsurer

Article 253. (1) When the Commission, on a proposal by the Deputy Chairperson, makes an assessment that the risk profile of a local insurer or reinsurer significantly deviates from the internal model approved at the group level under Article 252, and if such person does not fulfil the orders of the Commission, the Commission may:

1. impose an obligation to add capital to its capital solvency requirement calculated by the internal model, or

2. in extraordinary cases, where the addition of capital under Item 1 is not appropriate, the Commission may order such person to calculate the capital solvency requirement according to the standard formula.

(2) In the case under Paragraph 1, Item 2, the Commission may, on a proposal by the Deputy Chairperson, order that capital also be added according to the procedure of Article 584, Paragraph 1, Items 1 or 3 to the capital solvency requirement of this person calculated by application of the standard formula.

(3) The decision for application of measures under Paragraphs 1 or 2 shall be justified by arguments and shall be submitted to the insurer or to the reinsurer respectively, as well as to the other members of the supervision collegium.

Adding capital of a group

Article 254. (1) When the Commission is a supervision authority of a group, the Deputy Chairperson shall monitor on an ongoing basis whether the consolidated capital solvency requirement in an appropriate manner reflects the risk profile of the group and, in particular, shall monitor for the occurrence of any of the premises under Article 584 (1), especially in the cases when:

1. a specific risk existing at the group level is not encompassed adequately by the standard formula or by the internal model used, because it is difficult to assess quantitatively, or

2. respective supervision authorities have ordered that capital be added to the capital solvency requirement of one or more related insurers or reinsurers.

(2) When in the cases under Paragraph 1, it is established that the risk profile of the group is not adequately reflected, the Commission may, on a proposal by the Deputy Chairperson, order that capital be added to the consolidated capital solvency requirement of the group in compliance with Article 584 accordingly.

Method of deduction and aggregation - Method 2 (alternative method)

Article 255. (1) According to the Method of Deduction and Aggregation, the local insurer or reinsurer respectively, which is a participating undertaking, shall calculate its solvency as the difference between:

1. the aggregated eligible own funds of the group under Paragraph 2, and

2. the value of the related insurers and reinsurers belonging to the local insurer or reinsurer which is a participating undertaking, and the aggregate capital solvency requirement of the group under Paragraph 3.

(2) The aggregated eligible own funds of the group shall be the sum total of:

1. the eligible own funds for cover of the capital solvency requirement of the local insurer or reinsurer, which is participating undertaking;

2. the proportionate share of the local insurer or reinsurer, which is a participating undertaking, in the eligible own funds for cover of the capital solvency requirement of the related insurers and reinsurers.

(3) The aggregated capital solvency requirement of the group shall be the sum total of:

1. the capital solvency requirement of the local insurer or reinsurer, which is a participating undertaking;

2. the proportionate share of the capital solvency requirement of the related insurers and reinsurers.

(4) If the participation in the related insurers or reinsurers is fully or partially indirect, their value in the local insurer or reinsurer, which is a participating undertaking, shall include the value of this indirect participation, while taking into account the sequential order of the respective participation, whereas the element under:

1. Paragraph 2, Item 2 shall include the corresponding proportionate shares of the own funds eligible for cover of the capital solvency requirement of the related insurers and reinsurers,

2. Paragraph 3, Item 2 shall include the corresponding proportionate shares of the capital solvency requirement of the related insurers and reinsurers.

(5) In the case of an application for authorisation to calculate the capital solvency requirement of the insurers or of the reinsurers within the group by means of an internal model, submitted by an insurer or by a reinsurer, which is participating undertaking, together with its related insurers and/or reinsurers or jointly by the related insurers of a local mixed insurance

holding or of a local mixed financial holding, Articles 252 and 253 shall be applied accordingly.

(6) When the Commission is a supervision authority of a group, the Commission shall, on a proposal by the Deputy Chairperson, make an assessment of whether the aggregated capital solvency requirement in an appropriate manner reflects the risk profile of the group and, in particular, shall make an assessment of the presence of specific risks, existing at the group level, which have not been adequately encompassed, because they are difficult to assess quantitatively.

(7) When the Commission establishes that the risk profile of the group significantly deviates from the assumptions underlying the aggregated capital solvency requirement of the group, the Commission may, on a proposal by the Deputy Chairperson, order that capital be added to the aggregated capital solvency requirement of the group in compliance with Article 584 respectively.

Subsection V
Supervision over the solvency of a group for insurers and reinsurers, which are subsidiary undertakings of a mixed insurance holding or of a mixed financial holding

Solvency of a group of a mixed insurance holding or of a mixed financial holding

Article 256. (1) When insurers or reinsurers are subsidiary undertakings of a mixed insurance holding or of a mixed financial holding, the calculation of the solvency of the group shall be made at the level of the mixed insurance holding or of the mixed financial holding, while applying Article 241, Paragraph 2 and 3 and Articles 242 - 255.

(2) For the purposes of this calculation, the parent undertaking shall be treated as an insurer or reinsurer, which has an obligation to calculate a capital solvency requirement under Chapter Thirteen. The eligible own funds for cover of the capital solvency requirement of the parent undertaking shall be determined according to Chapter Twelve.

Subsection VI
Supervision over the solvency of a group relative to groups with centralised risk management

Group with centralised risk management

Article 257. (1) A "group with a centralised risk management" shall be a group consisting of an insurer, reinsurer, mixed insurance holding or mixed financial holding and their respective subsidiary insurers and reinsurers, for each of which an authorisation under Article 258 has been issued. For groups with centralised risk management, headed by a mixed insurance holding or by a mixed financial holding, this Subsection shall be applied accordingly.

(2) A local insurer or reinsurer, which is a subsidiary undertaking of another insurer or reinsurer, may be included in the scope of the group with centralised risk management, if all the conditions have been complied with, as follows:

1. the subsidiary undertaking is included in the scope of the group supervision performed by the supervision authority of the group at the level of the parent undertaking in accordance with this Title and such supervision authority has not adopted a decision under Article 235 (2) in respect of such subsidiary undertaking.

2. the risk management processes and the internal control mechanisms of the parent undertaking are conformant with the requirements of the respective supervision authorities in respect of the prudent management of the subsidiary undertaking;

3. the parent undertaking has obtained authorisation under Article 265 (7) from the competent supervision authority of a group;

4. the parent undertaking has obtained authorisation under Article 276 (2) from the competent supervision authority of a group;

5. the parent undertaking has submitted an application for authorisation for the subsidiary undertaking to be subject to the requirement of this subsection and the authorisation has been issued according to the procedure of Article 258.

Decision on the application

Article 258. (1) An application under Article 257, Paragraph 2, Item 5 in respect of a local insurer or a reinsurer shall be submitted before the Commission. The Commission shall immediately notify the other members of the supervision collegium and shall present to them the application, together with all the attachments thereto.

(2) The decision on the application shall be adopted jointly with the consent of all the participants in the supervision collegium or by the supervision authority of the group - when no consensus has been reached. The Commission shall cooperate with the other members of the supervision collegium for adopting, within 3 months of the date of receiving the application with all the attachments by all the members of the collegium, a mutual decision to issue or to refuse to issue the authorisation applied for, as well as for agreeing on the possible conditions subject to which the authorisation will be issued.

(3) When a mutual decision on the application is reached, it shall be handed over to the applicant, together with the arguments pertaining thereto. The decision shall be considered final in the relations between the supervision authorities and shall be subject to implementation.

(4) When no mutual decision is achieved within the time limit under Paragraph 2, the group's supervision authority shall adopt its own decision on the application, after discussing the remarks and objections made by the other supervision authorities within the 3-month time limit. The decision shall contain comprehensive arguments and an explanation, when the remarks and objections of the other supervision authorities have not been accepted. The decision, together with the arguments pertaining thereto, shall be handed over to the other members of the supervision collegium and to the applicant. The decision shall be considered final in the relations between the supervision authorities and shall be subject to implementation. Sentences One, Two, Three and Four shall also be applied when the Commission is a supervision authority of a group and it shall pronounce a decision independently on an application under Article 257, Paragraph 2, Item 5.

(5) When no mutual decision has been achieved and the time limit under Paragraph 2 has not expired, the Commission may notify the European Authority according to the procedure of Article 19 of Regulation (EU) No. 1094/2010. When the Commission is a group's supervision authority and the European Authority has been notified according to the procedure of Article 19 of Regulation (EU) No. 1094/2010, the Commission shall postpone the taking of an independent decision pending the pronouncement of opinion by the European Authority and shall take a decision in accordance with such pronounced opinion. The decision of the Commission or of another authority respectively, in the capacity of a group's supervision authority, as adopted in accordance with the opinion pronounced by the European Authority according to the procedure of Article 19, Paragraph 3 of Regulation (EU) No. 1094/2010, shall be considered final in the relations between the supervision authorities and shall be subject to implementation.

(6) If, in accordance with Article 41, Paragraphs 2 and 3 and with Article 44, Paragraphs 1 and 3 of Regulation (EU) No. 1094/2010, the decision proposed by the work group is rejected, the decision on the application under Article 257, Paragraph 2, Item 5 shall be made by the Commission (on a proposal by the Deputy Chairperson and when the Commission is a group's supervision authority) or by another supervision authority of the group. The decision shall be considered final in the relations between the supervision authorities and shall be subject to implementation. The 3-month time period shall be considered a reconciliation period within the meaning of Article 19, Paragraph 2 of that same Regulation.

(7) The unified conditions for the mutual decision making process shall be stipulated by an act of the European Commission.

(8) Paragraphs 4 - 7 shall be applied in all cases, where the Commission is a group's supervision authority and it is competent to pronounce an opinion on an application in relation to an insurer with does not have its seat of business in the Republic of Bulgaria.

Determining the capital solvency requirement of the subsidiary undertakings of a group with centralised risk management

Article 259. (1) For the sake of calculation of the capital solvency requirement of an insurer or of a reinsurer, which is a subsidiary undertaking in a group with centralised risk management, Paragraphs 2-9 shall be applied, regardless of the

provisions of Article 252 and 253.

(2) When the capital solvency requirement of a local insurer or reinsurer under Paragraph 1 is determined according to an internal model approved at the group level under Article 252 and when the Commission, on a proposal by the Deputy Chairperson, makes an assessment that the risk profile significantly deviates from such internal model, and if such person does not fulfil the orders of the Commission, the Commission may propose:

1. that capital be added to its capital solvency requirement calculated by the internal model, or

2. in extraordinary cases, where the addition of capital under Item 1 is not appropriate, the Commission may order such person to calculate the capital solvency requirement according to the standard formula.

(3) When the capital solvency requirement of a local insurer or reinsurer under Paragraph 1 is calculated by the standard formula and when the Commission, on a proposal by the Deputy Chairperson, makes an assessment that its risk profile significantly deviates from assumptions underlying the standard formula, and if such person does not fulfil the orders of the Commission, the Commission may, in extraordinary cases, propose:

1. that the person replace part of the parameters used in the standard formula calculation with parameters specific to it for calculation of the modules of the life insurance underwriting risk, the general insurance underwriting risk or the health insurance underwriting risk under Article 174, or

2. that capital be added to its capital solvency requirement in the case under Article 584.

(4) The Commission shall discuss the proposal under Paragraph 2 or Paragraph 3 respectively at the supervision collegium, while disclosing its considerations before the collegium and before the insurer or the reinsurer.

(5) The Commission shall undertake actions for reaching a coordinated decision within the supervision collegium on the proposed measures or other possible measures. Sentence One shall also be applied when the Commission is a member of a supervision collegium and when another supervision authority has proposed measures within the meaning of Paragraphs 2 or 3 in respect of an insurer or a reinsurer licensed by it. The coordinated decision reached shall be considered final in the relations between the supervision authorities and shall be subject to implementation. In case that no coordinated decision has been reached within 1 month of the date of the proposal under Paragraphs 2 or 3, the Commission or the other supervision authority respectively that proposed the measures may adopt an independent decision.

(6) When the Commission or the group's supervision authority do not achieve consensus, as well as when no coordinated decision has been reached and the time limit under Paragraph 5 has not expired, the Commission may request assistance from the European Authority according to the procedure of Article 19 of Regulation (EU) No. 1094/2010. When the European Authority has been notified according to the procedure of Article 19 of Regulation (EU) No. 1094/2010, the Commission shall postpone taking an independent decision pending the pronouncement of opinion by the European Authority and shall take a decision in accordance with such pronounced opinion. The decision of the Commission adopted in accordance with the opinion pronounced by the European Authority according to the procedure of Article 19, Paragraph 3 of Regulation (EU) No. 1094/2010, shall be considered final in the relations between the supervision authorities and shall be subject to implementation. The 1-month time period under Paragraph 5, Sentence Four shall be considered a reconciliation period within the meaning of Article 19, Paragraph 2 of that same Regulation.

(7) The independent decision under Paragraph 5 or under Paragraph 6 respectively shall be justified by arguments and shall be provided to the insurer or reinsurer and to the supervision collegium.

(8) Paragraph 6 shall also be applied for resolving the differences of opinion on application of Paragraphs 2 or 3 between the Commission, when it is a group's supervision authority, and another supervision authority within the supervision collegium.

(9) The pronouncement of opinion by the European Authority in the cases under Paragraph 8 should not supersede the right of judgement of the supervision authorities, when it is in accordance with the law of the European Union. The European Authority must resolve the differences of opinion by intermediating between the supervision authorities.

Non-compliance with the capital solvency requirement or with the minimum capital requirement by subsidiary undertakings in a group with centralised risk management

Article 260. (1) When a local insurer or reinsurer, which is a subsidiary undertaking in a group with centralised risk management, fails to comply with the capital solvency requirement regardless of the requirements of Article 214, Paragraph 2, Items 1 and 3, Article 215, Paragraphs 1 and 3 - 5 and Article 216, the Commission shall, on a proposal by the Deputy Chairperson, send immediately to the supervision collegium the solvency recovery plan, submitted by the insurer or by the reinsurer, for achieving, within a 6-month time limit from establishing the non-compliance with the capital solvency requirement, recovery of the compliance therewith.

(2) The Commission shall undertake actions for achieving a coordinated decision within the supervision collegium for approval of the submitted plan within a time limit of not later than 4 months from the date of establishing the non-compliance with the capital solvency requirement. Sentence One shall also be applied when another supervision authority has proposed that the solvency recovery plan be approved as regards an insurer or a reinsurer licensed by such supervision authority.

(3) When no consensus is reached under Paragraph 2, the Commission shall take an independent decision on the approval of the solvency recovery plan, while discussing the remarks and objections of the other participants in the supervision collegium.

(4) When the Commission establishes deterioration of the financial status under Article 214 (1) of a local insurer or reinsurer, which is a subsidiary undertaking in a group with centralised risk management, the Commission shall immediately notify the supervision collegium of the measures that it proposes to be taken. With the exception of extraordinary situations, the measures shall be discussed within the supervision collegium.

(5) The Commission shall undertake actions for reaching a coordinated decision within the supervision collegium in connection with the proposed measures within a time limit of not more than one month from the notification. Sentence One shall also be applied when the Commission is a member of a supervision collegium and when another supervision authority has proposed measures in respect of an insurer or a reinsurer licensed by it.

(6) When no consensus is reached under Paragraph 5, the Commission shall take an independent decision on the application of measures in respect of the insurer or reinsurer, while discussing the remarks and objections of the other participants in the supervision collegium.

(7) When a local insurer or reinsurer, which is a subsidiary undertaking of a group with centralised risk management, fails to comply with the minimum capital requirement and regardless of the requirements under Article 214, Paragraph 2, Items 2 and 3, Article 215, Paragraphs 2 - 5, the Commission shall immediately send to the supervision collegium the short-term plan submitted by the insurer or by the reinsurer so that the objectives of the short-term plan can be achieved within three months of establishing the non-compliance with the minimum capital requirement. The Commission shall notify the supervision collegium of the measures applied to the insurer or to the reinsurer for ensuring compliance with the plan.

(8) If the Commission and the group's supervision authority fail to reach consensus regarding the approval of the solvency recovery plan within the 4-month time limit under Paragraph 2 or regarding the approval of the proposed measures within the 1-month time limit under Paragraph 5, as well as if a coordinated decision has not been reached and the specified time limits have not expired, as well as if no extraordinary situation is present under Paragraph 4, the Commission may request the assistance of the European Authority according to the procedure of Article 19 of Regulation (EU) No. 1094/2010. When the European Authority has been notified according to the procedure of Article 19 of Regulation (EU) No. 1094/2010, the Commission shall postpone taking an independent decision pending the pronouncement of opinion by the European Authority and shall take the decision in accordance with such pronounced opinion. The decision of the Commission, taken in accordance with the pronounced opinion of the European Authority according to the procedure of Article 19, Paragraph 3 of Regulation (EU) No. 1094/2010, shall be considered final in the relations between the supervision authorities and shall be subject to implementation. The 1-month time period under Paragraph 5 shall be considered a reconciliation period within the meaning of Article 19, Paragraph 2 of that same Regulation. The reasoned decision of the Commission shall be handed over to the insurer or reinsurer respectively and to the members of the supervision collegium.

(9) Paragraph 8 shall also be applied for resolving the differences of opinion on application of Paragraphs 1 - 6 between the Commission, when it is a group's supervision authority, and another supervision authority within the supervision collegium.

(10) The pronouncement of opinion by the European Authority under Paragraph 8 shall not supersede the right of judgement of the Commission, when it is in accordance with the law of the European Union. In the cases of differences of opinion between the supervision authorities, the European Authority shall facilitate their resolution.

Exclusion of a subsidiary insurance or reinsurance undertaking from the scope of a group with centralised risk management

Article 261. (1) A subsidiary insurance or reinsurance undertaking shall be excluded from the scope of a group with centralised risk management and shall not be subject to supervision under the rules of this Subsection, when:

1. the condition under Article 257, Paragraph 2, Item 1 is no longer present;

2. the condition under Article 257, Paragraph 2, Item 2 is no longer complied with and the group does not restore compliance therewith in the appropriate time limit;

3. the conditions under Article 257, Paragraph 2, Items 3 and 4 are no longer present.

(2) When the Commission is a group's supervision authority and takes a decision to exclude an undertaking under Paragraph 1, Item 1 from the scope of the group's supervision, it shall immediately notify the respective supervision authority and the parent undertaking. The Commission shall take a decision under Sentence One after coordination in the supervision collegium.

(3) The parent undertaking of a group with centralised risk management shall be responsible for the continuous compliance with the conditions under Article 257, Paragraph 2, Items 2 - 4. In case that any of these conditions ceases to be met, the respective parent undertaking shall notify immediately the Commission and the respective supervision authority of the subsidiary undertaking thereof, and shall submit a plan for restoring the compliance with such condition within an appropriate time limit.

(4) When the Commission is a supervision authority of a group with centralised risk management, it shall check ex officio and at least once a year whether the conditions under Article 257, Paragraph 2, Items 2 - 4 are being complied with. The Commission shall, on a proposal by the Deputy Chairperson, perform a check under Sentence One. The Commission shall perform such a check at the request of the concerned authority from the supervision collegium as well. When the Commission is a member of a supervision collegium and a local insurer or reinsurer is included within the scope of a group with centralised risk management, it may forward an application to the respective group's supervision authority that the presence of the conditions under Article 257, Paragraph 2, Items 2 - 4 in respect of the local insurer or reinsurer be duly checked.

(5) When, in the cases of a check under Paragraph 4, weaknesses are established, the Commission shall order the respective parent undertaking to submit a plan for restoring compliance with the violated conditions within an appropriate time limit.

(6) When the Commission is a group's supervision authority under Paragraph 4, Sentence One, it shall make an assessment whether the plan under Paragraph 3 or under Paragraph 5 is sufficient and whether it is being properly implemented after coordination with the supervision collegium. When it is found that the plan is insufficient or that it is not being properly implemented or that the conditions under Article 257, Paragraph 2, Items 2 - 4 are not present, the Commission shall immediately notify thereof the concerned supervision authority.

(7) The excluded insurer or reinsurer respectively may again be included within the scope of the group with centralised risk management according to the procedure of Article 258.

Regulations for implementation

Article 262. The criteria for assessing whether the conditions under Article 257 (2) are present and the criteria for assessing the presence of an extraordinary situation under Article 260 (4), as well as the procedures for exchange of information between the supervision authorities and for the sake of exercising their powers and meeting their obligations under this Subsection, shall be pursuant to an act of the European Commission.

Section II
Risk concentration, intra-group transactions, risk management and internal control

Supervision over risk concentration

Article 263. (1) "Risk concentration" within the group shall mean the sum total of all exposures which may cause a loss, which the undertakings in the group are exposed to and which are sufficient big to jeopardise the solvency or the overall financial status of the insurers and/or reinsurers in the group.

(2) The Deputy Chairperson shall make a supervisory review of the risk concentrations in the groups, in respect of which the Commission is a group supervision authority, regardless of whether the seat of business of the parent undertaking is in the Republic of Bulgaria or not. The supervisory review of the risk concentration in a group, the parent undertaking of which is a local insurer, reinsurer, mixed insurance holding or mixed financial holding, shall be made by the group's supervision authority. In the review of the risk concentration, the Deputy Chairperson shall trace also the possible risk of risk propagation within the group, the risk of conflict of interests, as well as the level or volume of the risks.

(3) A local insurer, reinsurer, mixed insurance holding or mixed financial holding, which is a parent undertaking of a group, shall report to the group's supervision authority at least once a year each significant risk concentration at the group level. When the parent undertaking of a group is a local mixed insurance holding or a local mixed financial holding, the group's supervision authority may, after coordination with the supervision collegium and with the group, designate an insurer or a reinsurer, which shall submit the information under Sentence One. The Deputy Chairperson shall require information within the meaning of Sentence One and shall have the power under Sentence Two, also when the Commission is a supervision authority of a group, the parent undertaking of which is an undertaking which does not have its seat of business in the Republic of Bulgaria.

(4) In the cases under Paragraph 3, the exposures, as well as all types of risk subject to reporting in all cases, shall be determined by the group's supervision authority after coordination with the Deputy Chairperson and the other concerned supervision authorities and with the group. When the Commission is a group's supervision authority, the Deputy Chairperson shall have the right to determine the risks subject to reporting under Sentence One, after coordination with the other concerned supervision authorities and with the group, also when the parent undertaking of a group does not have its seat of business in the Republic of Bulgaria. When determining the risks subject to reporting under Sentence Two and in the case of participation in the coordination under Sentence One, the Deputy Chairperson shall take into account the specific structure of the group and its risk management.

(5) For identifying significant risk concentrations, when the Commission is a group's supervision authority, the Deputy Chairperson shall, after coordination with the concerned supervision authorities and with the group, determine appropriate thresholds on the basis of the solvency requirement, the technical reserves or both.

(6) Article 265 and Chapter Twenty Five shall be applied to the supervision of risk concentrations.

(7) The concept of "significant risk concentration", the method of identification of significant risk concentrations and of calculation of appropriate thresholds for the purposes of Paragraph 5 shall be pursuant to an act of the European Commission.

Supervision of the intra-group transactions

Article 264. (1) An "intra-group transaction" shall be each and every transaction, in the case of which an insurer or a reinsurer depends directly or indirectly on other undertakings from the same group or on any natural person or legal entity which is in close relations with the undertakings from such group, for the implementation of a contractual or extra-contractual obligations, in exchange for remuneration or not.

(2) The Deputy Chairperson shall make a supervisory review of the transactions within a group, in respect of which the Commission is a group supervision authority, regardless of whether the seat of business of the parent undertaking is in the Republic of Bulgaria or not. The supervisory review of the transactions within a group, the parent undertaking of which is a local insurer, reinsurer, mixed insurance holding or mixed financial holding, shall be made by the group's supervision authority.

(3) A local insurer, reinsurer, mixed insurance holding or mixed financial holding, which is a parent undertaking of a group, shall report to the group's supervision authority at least once a year all significant transactions within the group, including those concluded with a natural person who is in close relations with an undertaking in the group. The especially significant transactions shall be reported immediately, where possible. When the parent undertaking of a group is a local mixed insurance holding or a local mixed financial holding, the group's supervision authority may, after coordination with the supervision collegium and with the group, designate an insurer or a reinsurer, which shall submit the information under Sentence One. The Deputy Chairperson shall require information under Sentence One and shall have the power under Sentence Two, also when the Commission is a supervision authority of a group, the parent undertaking of which is an undertaking which does not have its seat of business in

the Republic of Bulgaria.

(4) The transactions within a group under Paragraph 3, Sentence One, which are subject to reporting in all cases, shall be determined by the group's supervision authority after coordination with the Deputy Chairperson and the other concerned supervision authorities and with the group. When the Commission is a group's supervision authority, the Deputy Chairperson shall have the power to determine the intra-group transactions subject to reporting under Sentence One, after coordination with the other concerned supervision authorities and with the group, also when the parent undertaking of a group does not have its seat of business in the Republic of Bulgaria. When determining the transactions subject to reporting under Sentence Two and in the case of participation in their coordination under Sentence One, the Deputy Chairperson shall take into account the specific structure of the group and its risk management.

(5) For identifying significant intra-group transactions, when the Commission is a group's supervision authority, the Deputy Chairperson shall, after coordination with the concerned supervision authorities and with the group, determine appropriate thresholds on the basis of the solvency requirement, the technical reserves or both.

(6) Article 265 and Chapter Twenty Five shall be applied to the supervision of intra-group transactions.

(7) The concept "significant intra-group transaction" shall be pursuant to an act of the European Commission.

Supervision of the management system

Article 265. (1) The requirements under Articles 76 - 79 and Articles 86 - 100 shall be applied accordingly at the group level.

(2) Regardless of the requirements under Paragraph 1, the local insurer or reinsurer respectively, or the local mixed insurance holding or local mixed financial holding respectively, which is a parent undertaking of a group, shall be obligated to guarantee that the risk management systems, the internal control systems and the reporting procedures are applied consistently in all undertakings included within the scope of supervision of the group, so that these systems and procedures can be controlled at the group level.

(3) Regardless of the requirements under Paragraph s 1 and 2, the internal control mechanisms of the group shall include at least:

1. appropriate mechanisms in respect of the group's solvency for the purpose of identifying and measuring all significant risks assumed and for the purpose of ensuring an appropriate ratio between the eligible own funds and the risks;

2. reliable reporting and accountancy procedures for monitoring and managing the intra-group transactions and the risk concentration.

(4) The Deputy Chairperson shall make a supervisory review according to the procedure of Chapter Twenty Five of the systems and procedures under Paragraphs 1-3 in the groups, in respect of which the Commission is a group supervision authority, regardless of whether the seat of business of the parent undertaking is in the Republic of Bulgaria or not. The supervisory review of the systems and procedures under Paragraphs 1 - 3 in a group, the parent undertaking of which is a local insurer, reinsurer, mixed insurance holding or mixed financial holding, shall be made by the group's supervision authority.

(5) The local insurer, reinsurer, mixed insurance holding or mixed financial holding, which is a parent undertaking of a group, shall perform its own assessment of the risk and solvency at the group level. This assessment shall be the subject of the supervisory review by the group's supervision authority. When the Commission is a group's supervision authority, the Deputy Chairperson shall make the supervisory review of his/her own assessment of the risk and solvency according to the procedure of Chapter Twenty Five.

(6) When the calculation of the solvency at the group level takes place on the basis of the method based on accounting consolidation, the local insurer, reinsurer, mixed insurance holding or mixed financial holding, which is parent undertaking of the group, shall explain to the group's supervision authority the difference between the sum total of the capital solvency requirements of the related insurers and reinsurers in the group and the group's consolidated capital solvency requirement. When the Commission is a group's supervision authority, the Deputy Chairperson shall require explanations in the cases under Sentence One also when the parent undertaking of the group does not have its seat of business in the Republic of Bulgaria.

(7) The local insurer, reinsurer, mixed insurance holding or mixed financial holding, which is parent undertaking of the group, may, with the authorisation of the group's supervision authority, undertake its own assessment of the risk and solvency simultaneously at the level of the group and at the level of one, several or all insurers or reinsurers in the group and may prepare a unified document encompassing all the assessments. When the Commission is a group's supervision authority, the Deputy Chairperson shall grant such authorisation after coordination with the members of the supervision collegium and after duly discussing their remarks and objections.

(8) When the group takes advantage of the opportunity under Paragraph 7, it shall submit the unified document to all concerned supervision authorities simultaneously. Taking advantage of the opportunity under Paragraph 7 does not relieve a local insurer or reinsurer, which is a subsidiary undertaking of a group, from the obligation to comply fully with the requirements under Article 90 within the simultaneous assessment. Sentence Two shall also be applied to a local insurer or reinsurer, which is a subsidiary undertaking of a group, the parent company of which is not a local person.

Chapter Twenty-Five
GROUP'S SUPERVISION AUTHORITY. SUPERVISION COLLEGIUM. COOPERATION BETWEEN THE SUPERVISION AUTHORITIES AND OTHER MEASURES FOR ASSISTING THE SUPERVISION OF A GROUP

Group's supervision authority

Article 266. (1) For each group within the meaning of Article 234, Paragraph 1, Items 1 or 2, a single supervision authority shall be designated from amongst the authorities of the member states, in which the group is located, where such designated supervision authority shall be responsible for the coordination and implementation of the supervision over the group (group's supervision authority).

(2) The group's supervision authority shall be designated according to Paragraphs 3 - 10.

(3) A group's supervision authority shall be the Commission or the Deputy Chairperson, when they carry on supervisory functions in respect of all insurers and reinsurers in the group separately.

(4) Other than in the cases under Paragraph 3, the Commission or the Deputy Chairperson shall be a group's supervision authority if:

1. a local insurer or reinsurer is a parent undertaking of the group;

2. a mixed insurance holding or a mixed financial holding is a parent undertaking of the group, including a local insurer or reinsurer, and the group has no insurers or reinsurers in another member state;

3. a local mixed insurance holding or a local mixed financial holding is a parent undertaking of a local insurer or reinsurer, where the group has at least one subsidiary insurance or reinsurance undertaking in another member state;

4. the insurer or the reinsurer belonging to the group with the biggest balance sheet number has its seat of business in the Republic of Bulgaria in all other cases.

(5) Paragraph 4 shall be applied accordingly for designation of the group's supervision authority of the groups under Article 234, Paragraphs 1 or 2, when the Commission is not a group's supervision authority, as well as when a local insurer or reinsurer is part of a group headed by an insurer, reinsurer, mixed insurance holding or mixed financial holding from another member state.

(6) The concerned supervision authorities may, at the request of any one of them, take a mutual decision to deviate from the rules under Paragraph 3 - 5 and to elect another group's supervision authority, where the application of the said rules would be inappropriate, taking into consideration the structure of the group and the relative importance of the operations of the insurers and of the reinsurers in the various countries.

(7) For the purpose of designation of a different group's supervision authority, the Deputy Chairperson may request the commencement of a discussion within the collegium as to whether the criteria under Paragraphs 3 - 5 are appropriate. No new discussion may be conducted at a frequency greater that once a year. The Deputy Chairperson shall assist in reaching a mutual decision within a 3-month time limit from the submission of a request for conducting a discussion. Before taking a decision, the concerned supervision authorities shall consult the opinion of the group. The authority elected to be the group's supervision authority under Paragraph 6 shall hand over the mutual decision, together with detailed argument pertaining thereto, to the groups that it pertains to.

(8) Within the 3-month time limit under Paragraph 7, the Commission or another concerned authority may notify the European Authority according to the procedure of Article 19 of Regulation (EU) No. 1094/2010. In such a case the taking of a mutual decision shall be postponed pending the pronouncement of opinion by the European Authority and the mutual decision shall take into account such pronounced opinion. The mutual decision shall be recognised as final and shall be applied by the respective supervision authorities. The 3-month time period shall be considered a reconciliation period within the meaning of Article 19, Paragraph 2 of that same Regulation. No notification of the European Authority shall be permitted, if a mutual decision has been reached, as well as if the 3-month time limit under Paragraph 7 has expired. Sentence Five of Paragraph 7 shall also apply after reaching a mutual decision.

(9) If no mutual decision is reached, the group's supervision authority shall be designated pursuant to Paragraphs 3 - 5.

Powers of the group's supervision authority

Article 267. (1) The Deputy Chairperson shall have the following powers in connection with the supervision of the group:

1. he/she shall coordinate the collection and dissemination of useful or significant information in the case of normal evolution of the operations, as well as in extraordinary situation, including the dissemination of information, which is of significance for the supervision task of a supervision authority;

2. he/she shall perform supervisory review and assessment of the financial status of the group;

3. he/she shall make an assessment of to whether the group complies with the rules for solvency, risk concentration and intra-group transactions under Chapter Twenty Four;

4. he/she shall make an assessment of the group' management system pursuant to Article 265 and an assessment of whether the members of the management or supervisory body of the participating undertakings heading a group meet the requirements for qualification and good reputation under Articles 79, 80 and 82;

5. he/she shall plan and coordinate the supervisory activities by means of regular (at least once a year) meetings or by means of other appropriate measures both in the normal course of business and in extraordinary situations in cooperation with the concerned supervision authorities and while accounting for the nature, scale and complexity of the risks associated with the operations of all undertakings which are part of the group;

6. he/she shall perform tasks, undertake measures and adopt decision related to the group supervision under this Code in connection with:

a) approval of an internal model at the group level;

b) application of the set of requirements for supervision of groups with centralised risk management;

c) other tasks.

(2) In connection with the group supervision, the Commission shall approve an internal model at the group level.

(3) When another authority has been designated as group's supervision authority, the Commission or the Deputy Chairperson respectively shall cooperate with it for the purpose of implementation of its powers.

Supervision collegium

Article 268. (1) For the purpose of cooperating in the implementation of Article 267, a supervision collegium shall be created for each group under Article 266, Paragraphs 4 or 5 under the chairmanship of the group's supervision authority.

(2) The supervision collegium shall be a permanent and flexible structure for collaboration, cooperation and assistance when taking decision in connection with the supervision of a group. The supervision collegium shall guarantee that the process of collaboration, exchange of information and consulting between the supervision authorities, which are members thereof, are implemented effectively in accordance with the provisions of this Title so as to encourage the reconciliation of their respective decisions and activities. When a group's supervision authority fails to implement the powers under Article 267 or when a member of a supervision collegium fails to cooperate to the necessary extent according to the requirements of Sentence Two, the Commission may notify thereof the European Authority in accordance with Article 19 of Regulation (EU) No. 1094/2010.

(3) The members of the supervision collegium shall be the group's supervision authority, the supervision authorities of all the member states, in which the seats of business of all subsidiary undertakings from the group are located, and the European Authority in accordance with Article 21 of Regulation (EU) No. 1094/2010. The supervision authorities of major branches and related undertakings may also participate in the supervision collegium. They shall participate solely for the purpose of effective exchange of information. For the purpose of ensuring effectiveness of the work of the supervision collegium, certain actions may be performed with reduced participation of the participating authorities.

(4) Unless otherwise provided for in an act for implementation of Directive 2009/138/EC, the creation and functioning of the supervision collegium shall be stipulated by a coordinated agreement between the group's supervision authority and the other concerned supervision authorities. When the Commission is a group's supervision authority, it shall take the initiative for conclusion of a coordinated agreement, as well as for its amendment and supplementation, where necessary.

(5) Subject to strict compliance with the regulations for application of Directive 2009/138/EC, the coordinated agreement shall stipulate the procedures regarding:

1. the process of taking a mutual decision by the supervision authorities for:

a) designating the group's supervision authority;

b) approval of an internal model of a group;

c) adding capital of a group

2. consultations:

a) for adopting amendments in the coordinated agreement;

b) in the cases when there is non-compliance with the capital solvency requirement of the group or when there is a risk of such non-compliance.

(6) Regardless of the powers granted to the group's supervision authority and to the other supervision authorities, the coordinated agreement may assign supplementary tasks to the group's supervision authority, to the other supervision authorities and to the European Authority, when this would result in more efficient supervision of the group and would not impede the supervision actions of the members of the collegium stemming from their powers.

(7) The coordinated agreement may envisage procedures for consultations between the supervision authorities in connection with other aspects of the supervision of the group, as well as for collaboration with other supervision authorities.

(8) In the case of a dispute in connection with the coordinated agreement, the Commission may notify the European Authority and may request from it assistance in accordance with Article 19 of Regulation (EU) No. 1094/2010. When the Commission is a group's supervision authority and the European Authority has been notified of a dispute in connection with the coordinated agreement, the Commission shall take its final decision in consistence with the decision of the European Authority and shall send the decision of the European Authority to the other concerned supervision authorities.

(9) When the Commission is a group's supervision authority, the Deputy Chairperson shall submit to the European Authority information on the functioning of the supervision collegiums that he/she presides over, as well as information on difficulties encountered.

(10) The supplementary requirements in connection with the coordination of the supervision of a group shall be stipulated by an act of the European Commission.

Cooperation and exchange of information between the supervision authorities

Article 269. (1) The Deputy Chairperson shall cooperate with the other supervision authorities competent for the supervision of the separate insurers or reinsurers within the group, especially in those cases when an insurer or a reinsurer from such a group is confronted by financial difficulties.

(2) For the purpose of guaranteeing that all supervision authorities under Paragraph 1, including the group's supervision authority, when different from the Commission, have identical information, the Deputy Chairperson shall exchange with the other supervision authorities information necessary for implementation and facilitation of their supervisory powers. For that purpose, the Deputy Chairperson shall submit to and receive from the other supervision authorities information on the group's operations, supervisory actions undertaken in respect of an undertaking from the group, information submitted by the group, as well as other relevant information. The information shall be submitted immediately after the Deputy Chairperson gains access thereto, as well as upon request by another supervision authority but not later than two weeks from the date of the request. When the Commission is the group's supervision authority, the Deputy Chairperson shall submit to the other concerned supervision authorities and to the European Authority information on the persons who have close relations with the group, on the contents of the report on solvency and financial status, as well the information received directly from subsidiary undertakings of the group and in specific in connection with the legal structure, management structure and organisation of the group. If a supervision authority failed to disclose significant information or a request for cooperation and for exchange of significant information has been denied or no actions have been undertaken within two weeks, the Commission may notify thereof the European Authority.

(3) The Deputy Chairperson shall send an invitation for a meeting to all supervision authorities participating in the supervision of the group, on the day after becoming aware of any of the following circumstances:

1. significant non-compliance with the capital solvency requirement or non-compliance with the minimum capital requirement by a local insurer or reinsurer;

2. significant non-compliance with the capital solvency requirement at the group level calculated on the basis of consolidated data or of the aggregate capital solvency requirement depending on the calculation method chosen;

3. occurrence of other extraordinary circumstance.

(4) The following shall be stipulated by an act of the European Commission:

1. the data that the group's supervision authority must regularly collect and submit to the other concerned supervision authorities or that the other concerned supervision authorities must disclose to the group's supervision authority;

2. the significant or relevant data on the supervision on the group level for the purpose of strengthening the consistence in the field of supervisory reporting;

3. the procedures and forms for providing information to the group's supervision authority, as well as the procedures for cooperation and exchange of information between the supervision authorities.

Coordination between the supervision authorities

Article 270. (1) The Deputy Chairperson shall ensure coordination within the supervision collegium, before the Commission or the Deputy Chairperson takes a decision, which is of importance to the supervisory powers of other supervision authorities in the following cases:

1. changes in the shareholder structure, organisational structure and management structure of the insurance and reinsurance undertakings in a given group, where these changes require approval or authorisation under this Code;

2. a decision for extending the time limits for implementation of the solvency recovery plan under Article 216;

3. imposing of grave sanctions or application of extraordinary measures, including of a requirement for adding capital to the capital solvency requirement and imposing a restriction on the use of an internal model for calculation of the capital solvency requirement.

(2) In the cases under Paragraph 1, Items 2 and 3, the Deputy Chairperson shall take into account also the opinion of the group's supervision authority, when the Commission itself is not such an authority.

(3) Before taking a decision, based on information received from another supervision authority, the Deputy Chairperson shall consult the opinion of such supervision authority.

(4) Regardless of the requirements under Article 267 and 268, the Commission or the Deputy Chairperson respectively may decide not to coordinate with the other supervision authorities in emergency cases or when such a coordination could jeopardise the effectiveness of the decision. In such a case, the Commission or the Deputy Chairperson respectively shall notify immediately the other concerned supervision authorities.

Request for collection of information by a group's supervision authority

Article 271. (1) When the Commission is a supervision authority of a group, the parent undertaking of which has its seat of business in another member state, the Deputy Chairperson may request from the competent authority of such other member state to collect from the parent undertaking any information necessary for implementation of the powers of the group's supervision authority and to submit such information to the Deputy Chairperson. When a group's supervision authority, the parent undertaking of which has its seat of business in the Republic of Bulgaria, request from the Commission to collect information, the Deputy Chairperson shall undertake the necessary actions and shall provide the requested information.

(2) When the Commission, in its capacity of a group's supervision authority, needs information under Article 274, which has already been provided to another supervision authority, the Deputy Chairperson shall request the information from such authority. Upon request, the Commission or the Deputy Chairperson respectively shall provide information under Article 274 to another group's information authority, when the said information is available thereto.

Cooperation with the supervision authorities of credit institutions and investment intermediaries

Article 272. (1) When a local insurer or reinsurer, credit institution or investment intermediary are directly or indirectly related or have a common participating undertaking, the Commission and/or the Deputy Chairperson shall cooperated closely with the supervision authority of the respective credit institution or investment intermediary.

(2) The Commission and/or the Deputy Chairperson shall have the right to receive information from the authority which exercises supervision over the credit institution or over the investment intermediary under Paragraph 1, in connection with implementation of its supervisory powers and shall be obligated to provide to such authority information necessary for implementation of its supervisory powers in respect of the credit institution or investment intermediary.

Professional secrecy

Article 273. (1) The exchange of information under Article 269 - 272 between the supervision authorities may not be restricted by rules for safeguarding professional secrecy.

(2) The rules under Article 24 and 25 of the Financial Supervision Commission Act shall be applied to the information received by the Commission in connection with the supervision exercised over a group according to the procedure of this Title.

Access to information

Article 274. (1) The natural and legal persons included in the scope of supervision of a group and having its place of residence

or seat of business in the Republic of Bulgaria and their related undertakings and participating undertakings shall exchange any information necessary for the purpose of supervision of a group, where such exchange of information shall also take place with the persons from the group having their place of residence or seat of business in other member states, without limitation.

(2) The persons under Paragraph 1 shall provide to the Commission or to another supervision authority of a member state, responsible for the supervision of a group, any information necessary for the purpose of supervision of the group. The Commission, in its capacity of a group's supervision authority, or the Deputy Chairperson may request and receive any information necessary for the purposes of supervision of the group, from any person with a place of residence or seat of business in another country, which is part of the group. Articles 114 (3) and Article 127 shall be applied accordingly.

(3) When the Commission is a group's supervision authority, the Deputy Chairperson may relieve the group of the obligation to provide regular reporting information, when the period of providing such information is shorter than one year, in case that relief within the meaning of Article 193 is applied in respect of each insurer and reinsurer from the group and while taking into account the nature, scale and complexity of the risks associated with the group's operations.

(4) When the Commission is a group's supervision authority, the Deputy Chairperson may relieve the group of the obligation to provide detailed information (element by element), in case relief within the meaning of Article 194 is applied in respect of each insurer or reinsurer from the group and while taking into account the nature, scale and complexity of the risks associated with the group's operations, as well as while taking into account whether such relief would not be in contradiction to the objective under Article 2 (2).

(5) The Deputy Chairperson may request information necessary for the supervision of a group, directly from another undertaking within the group, only when such information was requested from the insurer or from the reinsurer subject to group supervision and was not provided by it within a reasonable time period.

Check of information

Article 275. (1) The Deputy Chairperson may order that a check of the information under Article 274 be performed on the spot in the premises on the territory of the Republic of Bulgaria of:

1. an insurer or a reinsurer respectively subject to group supervision;

2. a related undertaking of a person under Item 1;

3. a parent undertaking of a person under Item 1;

4. a related undertaking of a parent undertaking of a person under Item 1.

(2) When the Commission or the Deputy Chairperson intend to check information in relation to a person, regardless of whether such person is subject to supervision or not, where the said person is part of a group and is located in another member state, they shall forward a request to the respective supervision authority in the member state to perform a check.

(3) When the Commission or the Deputy Chairperson respectively have received a request under Paragraph 2 from the respective supervision authority in the member state, they shall, within their powers and not later than one week from receiving the request, undertake the necessary actions. The check shall be performed by employees of the Commission or by an external auditor or expert or, when a possibility to do so is afforded to the requesting authority, by the employees of the requesting authority. The Commission or the Deputy Chairperson respectively shall notify the group's supervision authority of the actions undertaken.

(4) The Commission may perform the check under Paragraph 2 by its own employees or may dispatch a representative for participation in a check organised by the supervision authority of the respective member state. When the authority, which forwarded the request under Paragraph 3, does not perform the check independently, it may dispatch representative for participation in the check. When the check under Sentence One or Two is joint, the European Authority may also participate in it.

(5) The Commission may notify the European Authority when:

1. at a request made by another supervision authority for performing the check under Paragraph 2, no actions have been

undertaken within a time limit of two weeks;

2. employees of the Commission were prevented from exercising their right to participate in the check under Paragraph 4.

Report on solvency and financial status

Article 276. (1) A local insurer or reinsurer or a local mixed insurance holding or local mixed financial holding respectively, which is a parent undertaking of a group shall make public on an annual basis a report on the solvency and financial status at the group level. Articles 129 - 133 shall be applied accordingly.

(2) A local insurer or reinsurer or a local mixed insurance holding or local mixed financial holding respectively may, with the authorisation of the group's supervision authority, submit a unified report on its solvency and financial status which shall include:

1. information at the group level subject to disclosure under Paragraph 1;

2. information on each of the subsidiary undertakings within the group, where such information must be individualised and disclosed in accordance with Article 129 - 133.

(3) When the Commission is a group's supervision authority, the Deputy Chairperson, before considering an application for authorisation under Paragraph 2, shall coordinate its actions with the members of the supervision collegium and shall take into account their remarks and objections.

(4) When the unified report under Paragraph 2, disclosed by a parent undertaking of an insurer or reinsurer, does not disclose about it the information which is subject to disclosure for comparable persons on the market in the Republic of Bulgaria and when the omission is significant, the Deputy Chairperson shall order the respective local insurer or reinsurer to disclose the necessary additional information.

Structure of the group

Article 277. A local insurer or reinsurer or a local mixed insurance holding or local mixed financial holding respectively, which is a parent undertaking of a group, shall make public on an annual basis by the 31st of January:

1. the legal, management and organisational structure of the group, including an up-to-date graphic diagram of the group;

2. a description of all subsidiary undertakings, significant related undertakings and major branches belonging to the group, regardless of whether they are subject to supervision under this Code or not.

Coercive measures

Article 278. (1) When an insurer or a reinsurer part of a group does not comply with the requirements of this Title or when these requirements have been complied with but regardless of this there is a threat to the solvency or when the intra-group transactions or the risk concentration jeopardise the financial status of the insurer or reinsurer, the necessary measures for remedying the situation as soon as possible shall be adopted by:

1. the group's supervision authority - in respect of a mixed insurance holding or a mixed financial holding;

2. by the national supervision authority - in respect of the insurer or reinsurer respectively.

(2) If in the case under Paragraph 1, Item 1, the Commission is not a supervision authority in the member state by the seat of business of the mixed insurance holding or of the mixed financial holding, it shall notify the respective supervision authorities of its conclusions so that they can undertake the necessary measures. When the Commission was notified by a supervision authority, which is a supervision authority of a group headed by a mixed insurance holding or by a mixed financial holding with a seat of business in the Republic of Bulgaria, of circumstances under Paragraph 1, Item 1, the Commission or the Deputy Chairperson shall apply the respective measures or sanctions in accordance with its powers.

(3) If in the case under Paragraph 1, Item 2, the Commission, in its capacity of a group's supervision authority, is not a supervision authority in the member state by the seat of business of the insurer or reinsurer, it shall notify the respective supervision authorities of its conclusions so that they can undertake the necessary measures. When the Commission was notified by a supervision authority, which is a supervision authority of a group, of circumstances under Paragraph 1, Item 2, the Commission or the Deputy Chairperson shall apply the respective measures or sanctions in accordance with its powers.

(4) In the cases under Paragraphs 2 or 3, the Commission or the Deputy Chairperson respectively shall apply the measures under Article 587 in accordance with its competence. The measures under Sentence One shall also be applied in respect of the mixed insurance holding or the mixed financial holding. The Commission or the Deputy Chairperson respectively shall coordinate at its discretion its actions with the other supervision authorities within the supervision collegium.

Chapter Twenty Six
GROUP SUPERVISION IN RESPECT OF GROUPS FROM THIRD COUNTRIES AND IN RESPECT OF GROUPS HEADED BY A MIXED INSURANCE HOLDING

Section I
Groups headed by an insurer, reinsurer, mixed insurance holding or mixed financial holding with a seat of business in a third country

Groups from third countries with equivalent regulatory framework

Article 279. (1) When a local insurer or reinsurer is part of a group from a third country under Article 234, Paragraph 1, Item 3, the regulatory framework of which is equivalent to the regulatory framework in the European Union, the Commission shall recognise the group supervision implemented by the authorities of such country.

(2) Chapter Twenty Five shall be applied accordingly to the cooperation with the supervision authorities of the third country.

Groups from third countries in which the regulatory framework is not equivalent

Article 280. (1) When a local insurer or reinsurer is part of a group from a third country under Article 234, Paragraph 1, Item 3, the regulatory framework of which is not equivalent, as well as when in a situation of temporary equivalence Article 279 is not applied on the grounds of Article 281 (5), the Commission shall apply, where appropriate, one of the following measures:

1. shall apply the regulatory framework under Article 239 - 256 and Article 263 - 277 accordingly;

2. shall impose an obligation on the group to establish a mixed insurance holding or a mixed financial holding in a member state, at the level of which supervision is to be applied according to the procedure of Chapters Twenty Four and Twenty Five.

(2) The general principles and methods under Chapters Twenty Four and Twenty Five shall be applied at the level of an insurance holding, mixed financial holding, insurer from a third country or reinsurer from a third country.

(3) For the purposes of the calculation of a group's solvency only, the parent undertaking shall be considered an insurer or reinsurer, which is subject to the requirements of this Code in connection with determining the eligible own funds for cover of the capital solvency requirement, whereas its capital solvency requirement shall be determined by applying:

1. Article 247, when this undertaking is a mixed insurance holding or a mixed financial holding;

2. Article 248, when this undertaking is an insurer or a reinsurer from a third country.

Establishing equivalence

Article 281. (1) The equivalence of the regulatory framework for supervision of groups in third countries with the regulatory framework in the European Union shall be established:

1. by an act of the European Commission under Article 260, Paragraph 3 of Directive 2009/138/EC;

2. by an act of the European Commission for temporary equivalence under Article 260, Paragraph 5 in connection with Paragraph 6 of Directive 2009/138/EC;

3. by the Commission and the other concerned supervision authorities of the group according to the procedure of Paragraphs 2 - 5.

(2) When there is no act under Paragraph 1, Items 1 or 2, the assessment for establishing equivalence of the regulatory framework shall be made by the Commission or by a concerned supervision authority, which would be the group's supervision authority according to the criteria under Article 266 Paragraphs 3-5 (holding the position of a group's supervision authority) at its discretion or when this is requested by the parent undertaking of an insurer or a reinsurer from the group. The European Authority shall provide assistance to the authority holding the position of a group's supervision authority in accordance with Article 33, Paragraph 2 of Regulation (EU) No. 1094/2010.

(3) The Commission, in the capacity of an authority holding the position of a group's supervision authority and with the assistance of the European Authority, shall coordinate its actions with the other concerned supervision authorities. The decision shall be taken on the basis of criteria adopted by an act of the European Commission and may not contradict other decisions adopted earlier in respect of that same third country, with the exception of the cases when it is necessary to take into consideration a significant change in the regulatory framework under this Title or in the respective third country.

(4) When the Commission does not consent to a decision under Paragraph 3 by another supervision authority in its capacity of an authority holding the position of a group's supervision authority, it may notify the European Authority.

(5) In the case of an act under Paragraph 1 Item 2, Article 279 shall be applied, with the exception of the cases when there is a subsidiary undertaking of the group from a third country in a member state, and the said subsidiary undertaking has a balance sheet value bigger than that of the parent undertaking with a seat of business in the third country. In such a case, the authority holding the position of a group's supervision authority must be the group's supervision authority.

Level of establishing a situation of equivalence

Article 282. (1) When the parent undertaking from a third country heading the group is a subsidiary undertaking of an insurance holding, mixed financial holding, insurer or reinsurer from a third country, the establishing of equivalence under Article 281 shall be made at the level of the ultimate parent undertaking.

(2) When there is no equivalence at the level under Paragraph 1, the Commission, in the capacity of an authority holding the position of a group's supervision authority, may establish equivalence at a lower level, where there is a parent undertaking which is an insurance holding, mixed financial holding, insurer or reinsurer from a third country. The arguments in support of such a decision shall be sent to the group.

(3) Article 280 shall be applied accordingly.

Cooperation with supervision authorities from third countries

Article 283. In connection with the supervision of insurance groups from third countries, the Commission and the Deputy Chairperson shall cooperate with supervision authorities from third countries on the basis of bi-lateral agreements or on the basis of agreements concluded at the level of the European Union.

Section II
Group headed by a mixed insurance holding

Intra-group transactions

Article 284. (1) When the parent undertaking of one or several local insurers or reinsurers is a mixed insurance holding, the Deputy Chairperson shall exercise supervision over the transactions between the respective insurers or reinsurers, as well as between them and the mixed insurance holding and its other related undertakings.

(2) Articles 264 and 269 - 275 shall be applied accordingly.

Cooperation with supervision authorities from third countries

Article 285. In connection with the supervision of groups headed by a mixed insurance holding, the Commission and/or the Deputy Chairperson shall cooperate with supervision authorities from third countries on the basis of bi-lateral agreements, as well as on the basis of agreements concluded at the level of the European Union.

PART THREE
DISTRIBUTION OF INSURANCE AND REINSURANCE PRODUCTS

TITLE ONE
GENERAL DISPOSITIONS

Chapter Twenty Seven
GENERAL DISPOSITIONS

Distribution of insurance and reinsurance products

Article 286. (1) The distribution of insurance products shall be the activity for presenting, providing advice, offering or other preparatory work for conclusion of insurance contracts or the activity for conclusion of such contracts, as well as the activity for assistance in exercising the rights and fulfilling the obligations under such contract, in particular upon the occurrence of the insured event.

(2) The providing of information about one or several insurance contracts on the basis of criteria chosen by a user, through an internet page, which summarise data or compare prices, as well as the providing of ranking of insurance products or of discounts from the contractual price, shall also be considered distribution of insurance products, when this activity is paid for directly or indirectly by a user or is offered free-of-charge by a distributor of insurance products.

(3) Distribution of reinsurance products shall be the activity described in Paragraph 1, when it pertains to conclusion and implementation of a reinsurance contract.

(4) The following does not constitute distribution of insurance products:

1. incidental provision of information when performing another professional activity, whose subject is not assisting insurance service consumers when elaborating, signing and implementing insurance or reinsurance contracts;

2. professional performance of claims settlement activities;

3. performance of activities in connection with the preparation of expert appraisals;

4. performance of activities by the persons under Article 294 (3).

(5) An insurance or a reinsurance product respectively shall be a set of conditions comprising the contents of an insurance or a reinsurance contract and intended for the market.

Distributors of insurance products

Article 287. Distributors of insurance products shall be the insurers, reinsurers and insurance intermediaries.

General principles for the distribution of insurance products. Prohibition to place signs, marks or other indications

Article 288. (1) When distributing insurance products, the insurers and the insurance intermediaries shall be obligated to act correctly, honestly and professionally in accordance with the best interest of the insurance service consumers.

(2) When distributing insurance products, the insurer must identify itself as an insurer and the insurance intermediary must identify itself as an insurance intermediary of the respective type. The obligation under Sentence One shall also be applied in respect of company or advertising boards, inscriptions and materials.

(3) Any information from a distributor of insurance products targeted at insurance service consumers, including the marketing announcements, must be true, clear and non-misleading. The marketing announcement must be clearly denoted as such. A marketing announcement shall be each message targeted at a specified or a non-specified circle of people, regardless of the form or means of communication, which is aimed at presenting an insurance contract or at concluding an insurance contract.

(4) It shall be prohibited to place signs, marks or other indications on the motor vehicle or in a visible position inside the vehicle or other property that directly or indirectly signify the existence of an insurance contract executed for the same vehicle or property.

(5) An insurer or reinsurer may not require, in any form, the placement of signs, marks or other indications under Paragraph 4 as a condition precedent to execute and/or cause the entry into force of the insurance contract in respect of the relevant motor vehicle or other property and/or to cover one or more risks under the insurance contract. Furthermore, no insurer or reinsurer may contract or include in the general conditions of such insurance the placement of signs, marks or other indications under Paragraph 4 , as an obligation of the insured person, the insuring person or the third beneficiary person. The lack of such signs, marks or other indications may not be grounds to exclude one or more insurance risks form the coverage or to modify or terminate the insurance contract, nor may it be linked to any negative legal effects whatsoever concerning the insured person, the insuring person or the third beneficiary person.

(6) The prohibition under Paragraph 4 shall not concern the placement of signs, marks or other indications that is explicitly regulated by a statutory act or signs, marks or other indications which advertise a natural or legal person or such person's business sign or trade mark, product, goods, service, brand or other similar elements and they shall not be linked to the execution of the insurance contract when:

1. the person concerned owns or has taken the motor vehicle under rent, lease or another legal grounds for which the person has a contract, or

2. the placement implements a (written) advertising contract entered into with a natural or legal person who is the owner, user, renter or lessee of the motor vehicle or other property on which the relevant signs, marks or other indications are placed.

Publishing of the rules established in protection of the public interest

Article 289. (1) The Commission shall publish on its internet page information on the provisions of the Bulgarian legislation established in protection of the public interest, in compliance with which the distribution of the insurance products and the implementation of the obligations under the insurance contracts must take place in the Republic of Bulgaria.

(2) The conclusion of insurance contracts may not be restricted, when the prescriptive provisions of the Bulgarian legislation established in protection of the public interest have been complied with.

Complaints of consumers and consumer organisations

Article 290. (1) The Commission shall create and maintain organisation for considering complaints of insurance service consumers, consumer organisations and other stakeholders filed against distributors of insurance services and products. Each complaint received shall be considered and shall be replied to within a time limit of one month from the date of receiving the complaint.

(2) Each insurer and insurance broker shall create and maintain organisation for considering the complaints of insurance service consumers. The insurer or the insurance broker respectively shall be obligated to register, consider and reply to the complaint within a time limit of one month from the date of receipt thereof. The insurer or the insurance broker respectively shall be obligated to analyse the incoming complaints and to undertake measures for remedying the weaknesses in its operations found on the basis of the complaints.

(3) When an insurance agent has received a complaint from an insurance service consumer, the insurance agent shall be obligated to send it to the insurer, on behalf of which he/she is carrying out insurance intermediation, within a 3-day time limit of the receipt thereof.

Chapter Twenty Eight
REQUIREMENTS IN CONNECTION WITH THE DIRECT OFFERING AND CONCLUSION OF INSURANCE POLICIES BY AN INSURER

Requirements for management and supervision of the insurance products

Article 291. (1) When developing insurance products, the insurer shall be obligated to maintain, apply and regularly re-examine the process for approval of each insurance product and for making significant changes in existing products prior to their offering and distribution among the insurance service consumers.

(2) The insurer shall be obligated to understand and regularly re-examine the insurance products that it offers or distributes, while taking into account every event which may significantly impact the potential risk in the specific market segment.

Requirements for qualification and goods reputation of employees offering insurance products

Article 292. (1) Each insurer shall be obligated to guarantee that its employees distributing insurance products have appropriate knowledge and competence.

(2) Each insurer shall be obligated to conduct on a regular basis training of its employees who offer insurance products.

(3) Each employee of an insurer, who distributes insurance products, must meet the requirements under Article 303 (1).

Management and control of the requirements for qualification and good reputation of employees who offer insurance products

Article 293. Each insurer shall be obligated to adopt and apply rules for qualification and good reputation of its employees who offer insurance products.

TITLE TWO
INSURANCE INTERMEDIARIES

Chapter Twenty Nine
GENERAL RULES AND EXCEPTIONS

General dispositions

Article 294. (1) Insurance and reinsurance intermediaries shall be insurance brokers and insurance agents who carry out insurance and/or reinsurance intermediation for payment.

(2) Insurance and reinsurance intermediaries may also perform different business operations insofar as the present Code or another law does not provide for otherwise.

(3) The persons providing intermediation services in relation to insurance contracts shall not be insurance and reinsurance intermediaries provided the following circumstances are simultaneously present:

1. the insurance contract requires only knowledge of the insurance cover provided;

2. the insurance contract does not cover Life Insurance risks;

3. the insurance contract does not cover the risks under Items 10 - 13, Section II, Letter "A" of Annex No. 1;

4. insurance intermediation is not the main business operation of the person;

5. the insurance is a supplement to a product or service provided and covers:

a) the risk of goods provided perishing, being lost or damaged, or

b) the damage or loss of luggage and other risks related to travel, also including cases of an insurance covering the risks under Items 2 or 3, provided the aforesaid cover is ancillary in relation to the main cover connected to such travel;

6. the amount of annual premium does not exceed BGN 1,000, and the total term in accordance with the insurance contract, upon renewal inclusive, does not exceed five (5) years.

(4) When an insurance intermediary concludes an insurance contract on behalf of an insurer and receives from the insurance service consumer an insurance premium or instalment, it shall be deemed that such premium or instalment was received by the insurer. When an insurance intermediary receives from an insurer payment under an insurance contract intended to be transferred to an insurance service consumer, such payment shall not be deemed to have been paid to the insurance service consumer until the point in time when such consumer actually receives it.

Exceptions

Article 295. The provisions of the present Title shall not apply with respect to insurance and reinsurance intermediation carried out in relation to risks located in third countries.

Registration

Article 296. (1) The insurance and reinsurance intermediaries with a seat of business or permanent residence in the Republic of Bulgaria shall be subject to registration by the Deputy Chairperson.

(2) The insurance agents shall be registered by the insurers, for which they carry out insurance intermediation, with the exception of the cases under Article 319, Paragraph 2, Sentence Two.

(3) In respect of insurance intermediaries which are legal entities, all the members of their management bodies shall be entered into the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act. An insurance intermediary, which is a proprietorship, shall maintain an up-to-date list of all its employees who are directly involved in the distribution of insurance products, together with evidence of compliance with the requirements for qualification and good reputation. The said insurance intermediary shall submit these lists and evidences to the Deputy Chairperson upon request.

(4) Performance of insurance intermediation without registration under Paragraph 1 shall be prohibited, with the exception of the cases under Article 294 (3), as well as with the exception of the cases of performing operations under the conditions of the right of establishment and of the freedom to provide services.

Conditions for registration

Article 297. (1) An insurance or a reinsurance intermediary shall be registered, if the requirements for registration under Chapter Thirty and under Chapter Thirty One have been complied with.

(2) The requirements for registration of the insurance intermediary must be complied with at all times.

Company name

Article 298. A person who has not been entered into the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act (FSCA) may not use in its name, advertising or other operations words in the Bulgarian language or in a foreign language meaning or related to performance of insurance or reinsurance intermediation.

Avoidance of conflict of interest and safeguarding the insurance secrecy

Article 299. The insurance intermediaries shall apply Article 146, Paragraphs 5 - 8, Articles 149 - 151.

Ongoing supervision

Article 300. The Deputy Chairperson shall implement ongoing supervision over the operations of the insurance and reinsurance intermediaries.

Chapter Thirty
INSURANCE BROKERS

Section I
General provisions

Definition

Article 301. (1) An insurance broker shall be a commercial company or a sole proprietor that has been entered into the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act (FSCA) who, in return for payment, performs insurance intermediation following assignment by a consumer of insurance services and, reinsurance intermediation following assignment by an insurer or a reinsurer.

(2) The relations between a consumer of insurance services, an insurer or a reinsurer, respectively, and an insurance broker shall be specified in a written contract, except for intermediation in relation to the compulsory insurances under Article 461, Items 1 and 2.

(3) In case of insurance intermediation, the remuneration of the insurance broker shall be included in the insurance premium and shall be payable by the insurer, unless otherwise provided for in the contract under Paragraph 2. When this is agreed upon in the relations between the insurer and the insurance broker, the broker may deduct the amount of the remuneration owed to it prior to transferring the insurance premium to the insurer.

(4) In the performance of its operations, an insurance broker shall perform a full analysis of the insurance risks, of the proposals for insurance or reinsurance cover, shall provide consultation services, on behalf of and on assignment by a consumer of insurance services, shall negotiate the terms and conditions or conclude the insurance or reinsurance contract, shall supervise the periods for renewal of contracts and assist the consumer of insurance services with regard to the settlement of claims upon occurrence of an insured event.

(5) The insurance broker shall not have the right to accept documents under an insurance claim on behalf of the insurer, unless the insurance broker is explicitly authorised to do so. When the insurance broker is authorised by an insurance service consumer to register an insurance claim and to present documents thereunder on his/her behalf, the claim and the documents shall be considered to have been received by the insurer from the date on which they are registered in the book-keeping system of the insurer.

Restrictions on operations

Article 302. (1) An insurance broker may not perform operations as an insurance agent.

(2) The restriction under Paragraph 1 shall also apply to members of the management and control bodies of an insurance broker, to all other persons authorised to manage and represent an insurance broker, as well as to its employees directly involved in carrying out insurance or reinsurance intermediation.

(3) An insurance broker may not be a shareholder, a partner or a member of a management or control body of an insurance agent.

Section II
Conditions for the performance of operations as insurance broker

Requirements set to the insurance broker

Article 303. (1) Each member of a management body of an insurance broker and any other person authorised to manage and represent an insurance broker, as well as the insurance broker which is a sole proprietor, must meet the following requirements:

1. must have not been sentenced to imprisonment due a premeditated criminal offence of general nature unless he/she has been

rehabilitated;

2. must have not been deprived of the right to hold an office accountable of assets;

3. must have not been within the last three years, preceding the initial date of the insolvency set by the court, a member of a management or a control body or a general partner in a company, with regard to which bankruptcy proceedings have been initiated or which has been dissolved due to bankruptcy, in case unsatisfied creditors have remained;

4. must have not been declared bankrupt , if unsatisfied creditors have remained, and is not undergoing bankruptcy proceedings;

(2) Each person under Paragraph 1, who is responsible for and manages the operations of insurance intermediation, must also meet the following requirements:

1. Have higher education;

2. Have professional experience in the field of insurance or have successfully passed a professional qualification examination organised by the Commission.

(3) In case a member of a management or control body of an insurance broker is a legal person, the requirements under Paragraphs 1 and 2 shall relate to the natural persons who represent it in such bodies;

(4) Professional experience under Paragraph 2, Item 2 shall consist of at least two years in a management position or a position directly related to the conclusion and implementation of insurance contracts with an insurer, a reinsurer, an insurance broker or an insurance agent, as well as experience under Article 83.

(5) Employees of an insurance broker who directly carry out insurance or reinsurance intermediation shall have at least high school education, shall meet the requirements under Paragraph 1, and shall have the necessary qualification for implementation of their obligations.

(6) Insurance brokers shall be obligated to provide training to their employees under Paragraph 5.

(7) The conditions and procedure for conducting an examination of the presence of professional qualifications under Paragraph 2, Item 2, as well as for recognising qualification acquired in a member state, shall be specified in an ordinance of the Commission. The examination shall be conducted by a commission, in which a representative of the insurers' industry organisations and a representative of the insurance brokers' industry organisations shall be included.

Raising the professional qualification and competence

Article 304. (1) Each insurance broker shall be obligated to guarantee that its employees who distribute insurance products have appropriate knowledge and competence.

(2) Each insurance broker shall be obligated to conduct on a regular basis training of its employees who offer insurance products.

Maintenance of compulsory professional liability insurance

Article 305. (1) Insurance brokers shall be hereby obligated to maintain a compulsory professional liability insurance on a permanent basis, valid within the whole territory of the European Union and the European Economic Area, which covers liability for damages, incurred on the territory of a Member State in the performance of operations for insurance and/or reinsurance intermediation as a result of their guilty action or omission to act. The minimum insurance amount shall be BGN 2,240,400 for each insured event, and BGN 3,360,600 for all insured events within one year.

(2) The insurance under Paragraph 1 shall cover the liability for damages inflicted by an action or an omission to act by any person authorised to manage or represent the insurance broker, a member of its management or control body or an employee of its in the process of or in connection with the performance of insurance or reinsurance intermediation, including liability for

non-payment to the insurer of the received insurance premium or for non-payment to the insurance service consumer of insurance indemnities or amounts paid by the insurer.

Guarantees for the operations of the insurance broker

Article 306. (1) An insurance broker shall be hereby obligated to guarantee the discharge of his/her obligations to transfer an insurance premium having been paid to him/her and intended for the insurer, or to transfer to the insurance service consumer an insurance indemnity or a sum of money paid by the insurer, in one of the following ways:

1. Maintain equity capital on a permanent basis amounting to 4 per cent of the total amount of insurance premiums under the insurance and/or reinsurance contracts concluded through its intermediation in the preceding financial year, but not less than BGN 40,000;

2. Set up one or more special client accounts, into which insurance premiums intended for the insurer and insurance indemnities or sums of money intended for the insurance service consumer shall be transferred.

(2) The moneys in the client account under Paragraph 1, Item 2 shall not constitute part of the insurance broker's property, shall not be subject to distraint and shall not be included in the bankruptcy estate upon initiation of bankruptcy proceedings against the insurance broker.

(3) The Deputy Chairperson shall appoint a liquidator of the client account of the insurance broker in the cases of:

1. death of an insurance broker who is a sole proprietor;

2. voluntary termination or liquidation of an insurance broker which is a legal person, as well as deletion of the registration as an insurance broker on other grounds under Article 312, excluding liquidation;

3. bankruptcy of an insurance broker, who is a sole proprietor or a legal person.

(4) The liquidator under Paragraph 3 shall be a natural person other than a liquidator or a trustee-in-bankruptcy under Article 266, Paragraph 3 or under Article 655 respectively of the Commerce Act and the requirements under Article 303, Paragraph 1 and Paragraph 2, Item 1 shall apply to him/her.

(5) The liquidator under Paragraph 3 shall identify the receivables, shall make the payments under the client account and shall submit a report to the Deputy Chairperson.

(6) The insurance broker shall notify the Deputy Chairman which of the methods for guaranteeing the discharge of obligations under Paragraph 1 he/she will apply in his/her operations, of any subsequent amendment thereto, as well as of the method for guaranteeing the rights of insurance service consumers in the process of subsequent amendment thereto. The Deputy Chairperson may give additional directions for the protection of interests of insurance service consumers when switching from one method to guarantee the discharge of his/her obligations under Paragraph 1 to another.

(7) Upon notification under Paragraph 6, the insurance broker shall present financial statements as of the end of the previous financial year in order to prove the availability of the necessary own funds.

Section III
Registration of an insurance broker

Necessary documents for entry into the register

Article 307. (1) An application form shall be submitted for entry of an insurance broker into the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act, to which the following shall be attached:

1. the statutes, the articles of association or the contract of incorporation, in the case of a legal person;

2. data about the persons under Article 303, Paragraphs 1 - 3, in the case of a legal person, and documents certifying the compliance with the requirements under Article 303, Paragraphs 1 and 2, in the case of a natural person who is a sole proprietor;

3. data about the address of the office or the branch office where the operations of insurance intermediation shall be carried out;

4. evidence of possession of own funds under Article 306, Paragraph 1, Item 1, where the applicant has selected that particular method to guarantee the discharge of his/her obligations;

5. a certificate issued by a bank, carrying out operations in the Republic of Bulgaria, of setting up a client account under Article 306, Paragraph 1, Item 2, where the applicant has selected that particular method to guarantee the discharge of his/her obligations;

6. compulsory insurance contract under Article 305;

7. declarations certifying the absence of circumstances under Article 310, Paragraphs 1 and 2.

(2) The application under Paragraph 1 shall be considered after payment of the documents consideration fee.

Pronouncement on the application

Article 308. The Deputy Chairperson shall rule in a resolution on the application form submitted for entry into the register within a one-month period of receipt thereof. Upon establishment of irregularities or should additional information be needed, Article 34, Paragraphs 2, 4 and 5 shall apply, the term for removal of said irregularities or submission of additional information not being shorter than fifteen (15) days. Where no irregularities have been established or they have been removed and/or additional information has been provided and no obstacles to entry exist, the Deputy Chairperson shall notify the applicant thereof. Entry shall be made after payment of the relevant fee according to the tariff under Article 27, Paragraph 2 of the Financial Supervision Commission Act.

Certificate of registration

Article 309. (1) Upon entry of an insurance broker into the register, the Deputy Chairperson shall issue to the insurance broker a certificate of registration based on a template endorsed by the Deputy Chairperson that shall specify the company, the seat of business and the registered office of the insurance broker, an indication of the register into which it has been entered, the registration number and the way in which registration may be attested to, as well as the names of persons authorised to represent and manage said insurance broker.

(2) The broker shall be obligated to post a copy of the certificate under Paragraph 1 in a prominent place in its offices.

Grounds for refusal

Article 310. (1) The Deputy Chairperson shall refuse entry into the register in case where:

1. the requirements set in accordance with the present Code have not been observed;

2. the applicant has submitted false data or documents of untrue content;

3. the applicant or an actual owner thereof (actual beneficiary) pursuant to Article 68 (5) or a person controlled by an actual owner thereof (actual beneficiary) had been deleted from the register under Article 30 (1) of the Financial Supervision Commission Act on the grounds of Article 312, Paragraph 1, Item 1 or Items 7 - 9;

4. the applicant or an actual owner thereof (actual beneficiary) pursuant to Article 68 (5) or a person controlled by an actual

owner thereof (actual beneficiary) had been deleted from the register under Article 30 (1) of the Financial Supervision Commission Act on the grounds of Article 312, Paragraph 1, Items 2 - 4 or Item 11, unless three years have elapsed from the date of deletion of the registration;

5. the applicant or an actual owner thereof (actual beneficiary) pursuant to Article 68 (5) or a person controlled by an actual owner thereof (actual beneficiary) had been deleted from the register under Article 30 (1) of the Financial Supervision Commission Act on the grounds of Article 312, Paragraph 1, Item 5, unless it has been reinstated in its rights according to the established procedure.

(2) The Deputy Chairperson shall refuse entry into the register also when a member of the management body of the applicant was a member of the management body of a person under Paragraph 1, Items 3 - 5.

(3) The refusal of the Deputy Chairperson of entry into the register shall be reasoned in writing.

(4) In the case of refusal, an applicant may submit a new application form for entry into the register not earlier than 6 (six) months of the entry into force of the decision under Paragraph 1.

Notifications

Article 311. (1) An insurance broker shall be hereby obligated to notify the Commission of:

1. Newly arisen facts and circumstances subject to entry in the Commission's register;

2. Amendments to circumstances entered in the Commercial Register.

(2) The obligation under Paragraph 1 shall be fulfilled within a period of 7 days from occurrence or learning of the relevant fact or circumstance, and in case it is a subject to entry into the Commercial Registry - within a 7-day period of the entry. Documents proving the amendment made shall be attached to the notification.

(3) Insurance brokers shall submit to the Commission:

1. annual information memos and reports, by the 31 January of the relevant year which follows the year to which the said documents refer;

2. semi-annual information memos and reports, by the 31 July of the relevant year;

3. annual financial statements, by the 31 March of the relevant year which follows the year to which the statements refer, when the insurance broker guarantees the fulfilment of the obligation to transfer the insurance premiums and the insurance payments respectively by its own equity capital.

(4) The annual and semi-annual information memos and reports shall be presented in the form of an electronic document signed by a qualified electronic signature, according to a template endorsed by an order of the Deputy Chairperson.

(5) The information under Paragraph 3 shall be processed and disclosed by the Commission in an appropriate manner.

Grounds for deletion from the register

Article 312. (1) The Deputy Chairperson may delete an insurance broker from the register by a resolution:

1. when the insurance broker has submitted false data or documents of untrue content, on the basis of which entry into the Registry has been made;

2. when the insurance broker has not started to carry out operations of insurance intermediation within a one-year term of its entry in the register;

3. when the insurance broker has discontinued performing operations for more than 6 months;

4. when the insurance broker has ceased to meet the terms and conditions for performing operations as insurance broker under Articles 303, 305 or 306;

5. when the insurance broker is involved in bankruptcy or liquidation proceedings;

6. when the persons authorised to manage or represent the insurance broker or persons authorised by such persons, to which documents and messages can be served, cannot be found on a systematic basis at its registered office and this impedes the insurance supervision;

7. when the insurance broker has committed gross or systemic violations of the present Code or of the regulations concerning its implementation or other material violations of the law, established by an effective act;

8. when the insurance broker fails to make payments or makes payment with a delay of more than 10 business days after the time limits envisaged in the law or in a contract or pays only partially pecuniary liabilities due and payable in connection with its operations as an insurance broker;

9. when the insurance broker violates the principle of voluntary participation of the insurance;

10. upon death of the natural person who is a sole proprietor;

11. at the request of the insurance broker.

(2) The insurance broker shall attach to the application for deletion under Paragraph 1, Item 11 a certified transcript from the decision of the competent authority according to the law, the statutes, the contract of incorporation or the articles of incorporation regarding the deletion.

(3) Upon deletion from the register, the insurance broker may not carry out insurance and reinsurance intermediation.

Chapter Thirty One
INSURANCE AGENTS

Section I
General provisions

Definition. Types

Article 313. (1) An insurance agent shall be a natural person or a merchant, entered into the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act, who, in return for payment and upon assignment by an insurer, carries out insurance intermediation on its behalf and at its expense. Insurance agents shall be tied and untied.

(2) A tied insurance agent may not collect premiums and effect payments to the insurance services consumers.

(3) The relations between an insurer and an insurance agent shall be regulated in a written contract which is "contract for insurance agency". The type of agent shall be mandatory specified in the insurance contract.

Restrictions on operations

Article 314. (1) An insurance agent may not work for an insurance broker.

(2) A natural person performing operations as insurance agent shall be a liberal profession.

(3) An insurance agent who is a natural person may not be in employment relations with an insurer.

Special restrictions

Article 315. (1) An insurance agent may intermediate for one insurer who has obtained a licence to perform insurance operations in respect to insurances under Section I of Annex No. 1, and for one insurer who has obtained a licence to perform insurance operations in respect to insurances under Section II of Annex No. 1.

(2) Upon consent given by the insurers under Paragraph 1, an insurance agent may perform insurance intermediation for other insurers as well, provided he/she shall perform intermediation in respect to insurances, other than the types of insurances for which he/she has been authorised by the insurers under Paragraph 1.

(3) In the cases when the insurance broker intermediates for an insurer under Section I of Annex No. 1, which has a licence under Item 1 and/or Item 2, Letter "A", Section II of Annex No. 1, the insurance broker may intermediate for another insurer with a licence under Section II of Annex No. 1 with the exception of intermediation for insurances under Item 1 and Item 2, Letter "A", Section II of Annex No. 1

(4) When two or more persons, who are related persons or who perform operations in common premises by common means or otherwise from which a justified conclusion may be made that they are acting jointly, perform, each one separately, operation as an insurance broker for different insurers, it shall be assumed that they perform jointly operations as an insurance broker without the registration required by the law, except in the following cases:

1. when all such persons are employees of the same agent, which complies with the restrictions under Paragraphs 1 and 2, and

2. when all such persons are agents and do not violate the restrictions under Paragraph 1 by their operations.

Section II
Conditions for performance of operations as insurance agent

Guarantees for the operations of an insurance agent

Article 316. (1) An insurance agent who is a natural person or the persons managing and representing the insurance agent who is a legal person, shall have at least secondary school education and shall meet the requirements under Article 303 (1). The employees of an insurance agent who directly carry out insurance intermediation shall meet the requirements under Article 303 (5).

(2) An insurance agent shall be obligated to maintain a compulsory professional liability insurance, valid on the whole territory of the European Union and the European Economic Area, covering liability for damages, incurred within the territory of a Member State in carrying out insurance intermediation, as a result of his/her guilty action or omission to act. The minimum insurance amount of the insurance shall be BGN 2,240,400 per each insured event and BGN 3,360,600 for all insured events for one year, including liability for non-payment to the insurer of the received insurance premium and for non-payment to the insurance service consumer of insurance indemnities or amounts paid by the insurer respectively.

(3) The insurance under Paragraph 2 must cover the liability for damages inflicted by action or by omission to act by any person authorised to manage and represent the insurance agent, member of its management or control body or employees of its when or in connection with performing insurance or reinsurance intermediation.

(4) The obligation under Paragraphs 2 and 3 shall be considered fulfilled, if an insurance agent presents a declaration by an insurer/insurers who has authorised him/her to pursue insurance intermediation taking full responsibility for his/her actions as an intermediary.

(5) For an insurance agent who is a legal person or a sole proprietor, the provisions of Article 306 shall apply. An insurance

agent who is a legal person shall declare the circumstances under Article 306, Paragraph 6 before the insurer.

(6) For an insurance agent who is a natural person, the provisions of Article 306, Paragraph 1, Item 2 shall apply, unless a declaration under Paragraph 4 has been made. Article 306, Paragraphs 3 - 5 shall also apply accordingly.

(7) The requirement for opening a client account by the insurance agent shall not apply where the insurer has authorised the agent to operate with its account to which insurance premiums for the insurer, as well as insurance indemnities or moneys for the insurance service consumer, are transferred directly.

(8) Moneys paid to an insurance agent by insurance service consumers shall be considered paid to the insurer, and moneys paid to an insurance agent by the insurer shall not be considered paid to the insurance service consumer until the latter has received these.

Training of insurance agents

Article 317. (1) Insurers shall be hereby obligated to provide training to insurance agents with whom they have concluded a contract for insurance agency, as well as to the employees of the insurance agents who directly carry out insurance intermediation.

(2) The insurer shall be obligated to conduct an examination at the end of the training and to issue a certificate to the insurance agents who have successfully passed the above examination, thus certifying the conducted training related to understanding and offering the insurance, as well as the right to offer the types of insurances specified in accordance with the certificate.

(3) Each insurer shall be obligated to conduct on a regular basis training of its agents and their employees who offer insurance products.

Check-up of the compliance with requirements

Article 318. (1) Before entering a contract for insurance agency, an insurer shall establish whether the person, with whom it is going to sign such contract, meets the requirements set under Article 316.

(2) In case the person under Paragraph 1 has no professional liability insurance, the insurer who has signed a contract therewith, shall incur full responsibility for such person's actions in carrying out insurance intermediation under this contract.

Entry into the register

Article 319. (1) An insurer shall keep a list of the persons, with whom it has concluded contracts for insurance agency based on a sample endorsed by the Deputy Chairperson. The relevant documents under Article 307 shall be attached to the list.

(2) An insurer shall submit an application to the Commission for entry into the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act of the persons in the list under Paragraph 1. The insurance agent shall submit independently an application for entry in the register of the Commission where he/she performs intermediation for an insurer from another Member State operating in the Republic of Bulgaria under the conditions of the freedom to provide services, enclosing the relevant documents under Article 307 within 14 days from signing of the contract for insurance agency.

(3) An insurer shall register each change in the facts and circumstances on the list under Paragraph 1 notifying the Commission thereof. In the cases under Paragraph 2, Sentence Two, notification of change in the facts and circumstances shall be made by the insurance agent.

(4) The obligation under Paragraph 3 shall be discharged within a period of 7 days of gaining knowledge of the relevant fact or circumstance.

Identification card

Article 320. (1) Upon entry of an insurance agent into the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act, the insurer shall issue to the former an Identification Card based on a template endorsed by the Deputy Chairperson, which shall contain at least the following data:

1. The name and address of the natural person or the company, legal seat and registered office of the insurance agent who is a sole proprietor;

2. The address of the office or branch office where operations will be performed;

3. The types of insurances the agent may offer and the maximum amount of insurance up to which an insurance agent may conclude such insurances;

4. The names of the persons authorised to manage and represent the insurance agent who is a legal person;

5. The register into which it has been entered and the way to prove such entry.

(2) The insurance agent shall be obligated to post a copy of the Identification Card in a prominent place in each room, in which it shall perform its operations.

Grounds for deletion from the register

Article 321. (1) Article 312 (1) shall be applied accordingly for deletion of an insurance agent from the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act. The Deputy Chairperson shall also delete an insurance agent from the register upon termination of the contract for insurance agency.

(2) Following deletion from the register, an insurance agent may not perform insurance intermediation. An insurance agent shall be obligated to return the Identification Card issued.

Chapter Thirty Two
RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES OF INSURANCE INTERMEDIARIES

Performance of operations by insurance brokers and insurance agents from the Republic of Bulgaria in another Member State

Article 322. (1) An insurance broker and an insurance agent, registered in accordance with the conditions and the procedure of Chapter Thirty and Chapter Thirty One respectively, may perform operations in accordance with the conditions of the right of establishment and the freedom to provide services within the territory of another Member State (host country).

(2) An insurance broker or an insurance agent registered in the Republic of Bulgaria who intends to perform operations in one or more host Member States in accordance with the conditions of the right of establishment or the freedom to provide services, shall notify in advance the Deputy Chairperson thereof.

(3) Within a one-month period of receipt of the notification under Paragraph 2, the Deputy Chairperson shall notify the relevant competent authority of the host Member State, if it wishes to be notified, of the intention of an insurance broker or an insurance agent to perform operations within its territory. The Deputy Chairperson shall immediately notify the insurance broker or insurance agent of any notification from the competent authority of the host Member State or of the fact or circumstance that the host Member State does not want to be notified.

(4) An insurance broker or an insurance agent may commence operations within the territory of the host Member State upon expiry of one month of his/her notification in accordance with the procedure of Paragraph 3. In case the host Member State does not wish to be notified, an insurance broker or insurance agent may immediately commence operations, observing the law

of the host Member State.

(5) The Deputy Chairperson shall immediately notify the relevant competent authority of the host Member State in case an insurance broker or insurance agent has been deleted from the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act.

Performance of operations in the Republic of Bulgaria by insurance intermediaries from another Member State

Article 323. (1) An insurance intermediary registered in another Member State may perform operations within the territory of the Republic of Bulgaria in accordance with the conditions of the right of establishment and of the freedom to provide services.

(2) An insurance intermediary under Paragraph 1 may commence operations within the territory of the Republic of Bulgaria in accordance with the conditions of the right of establishment and of the freedom to provide services upon expiry of one month of the notification of the Commission by the relevant competent authority of the home Member State of the intention of the insurance intermediary to perform operations in the Republic of Bulgaria.

TITLE THREE
PROVISION OF INFORMATION. PRACTICES IN THE DISTRIBUTION OF INSURANCE PRODUCTS

Chapter Thirty Three
PROVISION OF INFORMATION

Section I
Information about the insurer or the insurance intermediary

Information about the insurer

Article 324. (1) Prior to concluding the insurance contract, the insurer shall be obligated to provide the following information:

1. the fact that it is an insurer, company name and legal form of organisation;

2. the name of the member state in which its seat of business is located and the name of the member state where the seat of business of the branch is located, when the insurance contract is concluded through a branch in a member state other than the member state of the seat of business of the insurer;

3. the registered office in the state of its seat of business, as well as the registered office of the branch, when the insurance contract is concluded through a branch in a member state other than the member state of the seat of business of the insurer;

4. the procedure for submitting complaints according to the rules for settlement of claims under Article 104 (1) and the internet page on which these are published;

5. the opportunity for submitting complaints before the Commission and before other state authorities, as well as the forms for extra-judicial hearing of disputes which are available to the insurance service consumer in the Republic of Bulgaria;

6. the internet address of the report on solvency and financial status of the insurer.

(2) The information under Paragraph 1, Item 2 shall be contained in each documents sent by the insurer to the insurance service consumer. The information under Paragraph 1, Item 3 shall obligatorily be recorded in the insurance contract or in any other document for providing insurance coverage, when obligations for the insurance service consumer arise therefrom.

(3) The name and address or the name and registered office of the representative for settlement of claims of the insurer in the Republic of Bulgaria shall obligatorily be recorded in the contract for the compulsory Third Party Insurance of Motorists, concluded with an insurer, which performs operations in the Republic of Bulgaria under the conditions of the freedom to provide services. When the address at which the representative can be found is different from his/her registered office, the former shall also be recorded in the insurance contract.

(4) When the insurance contract is concluded through an insurance intermediary, the information under Paragraphs 1 - 3 shall be provided by the insurance intermediary.

Provision of information to insurance service consumers by an insurance intermediary

Article 325. (1) Upon conclusion of an insurance contract, and upon modification or renewal thereof, if necessary, the insurance intermediary shall provide the consumer of insurance services with the following information, at a minimum:

1. the fact that it is an insurance broker or an insurance agent respectively, its name and address or its name, seat and registered office respectively;

2. the register in which it has been entered and the way to prove such entry;

3. whether it holds directly or through related parties more than 10 per cent of the voting rights in the general meeting or of the capital of an insurer;

4. whether an insurer or a parent undertaking of an insurer holds directly or through related parties stocks and shares, exceeding 10 per cent of the voting rights in the general meeting or of the capital of the insurance broker or insurance agent;

5. the procedure in pursuance of which complaints may be filed by consumers of insurance services and other parties concerned against the insurance broker or insurance agent;

6. the opportunity for submitting complaints against the insurance intermediary before the Commission and before other state authorities, as well as the forms for extra-judicial hearing of disputes which are available to the insurance service consumer in the Republic of Bulgaria.

(2) When concluding the insurance contract, the insurance intermediary shall notify the insurance service consumer of whether:

1. it provides advice on grounds of the obligation under Paragraph 3, or

2. it has a contractual obligation to perform insurance intermediation exclusively for one or more insurers. In such case, upon request by the insurance service consumer , the insurance intermediary shall provide it with the names of these insurers, or

3. it has no contractual obligation to perform insurance intermediation exclusively for one or more insurers and will not provide advice on grounds of the obligation under Paragraph 3. In such case, upon request of the consumer of insurance service, the insurance intermediary shall provide it with the names of insurers, for whom it may also perform insurance intermediation.

(3) In case an insurance intermediary notifies the consumer of insurance services of the provision of advice on grounds of a fair analysis, it shall be under the obligation to provide said advice following the analysis of a sufficient number of insurance contracts in order to give a professional recommendation with regard to the insurance contract that shall be most adequate with a view to the needs of the consumer of insurance services.

(4) Before conclusion of a specific insurance contract, the insurance intermediary shall be obligated, on grounds of the information provided by a consumer of insurance services, to define his/her requirements and needs, as well as the reasons for the advice provided to the consumer of insurance services with regard to a particular insurance.

Section II

Information about the insurance product

General information prior to concluding an insurance contract

Article 326. Prior to conclusion of an insurance contract, the insurer or the insurance intermediary shall be obligated to present to each consumer of insurance services the following information about the insurance product:

1. the applicable law regarding the insurance contract, when the parties have no right of choice;

2. the applicable law and the law that the insurer suggests to be chosen, when the parties have a right of choice.

Supplementary information prior to conclusion of insurance contracts under Section I of Annex No. 1

Article 327. (1) Prior to conclusion of an insurance contract for insurance under Section I of Annex No. 1, the insurer or the insurance intermediary respectively shall be obligated to present to each consumer of insurance services the following supplementary information about the insurance product:

1. the specification of each payment and each option;

2. the term of the contract;

3. the methods for contract termination;

4. the methods of payment of the premiums and the due date of the payments;

5. the methods for calculation and distribution of bonuses, if any;

6. the redemption value and the reduced insurance amount and the extent to which they are guaranteed;

7. the premiums for each insurance payment both for the main payments and for the supplementary payments, where relevant;

8. for the policies related to shares in an investment fund - specification of the shares, to which the payments relate;

9. the nature of the underlying assets for policies related to shares in an investment fund;

10. the conditions under which the unilateral termination of the contract is possible;

11. general information about the tax framework applicable to the respective contract.

(2) The insurer or the insurance intermediary respectively shall also provide specific information for the purpose of properly understanding the main risks under the contract that are assumed by the insurer and by the insured person respectively.

Information provided during the term of validity of the insurance contract

Article 328. (1) The insurer shall be obligated to present to the insured person the following information during the term of validity of the insurance contract under Section I of Annex No. 1:

1. each amendment to the general terms, if the applicable legislation allows doing so without the consent of the insured person;

2. each change in the company name of the insurer, its legal form of organisation or registered office or in the registered office of the branch with which the contract is concluded;

3. the information under Article 327, Paragraph 1, Items 4 - 10, in case the amendment of the general terms or of the applicable legislation respectively results in a change in such arrangements;

4. annual information on the status of bonuses.

(2) When, in connection with an offer for conclusion or in connection with conclusion of a Life Insurance contract, the insurer provides data on the amount of any payments above and beyond the contractually stipulated payment, the insurer shall provide the insured person with an example of the calculation by virtue of which the payment on the due date is determined on the basis of the calculation of the premium with three different interest rates. This shall not apply to short-term insurance. The insurer shall inform the insured person in clear and understandable manner that the example of calculation is only a calculation example based on abstract assumptions and that the insured person may not base any claims whatsoever under the contract on the basis of such calculation example.

(3) In case of insurance with participation in the result, the insurer shall inform the insured person in writing and on an annual basis regarding the status of his/her receivables constituting participation in the result. In addition to this, when the insurer has provided data regarding the possible future development of the participation in the result, it shall inform the insured person of the differences between the actual development and the initial data.

Exception from the obligation to provide information

Article 329. The information under Article 324 and 325 may not be provided in the cases of distribution of insurance products for big risks or in the cases of distribution of reinsurance products, as well as in the cases of providing preliminary cover according to the procedure of Article 356.

Methods of providing information to consumers of insurance services

Article 330. (1) The distributors of insurance products shall provide free-of-charge information to the consumers of insurance services:

1. on paper;

2. in a clear and correct manner understandable to the consumer of insurance services;

3. in the official language of the member state, in which the risk is located or in another language - with the consent of the consumer of insurance services.

(2) The information under Paragraph 1 may be provided also on another long-lasting carrier.

Chapter Thirty Four
PRACTICES IN THE DISTRIBUTION OF INSURANCE PRODUCTS

Offering insurance on the internet

Article 331. An insurer or an insurance intermediary, which offers insurance on the internet, shall be obligated to create an internet page, which meets the following requirements:

1. the name and address of the insurer or of the insurance intermediary and the legal grounds for performing operations on the territory of the Republic of Bulgaria must be disclosed on the initial web page or in another visible and accessible place on the web page;

2. the entire information must be in Bulgarian;

3. the consumer information on the web page must meet all the requirements of this Code and of the Distance Marketing of Financial Services Act;

4. the consumer of insurance services must be able to freely acquaint himself/herself with all the conditions of the contract.

Requirements for remote conclusion of insurance contracts

Article 332. (1) An insurance contract may be concluded remotely in one of the following ways only:

1. in electronic form pursuant to Article 344 (2), signed by qualified electronic signatures of the parties within the meaning of Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 concerning Electronic Identification and Certification Services in Electronic Transactions on the Internal Market and repealing Directive 1999/93/EC (OJ, L 257/3 of 28 August 2014);

2. on paper carrier with handwritten signatures of the parties;

3. through the internet page according to the procedure of Paragraph 4.

(2) Upon remote conclusion, in the form of an electronic document, of an insurance contract for Third Party Liability Insurance or for Accident Insurance of the passengers in the public transport vehicles according to the procedure of Paragraph 1, the insurer or the insurance intermediary respectively shall be obligated, within a time limit of 3 business days from the signing of the contract, to provide to the insuring person the insurance contract reproduced on paper carrier as a transcript signed in the handwriting of the insurer or of the insurance intermediary. In order to exercise his/her right of refusal according to the procedure of Article 12 of the Distance Marketing of Financial Services Act, the insuring person who is a consumer within the meaning of Article 7 (2) of that same act shall be obligated to return to the insurer the received transcript attesting to the conclusion of the insurance contract.

(3) Upon remote conclusion, in the form of an electronic document, of an insurance contract for Third Party Liability Insurance of the Motorists according to the procedure of Paragraph 1, the insurer or the insurance intermediary respectively shall be obligated, within a time limit of 3 business days, to provide to the insuring person the insurance policy reproduced on paper carrier as a transcript signed in the own handwriting of the insurer or of the insurance intermediary and attesting to the existence of an insurance contract, accompanied by a mark under Article 487 and a Green Card Certificate under Article 488. In order to exercise his/her right of refusal according to the procedure of Article 12 of the Distance Marketing of Financial Services Act, the insuring person who is a consumer within the meaning of Article 7 (2) of that same act shall be obligated to return to the insurer the received transcript attesting to the existence of an insurance contract, the Green Card Certificate and the respective clipping from the mark under Article 487 pursuant to the ordinance under Article 504 (1).

(4) In the case of remote conclusion of Third Party Liability Insurance of the Motorists through the internet page of an insurer or of an insurance intermediary, the written form shall be considered complied with even without the signature of the insuring person, if the insuring person has paid the insurance premium or respective instalment under it through that same internet page, by credit or debit card issued to the insuring person. In the case of Sentence One, the insurer or the insurance intermediary respectively shall be obligated, within a time limit of 3 business days, to provide to the insuring person the insurance policy on paper carrier, personally signed by the insurer or by the insurance intermediary and accompanied by a mark under Article 487 and a Green Car Certificate under Article 488. In this case, no signature of the insuring person on the insurance policy shall be required. In order to exercise his/her right of refusal according to the procedure of Article 12 of the Distance Marketing of Financial Services Act, the insuring person who is a consumer within the meaning of Article 7 (2) of that same act shall be obligated to return to the insurer or to the insurance intermediary the received insurance policy, the Green Card Certificate and the respective clipping from the mark under Article 487 pursuant to the ordinance under Article 504 (1).

(5) In the cases under Paragraph 4, the contract shall be considered concluded from the moment when the insuring person receives, through electronic means, the confirmation of the insurer or of the insurance intermediary for conclusion of the contract. The entry into force of the insurance coverage shall be explicitly agreed upon in the insurance contract but may not be earlier than 00:00 o'clock on the day following the day of conclusion of the contract.

(6) The compulsory Third Party Liability Insurance of Motorists may be concluded remotely by an insurer or by an insurance intermediary, after the latter has received from the consumer of the insurance service a copy of Part One of the certificate of registration of the motor vehicle in relation to which the insurance is concluded.

Package sales

Article 333. (1) When an insurance products is offered together with another service or in package, the distributor of insurance products shall notify the consumer of insurance services whether it is possible to buy the different components separately and - if possible - shall provide adequate description of the different components of the contract or package, as well as information on the price and expenses in connection with each specific component.

(2) When the risks for the consumer of insurance services, arising from such a contract or package, are different from the risks associated with the separate components, the distributor of the insurance product shall present adequate description of the different components and of the manner in which their interaction affects the risk.

Identification documents

Article 334. In the performance of his/her operations, an insurance broker shall identify himself/herself through the registration certificate issued by the Commission, and an insurance agent - through the identification card issued by an insurer.

Payment of an insurance premium

Article 335. The persons who are not entered into the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act as insurers or insurance intermediaries may not accept payments of an insurance premiums, unless they have a licence for performing payment services.

Certification of the payment of an insurance premium

Article 336. (1) When an insurer or an insurance intermediary receives payment in cash of an insurance premium or instalment, it shall be obligated to issue to the consumer of insurance services a document certifying the receipt of the payment, conformant with the requirements of the Accountancy Act, except in the case of payment of the entire premium or of a first instalment thereof, the receipt of which shall be certified by the insurance contract itself.

(2) The consumer of insurance services shall not be obligated to store or present the document under Paragraph 1 in order to prove the existence of a valid insurance contract.

Reporting and supervision of insurance intermediaries

Article 337. (1) Insurance agents shall be subject to supervision by the Compliance Department or by the Internal Audit Department of the insurer, for whom they perform insurance intermediation.

(2) An insurance intermediary, which has received payment of a premium or instalment under an insurance policy, regardless of whether such insurance policy was concluded with its intermediation or not, shall be obligated to notify the insurer on that same day of the payment received, its grounds and amount, as well as to transfer such amount to the insurer within a time limit of one month from receiving the payment, and for the compulsory insurance policies under Article 461, Items 1 and 2 - within a time limit of up to 5 business days from receiving the payment. The notification shall be made by electronic mail, by means of the electronic system of the insurer or in another manner agreed upon between the insurer and the insurance intermediary.

(3) When an insurance premium or an instalment due under it is paid prior to the expiration of the 15-day time limit under Article 368, Paragraphs 3 and 4, the insurer may not terminate the insurance contract. Article 294 (4) shall apply in this case.

Making insurance payments

Article 338. (1) Payment by an insurer to a consumer of insurance services through an insurance intermediary or through

another person shall be permitted only on the basis of an explicit written power of attorney with notary certification of the signatures for the respective insurance claim or payment, in which there shall be a statement that the consumer of insurance services has been notified that he/she has the right to receive the payment personally. When the insurance intermediary has opted to guarantee the fulfilment of its obligation for transfer of consumer funds by means of a client account, the insurer shall be obligated to make the payment of the funds intended for the consumer of insurance services, into the client account only.

(2) An insurance intermediary, which has received payment according to the procedure of Paragraph 1, shall be obligated, within a time limit of 5 business days, to transfer the amount received into a bank account of the consumer of insurance services, unless the insurance intermediary and the consumer have agreed upon otherwise in writing.

(3) When the insurer makes a payment through an insurance intermediary or through another person under Paragraph 1, the insurer shall be obligated to notify explicitly and in writing the consumer of insurance services by indicating the amount of the payment made as well.

Chapter Thirty Five
SPECIAL REQUIREMENTS TO THE DISTRIBUTION OF THE INVESTMENT INSURANCE PRODUCTS

Investment insurance product

Article 339. (1) An investment insurance product shall be an insurance product, which offers a certain amount of money at maturity or a certain redemption value, which are entirely or partially exposed, directly or indirectly, to the fluctuations of the markets.

(2) The following are not investment insurance products:

1. general insurance products of the types of insurance under Section II of Annex No. 1;

2. life insurance contracts, in the cases of which the amounts as per the contract are paid only in the case of death or in connection with incapacitation to work because of accident, sickness or bodily harm;

3. pension products, which, under the national legislation, have been recognised as aimed mainly at ensuring incomes for the investor after his/her retirement and as entitling him/her to certain incomes;

4. officially recognised plans for professional pension insurance, which fall within the scope of Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 concerning the Operations and Supervision of the Institutions for Professional Pension Insurance or of Directive 2009/138/EC;

5. individual pension products, which according to the national legislation require contributions by the employer and in the case of which the employer or the employee may not chose the pension product or provider.

Delegated acts of the European Commission

Article 340. The insurers and insurance intermediaries shall be obligated to comply with the requirements stipulated by an act of the European Commission on:

1. the measures that may reasonably be expected to be adopted by the insurers and by the insurance intermediaries for identification, prevention, management and detection of the conflicts of interests, when performing operations for distribution of insurance under Article 339 (1);

2. appropriate criteria for designating the types of conflicts of interests the existence of which may infringe on the interests of the clients or of the potential clients of the insurance intermediary or of the insurance undertaking.

Supplementary information for the consumers of insurance services in connection with investment insurance products

Article 341. In connection with the distribution of an investment insurance product, the distributor shall provide supplementary information in such a form and manner as to enable to consumer of insurance service to understand the nature and risks associated with the investment insurance product in order to make an informed investment decision. When the characteristics of the investment insurance product make this possible, the information may be provided in standardised format.

Assessment of appropriateness. Reporting to the consumer of insurance services

Article 342. (1) When providing advice in connection with investment insurance products, the insurer or the insurance intermediary respectively shall be obligated to collect the necessary information regarding the knowledge and experience of the consumer of insurance services in the investment field from the point of view of the specific product or service, his/her financial status and the purposes of the investment, including his/her willingness to assume risk, so as to be able to offer him/her an appropriate product. When advice about package sales is provided, the insurer or the insurance intermediary respectively shall be obligated to assess whether the entire package of services or products is appropriate for the consumer of insurance services.

(2) The insurer or the insurance intermediary respectively shall not be obligated to collect the information under Paragraph 1, when the following conditions are present:

1. no advice is provided in connection with the investment insurance product;

2. the object of distribution is an investment insurance product which is:

a) a contract which results in an exposure to instruments which are not considered complex and there is no structure which makes the risks difficult to understand for the consumer of insurance services, or

b) another product which is not complex;

3. the distribution of the insurance product is performed on an initiative of the consumer of insurance services.

(3) When advice is provided in connection with an investment insurance product, prior to the signing of the contract, the insurer or the insurance intermediary respectively shall be obligated to provide to the consumer of insurance services a written statements regarding the appropriateness of the product, which shall contain the advice provided and how such advice reflects the preferences, objectives and other characteristics of the consumer of insurance services, where Article 330 shall be applied accordingly.

PART FOUR
INSURANCE CONTRACT

TITLE ONE
GENERAL REQUIREMENTS TO ALL INSURANCE CONTRACTS

Chapter Thirty Six
GENERAL PART

Section I
General provisions

Definition

Article 343. (1) An insurance contract shall bind an insurer to undertake certain risks in return for the payment of a premium, and upon occurrence of an insured event to pay an insurance indemnity or an amount in cash.

(2) With regard to insurance contracts, the general rules of the Commerce Act and the Obligations and Contracts Act shall apply, insofar as the present Code does not provide for otherwise.

(3) The insurance contract may also be concluded through the means of long distance communication in compliance with the provisions of the present Code and the Distance Marketing of Financial Services Act.

(4) A maritime insurance contract shall be regulated in accordance with the Merchant Shipping Code.

Form of the insurance contract

Article 344. (1) An insurance contract shall be concluded in writing in the form of an insurance policy or of another written act. The general conditions of the insurance, if any, shall be an integral part of the contract.

(2) The insurance contract may be drawn up also in the form of an electronic document within the meaning of the Electronic Document and Electronic Signature Act.

(3) The insurer shall issue an insurance certificate certifying the concluded insurance contract, at the request of the insuring person, as well as when this is provided for by a law. When the insuring person and the insured person are distinct persons, the insurer shall issue an insurance certificate also at the request of the insured person - only in regard to his/her insured interest. In this case, the insured person shall also have the right to receive information on the other contractual terms and conditions which pertain to his/her insured interest.

(4) The insurer shall be hereby obligated to provide to the insuring person a certified copy of the insurance contract within a 7-day period of the request. The absence of an original copy in the hands of the insuring person shall not serve as basis for refusal or reduction of an insurance payment.

(5) The insuring person shall have the right to request at any time from the insurer a copy of all contractual representations, declarations and other documents that he/she has provided in connection with the conclusion of the insurance contract.

(6) The customary expenses for the issuing of the new documents under Paragraphs 4 and 5 shall be at the expense of the insuring person.

Contents of the insurance contract

Article 345. (1) The insurance contract shall contain:

1. The names or appellations, and the addresses of the parties;

2. The contract subject matter;

3. The insurance risks covered;

4. The contract term, including the beginning and the end of the insurance period and of the insurance coverage period;

5. The insurance amount or the manner of its calculation;

6. The insurance value (actual, recovery and/or contractual) in the case of insurance policies under Items 3 - 9 and 14 - 16, Section II, Letter "A" of Annex No. 1;

7. The insurance premium or the manner of its calculation, as well as the timeframes and the procedure for its payment;

8. The amount of participation with own funds, should such participation be agreed upon between the parties;

9. The names and address of the insurance intermediary should the contract be concluded through an intermediary, and in the case of an insurance agent - the number of its identification document;

10. The date and place of conclusion of the contract;

11. Signatures of the parties.

(2) The written proposal or request addressed to the insurer concerning the conclusion of an insurance contract or written replies of the insured person and/or of the insuring person to queries made by the insurer with regard to circumstances of importance to assessing the nature and amount of risk, shall form an integral part of the insurance contract.

(3) Upon conclusion of an insurance contract to the benefit of a third beneficiary person, the contract shall also specify the names, the appellation and address of such beneficiary person or the manner in which it may be identified.

(4) In case the contract is concluded with an insurer who carries out operations in the Republic of Bulgaria under the conditions of the freedom to provide services, the name (firm) and the address of the representative under Article 51, Paragraph 2, of the branch office or the representative under Article 503 charged with its functions, shall also appear in the contract.

(5) The insurance contract shall stipulate clearly, unambiguously and exhaustively:

1. The risks covered and the exclusions to coverage;

2. The conditions for payment of premiums by the insuring person and the consequences of non-payment or inaccurate payment;

3. The insurer's liabilities, payment term, and the manner of specifying the amounts of payments;

4. The obligations upon occurrence of an insured event and its establishment;

5. The circumstances relating to amendments to the insurance legal relationship;

6. The terms and the amount of any preliminary payments or borrowings against life insurance policies and their redemption.

(6) The contents of the contract for compulsory Third Party Liability Insurance of the Motorists and for Accident Insurance of the passengers in the public transport vehicles shall be stipulated by the ordinance under Article 504.

(7) The insurance contract may not envisage conditions and requirements for submission of documents or other evidence by the consumer of insurance services or by state authorities, for which a reasonable assessment may be made that they do not have any significant importance for proving an insured event or for establishing the amount of damage, as well as documents or evidence, for which an assessment may be made that there is a legal or factual obstacle to being provided.

(8) The insurance contract may not provide for conditions and requirements, including ones in the case of occurrence of an insured event, when it could reasonably be assumed that they are not significant as regards limiting the risk of occurrence of the insured event or as regards the proving thereof, as well as ones whose implementation could be assumed as being legally or factually prevented.

(9) When it comes to insurance under Section I of Annex No. 1, as well as when it comes to Sickness Insurance, the insurance contract must clearly, unambiguously and exhaustively stipulate the conditions under which exceptions to the insurance coverage shall be applied.

Insurance amount

Article 346. "Insurance amount" (limit of liability) is the amount agreed upon between the parties, stipulated in a statutory instrument or specified in an insurance contract representing the upper limit of the insurer's liability to the insured person, the third beneficiary person or the third damaged person.

Change of address or name

Article 347. The insuring person shall be obligated to inform the insurer of any change in his/her name, company name or appellation or mailing address, which are indicated in the insurance contract or in other documents submitted to the insurer. In case he/she fails to fulfil this obligation or provides false information, each and every message sent by the insurer to the address of the insuring person, such address being the most recent one notified to the insurer, shall be considered served and received by the insuring person with all the legal consequences envisaged by the law and by the contract.

General terms

Article 348. (1) "General terms" shall be typical clauses applicable to an unlimited number of insurance contracts. The general terms of an insurer, as established prior to the conclusion of a specific type of insurance, shall bind the insuring person in case these have been provided to the latter at the moment of conclusion of the insurance contract and he/she has declared in writing to accept these. The general terms as accepted by the insuring person shall form an integral part of the insurance contract. In case of discrepancy between the insurance contract and the general terms, the provisions stipulated in the contract shall be valid.

(2) The insurer's general terms shall be adopted by its management body, and the date of their adoption and of any subsequent amendments and supplementations shall mandatory be specified therein.

(3) The insurer’s general terms shall not constitute a legally protected secret and the insurer may not deny access to them. The insurer shall be hereby obligated to provide the consumer of insurance services with the general terms of insurance prior to the conclusion of the insurance contract. In the cases where a questionnaire has been drawn up with regard to the insurance, the general terms shall be provided along with it.

(4) Any amendments to or substitution of the general terms with new ones during the validity term of an insurance contract, shall be in effect only in case said amendments or the new terms have been provided to the insuring person who has approved them in writing.

(5) The general terms and conditions under the insurance contract covering the risks under Section II, Letter "A" of Annex No. 1 may not include terms and conditions intended to meet certain circumstances of the covered risk for individual cases.

Insurable interest

Article 349. (1) "Insurance interest" is the lawfully recognised necessity for protection against the consequences of a possible insurance event.

(2) An invalid insurance contract shall be the one concluded in the absence of insurable interest, with the exception of the cases of future insurance interest.

(3) A "future insurance interest" shall be the necessity of ensuring protection from harmful consequences of an expected but not existing as yet property right or the necessity to protect at one’s own liability in the case of or in connection with an activity which has not started yet or which is yet to start.

(4) An insuring person may demand reimbursement of the whole premium paid or of the paid share thereof in case of payment by instalments, unless he/she has been aware or should have been aware of the absence of insurable interest.

(5) The insurance contract shall be terminated, if the interest ceases to exist during its term of validity, where the insurer shall

have the right to keep part of the premium corresponding to the expired portion of the term of validity of the insurance contract till the moment of its termination.

Term of the insurance contract

Article 350. The insurance contract may be concluded for a definitive term or for an indefinite term. The term of the contract may be longer that the term of the insurance coverage.

Term of the insurance cover

Article 351. (1) "Term of the insurance cover" is the period during which the insurer bears the insurance risk.

(2) The term of the insurance cover may be specified in minutes, hours, days, weeks, months or years or through explicit specification of the beginning and ending point in time.

(3) Unless otherwise agreed upon, the insurance cover shall commence after the payment of the premium due under the contract or after the payment of the first instalment thereunder - in the case of payment of the premium in instalments.

Insurance term

Article 352. (1) The "insurance term" shall be the time period for which the insurance premium is determined, which shall be 1 (one) year, unless the premium is determined for a shorter time period.

(2) More than one insurance periods may be included in the term of the insurance contract.

Extending the term of the contract. Termination

Article 353. (1) An insurance contract concluded for a specific term may contain a provision for its automatic renewal. The automatic renewal shall be permitted for one more insurance term only and shall be applied only if none of the parties during the current insurance term requests explicitly that the contract not be renewed for a new insurance term. In this case, the contract shall be considered terminated from the end of the current insurance term, without any indemnities or other expenses being due.

(2) In case the insurance contract is concluded for an indefinite term, the contract may be terminated without indemnities or other expenses by any of the parties prior to the end of the current insurance term. The termination under Sentence One shall enter into force from the end of the current insurance term.

(3) A term insurance contract may be terminated without indemnities or other expenses by any of the parties by a prior notification sent to the opposite party. The termination under Sentence One shall enter into force from the end of the current insurance term.

(4) The time period of the prior notification under Paragraph s 1-3 may not be shorter than one month and may not be longer than three months.

(5) Paragraphs 1-4 shall not apply to the insurance contracts for compulsory Third Party Liability Insurance of the motorists.

Termination of the insurance contract

Article 354. (1) An insurance contract shall terminate upon expiry of the term, for which it has been concluded, as well as in the cases provided for in accordance with the present Code.

(2) An insurance contract may also be terminated on grounds stipulated thereunder, where these do not contradict good ethics

and where the interests of the consumers of insurance services are not unjustifiably affected.

(3) The financial relations between the parties to the contract shall be settled as of the date of its termination, unless the parties agree upon otherwise.

Section II
Retroactive cover. Preliminary cover

Retroactive cover

Article 355. (1) A "retroactive cover" shall be the provision of cover by an insurance contract for a period preceding the date of conclusion of the contract.

(2) A retroactive cover shall be null and void in regard to an insured event, if the insuring person or the insured person knew as of the time of conclusion of the contract that such insured event has occurred during the retroactive period.

(3) If the insurance contract was concluded through a representative is the cases of Paragraph 2, the knowledge of the representative shall be taken into consideration as well.

(4) The negotiation of a retroactive cover under compulsory Third Party Liability Insurance of motorists and under Accident Insurance of the passengers in the public transport vehicles shall be null and void.

Preliminary cover

Article 356. (1) In the case of provision of preliminary cover by the insurer pending the conclusion of the ultimate contract, it may be negotiated that the contractual conditions and the information under Article 324 must be provided to the insuring person upon request and together with the ultimate contract at the latest.

(2) If, in the case of preliminary cover, no general conditions are provided to the insuring person, the customarily used conditions of the insurer as of that point in time or, in the absence of such, the conditions of the ultimate contract shall become an integral part of the preliminary contract. If there are serious doubts as to which conditions apply, the conditions used by the insurer as of the point in time of the beginning of the preliminary cover, which are most advantageous to the insured person, shall be applied for the preliminary cover.

(3) No preliminary cover shall be permitted in the cases of the Third Party Liability Insurance of the motorists, as well as for insurance, in the case of which the consumers of insurance services are consumers within the meaning of the Consumer Protection Act.

Non-conclusion of an insurance contract in the case of preliminary cover

Article 357. If, after the provision of preliminary cover, no ultimate contract is concluded, the insuring person shall be obligated to pay the premium agreed upon between the parties for the preliminary cover, where the insurer shall be entitled to a portion of the premium corresponding to the term of the preliminary cover, which would have been due according to the conditions under which the preliminary cover was provided.

Payment of a premium after preliminary cover

Article 358. (1) In the case of preliminary cover, the insurer shall be obligated to specify in writing the insurance premium.

(2) The beginning of the preliminary cover may be made dependent on the payment of the premium, if the insuring person was explicitly notified in writing thereof by the insurer.

(3) Any arrangements in deviation from Paragraph 1 to the detriment of the insuring person shall be null and void.

Termination of the preliminary cover

Article 359. (1) The term of the preliminary cover shall expire according to the conditions under which it was provided or as of the point in time when the cover under the ultimate contract concluded by the insuring person or another preliminary cover enters into force.

(2) Paragraph 1 shall also be applied when the insuring person concludes an insurance contracts or receives preliminary cover from another insurer. The insuring person shall be obligated to immediately notify the previous insurer of the conclusion of such a contract or of the receipt of such cover.

(3) If the ultimate contract with the insurer which has provided preliminary cover is not concluded, the preliminary cover shall be terminated upon receipt by the insurer of the refusal of the insuring person to conclude an ultimate contract at the latest.

(4) If the preliminary cover is provided for a term which is not fixed, either party may terminate the preliminary cover by a 14-day prior notification from the date of receiving it.

(5) Any arrangements in deviation from Paragraph 1 - 4 to the detriment of the insuring person shall be null and void.

Section III
Open insurance contract

Obligation for notification

Article 360. If upon conclusion of an insurance contract, only the type of the insurable interest is determined, such interest being specified in detail before the insurer after the conclusion of the contract (open insurance contract), the insuring person shall be obligated to:

1. announce the individualised insured risks or the specific base for calculation of the insurance premium, or

2. request confirmation of insurance cover by the insurer for each specific case, if this is agreed upon between the parties.

Violation of the obligation for notification

Article 361. (1) If the insuring person or the insured person has not fulfilled or has fulfilled inaccurately his/her obligations under Article 360, the insurer shall not be obligated to make payment. Sentence One shall not be applied, if the person who has failed to fulfil or who has fulfilled inaccurately his/her obligations under Article 360, proves that he/she acted in good faith.

(2) If the insuring person or the insured person violates in bad faith his/her obligations under Article 360, the insurer may terminate the contract without prior notification. The individualised insurance risks, for which the insurance cover has commenced, shall remained insured till the expiration of the term of the insurance cover agreed for them and after the termination of the open insurance contract, unless agreed upon otherwise. In this case, the insurer shall have the right to receive the insurance premium, which is due and payable till the moment of expiration of the term of the respective cover.

Section IV

Declaration of circumstances related to the insurance risk

Obligation to declare

Article 362. (1) Upon conclusion of an insurance contract, when the insurer has raised questions, the insuring person, his/her proxy or his/her insurance broker shall be under the obligation to accurately and comprehensively declare all substantial circumstances which are known to him/her and are of relevance to the risk. Sentence One shall also be applied to the insured person, when information was requested from him/her as well at the time of conclusion of the contract.

(2) Only those circumstances under Paragraph 1 shall be considered substantial, for which an insurer has explicitly raised a question in writing. When the insurer has raised questions, it may refuse to make payment on a claim on the basis of the circumstances which existed prior to the date of conclusion of the insurance contract and regarding which it has raised a question in writing.

(3) When the insurer has concluded a contract, regardless of the fact that the insurer raised questions to the insuring person and they were not answered or were answered unclearly, the insurer shall not have the right to terminate unilaterally the insurance contract, to refuse payment or to reduce the amount of the payment on the grounds of the fact that the questions were not answered or were answered unclearly.

(4) When the insuring person has disclosed the circumstances under Paragraph 2 and the insurer has concluded the insurance contract, the insurer cannot invoke the circumstances disclosed for the purpose of terminating unilaterally the contract, may not refuse payment and may not reduce the amount thereof.

(5) The insurer can invoke the fact that the substantial circumstances for risk, which were verified by the insurer prior to the conclusion of the insurance contract, have been declared inaccurately.

(6) Non-reply to a query or unclear reply to a query, with no concealment of a substantial circumstance of relevance to the risk, shall not constitute grounds for unilateral termination of the insurance contract, for demanding its amendment or for refusing payment of indemnity under Article 363.

Intentional inaccurate declaration or reticence

Article 363. (1) In case a person under Article 362 (1) has consciously made an incorrect statement or withheld a circumstance, in the presence of which circumstance an insurer would not have concluded a contract, had it been aware of this circumstance, the insurer may terminate the contract. The insurer may exercise this right within a one-month period of gaining knowledge of said circumstance.

(2) In the case under Paragraph 1, an insurer shall retain the paid share of premium, and shall have the right to demand payment for the period until contract termination.

(3) In case an inaccurately stated or withheld circumstance is of a nature that an insurer would have concluded the contract, but under different terms, the insurer shall have the right to demand modification. This right may be exercised within one month of gaining knowledge of the above circumstance. In case the insuring person does not accept the proposed modification within a two-week period of receipt thereof, the contract shall be terminated, entailing the consequences under Paragraph 2.

(4) Where in the cases under Paragraphs 1 or 3, an insured event occurs, the insurer may fully or partially refuse to make the insurance indemnity payment or to pay an amount only where the inaccurately stated or withheld circumstance has affected the occurrence of the event. Where the circumstance under Paragraphs 1 or 3 has only resulted in the increase of the amount of damages, the insurer may not refuse payment, but may reduce it in the proportion of the amount of the premium paid to the premium which is to be paid according to the actual insurance risk.

(5) Paragraphs 1 - 4 shall apply in case an insuring person has concluded a contract through a representative or at the expense of a third party, and the circumstance concealed had been known to the insured or to his/her representative, or to the third party.

Unintentional inaccurate statement

Article 364. (1) In case where upon conclusion of an insurance contract, a circumstance under Article 362 (1) had not been known to the parties, each party may propose modification of the contract within a two-week period of coming into knowledge of said circumstance.

(2) In case the other party does not accept the proposal under Paragraph 1 within a two-week period following receipt thereof, the proposing party may terminate the contract and shall notify the other party thereof in writing.

(3) In case the contract is terminated, an insurer shall reimburse the share of the premium paid, which corresponds to the remaining term of the insurance contract.

(4) Upon occurrence of an insured event prior to the modification or termination of the contract, an insurer may not refuse the payment of an insurance indemnity or amount, but may reduce it in the proportion of the amount of the premium paid to the premium which is to be paid according to the actual insurance risk.

Declaration of newly arisen circumstances

Article 365. (1) While an insurance contract is in force, the insured shall be obligated to declare before the insurer all newly occurred circumstances, for which the insurer has placed a query in writing upon conclusion of the contract. A declaration of the circumstances shall be immediately made upon gaining knowledge thereof.

(2) In the case of non-performance of an obligation under Paragraph 1, Articles 363 and 364 shall apply mutatis mutandis.

Unsubstantial increase of the risk

Article 366. Article 363 - 365 shall not apply, when the withholding or inaccurate declaring has resulted in unsubstantial increase of the risk or when it was agreed that such increase of the risk shall also be insured.

Section V
Insurance premium

Payment of the insurance premium

Article 367. (1) The whole premium or the first instalment thereof in the case of payment in instalments shall be paid upon conclusion of the insurance contract, unless stipulated otherwise in the law or in the contract.

(2) If, during the period of validity of the insurance contract, the insurance risk considerably increases or decreases, any of the parties may request a respective increase or decrease of the insurance premium or may terminate the contract.

(3) If, during the term of validity of the insurance contract under Third Party Liability Insurance of the motorists, the insurance risk considerably increases or decreases, any of the parties may request a respective increase or decrease of the insurance premium, where no termination of the contract by the insurer shall be permitted, with the exception of the cases under Article 491 (6).

Payment of the insurance premium in instalments

Article 368. (1) In cases of payment in instalments, the instalments of the insurance premium shall be paid within the time limit agreed under the insurance contract.

(2) In the case of non-payment of the scheduled instalment of the insurance premium, the insurer may resort to one of the following actions:

1. reduce the insurance amount under the contract and reduce the portion of the unpaid premium;

2. amend the terms and conditions of the contract;

3. terminate the contract.

(3) An insurer may exercise one of the rights under Paragraph 2 no earlier than 15 days from the day on which the insured person has received a written notification from the insurer. The written notification shall be considered served and the contract shall be terminated automatically, when the insurer has chosen the law under Paragraph 2, Item 3 and when it is explicitly stated in the insurance policy that the contract will be considered terminated after the expiration of a certain time limit from the due date of the scheduled instalment, which may not be less than 15 days. In the cases of Sentence Two, no additional explicit written statement by the insurer to the insured person shall be necessary.

(4) In the cases of compulsory Third Party Liability Insurance of the motorists and the compulsory Accident Insurance of the passengers in the public transport vehicles, Paragraph 2, Items 1 and 2 shall not apply. The insurer may terminated the contract but not earlier than 15 days after the date on which the insured person received written notification by the insurer. The written notification shall be considered served and the contract shall be terminated automatically, when the insurer has chosen the law under Paragraph 2, Item 3 and when it is explicitly stated in the insurance policy that the contract will be considered terminated after expiration of a certain time limit from the due date of the scheduled instalment, which may not be less than 15 days. In the cases of Sentence Three, no additional explicit written statement by the insurer to the insured person shall be necessary.

Withholding by the insurer

Article 369. (1) If the insurer has a receivable due and payable for the insurance premium or another receivable due and payable under the insurance contract, it may withhold these from a receivable of the insured person or of a third beneficiary party from it, which stems from the insurance contract.

(2) In case an insured event has occurred prior to full payment of the insurance premium by the insuring person, the insurer may withhold the amount of unpaid premium from the amount of insurance indemnity or amount.

(3) Paragraphs 1 and 2 shall not apply in the cases of payments under direct risk to a damaged person under the compulsory Third Party Liability Insurance and Accident Insurance, when the insured persons and the insuring person are distinct persons, as well as in the cases of a group insurance under Article 441.

Insurance premium in the case of termination of the insurance contract

Article 370. In case of termination of the insurance contract prior to expiration of the insurance term, the insurer shall be entitled only to the respective portion of the premium applicable to the insurance term for which the insurer provided cover.

Insurance premium in case of bankruptcy of an insurer

Article 371. In case of bankruptcy of an insurer:

1. the insuring person shall owe to the bankruptcy estate payment of the insurance premium due for the term of the insurance cover, when the insurance policy is terminated on the grounds of Article 614 (2);

2. the insuring person shall have the right to a receivable from the bankruptcy estate for the portion of the premium which was paid for the period in which there is no insurance cover, when the insurance policy is terminated on the grounds of Article 614 (2).

Termination of the insurance contract in the case of an increase of the premium by the insurer

Article 372. (1) If the insurer increases the premium on the grounds of an explicit text in this sense existing in the insurance contract but without a commensurate change in the insurance cover, the insuring person may terminate the contract within one month from receiving the notification from the insurer of the change but not earlier than at the time of entry into force of the increase. The insurer must notify explicitly the insured person, in the case of a change in the insurance premium, of his/her right to terminate unilaterally the contract. The notification must be received by the insured person one month before the entry into force of the increase of the premium at the latest.

(2) Paragraph 1 shall also apply when the insurer reduces the scope of the insurance cover without reducing the amount of the premium due.

Reducing the insurance premium

Article 373. The insuring person may request appropriate reduction of the premium by an explicit written request to the insurer, when a change in the circumstances under Article 362 (2), which are substantial for the risk, results in a reduction thereof. If the insurer does not accept the request for reduction of the premium, the insuring person shall have the right to terminate the contract without prior notification.

Section VI
Self-participation

Self-participation

Article 374. (1) The parties to an insurance contract may agree on self-participation of the insured person, which shall constitute undertaking a part of the responsibility by the insured person in case an insured event has occurred. Self-participation may be unconditional or conditional.

(2) In the case of unconditional self-participation, an insured person shall bear the risk of occurrence of an insured event up to a certain amount for each damage.

(3) In the case of conditional self-participation, an insurer shall pay the whole amount of damage, where it exceeds the amount of self-participation set in accordance with the insurance contract. Damages that do not exceed the amount of conditional self-participation specified in accordance with the insurance contract shall be undertaken by the insured person.

(4) The amount of self-participation may not exceed 50 per cent of the insurance indemnity or amount fixed in the contract. With the exception of the cases under Article 375 when the self-participation is not permitted, in the cases of compulsory Third Party Liability Insurance the amount of the self-participation may not exceed 10 percent of the insurance indemnity.

Inadmissibility of self-participation

Article 375. Self-participation shall not be permitted under compulsory Third Party Liability Insurance of the Motorists and under Accident Insurance of the passengers in the public transport vehicles, as well as under Life Insurance.

Section VII
Coinsurance

Coinsurance

Article 376. (1) Coinsurance shall exist when the insuring person concludes one insurance contract with more than one insurer for the same property or non-property benefit, right or item for the same period of cover and for the same risks.

(2) In the cases of coinsurance, the insurance contract may be concluded between the insuring person and a leading insurer, which acts on its own behalf and on behalf and for the account of several insurers with or without preliminary signing of a coinsurance contract between them.

(3) In the cases of coinsurance, the insurers, the ratio in which they assume liability and the applicable general terms and conditions must be specified in the insurance contract.

(4) In the cases of coinsurance of risks which do not constitute a big risk, a leading insurer shall obligatorily be specified in the insurance contract.

(5) Any relations with the insuring person, insured person or third beneficiary person in accordance with the insurance contract shall be managed by the leading insurer, unless otherwise stipulated in the insurance contract.

(6) The person entitled to an indemnity payment under the insurance contract shall have the right to receive the entire payment due from the leading insurer, when a leading insurer has been designated, unless the insurance contract relates to the cover of a big risk or unless otherwise stipulated in the insurance contract. The relations between the coinsurers, in connection with making the payments by the leading insurer, shall be settled in accordance with the ratio in which take have assumed liability.

Coinsurance contract

Article 377. (1) In the cases of coinsurance, a coinsurance contract may be concluded at the discretion of the insurers.

(2) The insurers shall obligatorily stipulate in the coinsurance contract:

1. the leading insurer;

2. the ratio into which the insurers shall assume liability;

3. the distribution of the insurance premium;

4. the applicable general terms;

5. the relation between them in connection with the liquidation of damages.

(3) When coinsurance is performed without a coinsurance contract, the information under Paragraph 2, Items 1 - 4 shall obligatorily be specified in the insurance contract.

Section VIII
Term of limitation of actions

Term of limitation

Article 378. (1) The rights and obligations under the insurance contract in connection with an insured event shall expire after a 3-year term of limitation from the date of occurrence of the insured event.

(2) The rights and obligations under the insurance contract for Life Insurance, Accident Insurance, Sickness Insurance and under direct claims under Third Party Liability Insurance under Item 10 - 13, Section II, Letter "A" of Annex No. 1 in connection with an insurance indemnity or amount shall expire after a 5-year term of limitation from the date when the insured event has occurred.

(3) In the cases of provided retroactive cover under an insurance contract, the term of limitation under Paragraph 1 or under Paragraph 2 shall start to elapse from the date of filing the insurance claim, within the term of validity of the insurance contract that is in effect, before the insurer which has provided the retroactive cover.

(4) In the cases of excess which stems directly from insured events under the insurance policies under Paragraph 2, the term of limitation shall be 5 years from the date of occurrence or becoming aware of the excess but shall be not more than the term of limitation in respect of the person responsible for the damages, when the damages have been inflicted by unlawful infringement. "Excess" shall be each deterioration of the health status of the damaged person, which is in direct link of causation with the insured event that has occurred.

(5) The regressive and subrogation claims and the claims of the person who has inflicted the damage under Article 435 against the insurer under Third Party Liability Insurance policies under Item 10 - 13, Section II, Letter "A" of Annex No. 1 shall expire after a term of 5 years from the date of the payment made by the insurer under a property insurance or made by the person who has inflicted the damage. The insurer under a property insurance policy of the damaged third person and the person who has inflicted the damage under Sentence One shall be entitled to the legitimate interest accrued on the claimed amount from the invitation for payment to the insurer in the case of Third Party Liability Insurance policies under Item 10 - 13, Section II, Letter "A" of Annex No. 1.

(6) The regressive and subrogation claims of the insurer under Third Party Liability Insurance policies under Item 10 - 13, Section II, Letter "A" of Annex No. 1 against the person who has inflicted the damage shall expire after a term of 5 years from the date of the payment of insurance indemnity made to the third damaged person. The insurer shall be entitled to the legitimate interest on the claimed amount from the invitation for payment to the person who has inflicted the damage.

(7) Paragraph 2 shall not apply in the case of a receivable of a creditor for indemnity for damages inflicted because of a non-performance of a contract by an insured person under an insurance policy, by virtue of which his/her contractual lability is covered under Article 429, Paragraph 1, Item 2. In this case, the claims against the insurer under the insurance under Article 429, Paragraph 1, Item 2 shall expire simultaneously with the expiry of the liability of the insured person.

(8) The receivables of interest on insurance indemnity shall expire after a 3-year term of limitation.

(9) The term of limitation of a receivable of the damaged person under a direct claim against the insurer, as well as of the insured person and of the beneficiary person shall stop elapsing from the date when the claim is filed before the insurer and till the date of receiving the pronouncement of judgment of the insurer under Article 108 (1) or till the expiration of the maximum time limit for pronouncement of judgment under Article 108, Paragraphs 2, 3 or 5, depending on whichever of the above two dates is earlier.

Term of limitation of receivables of premium of the insurer

Article 379. The receivable of the insurer of insurance premium shall expire within a term of limitation of 3 years from the date of the respective due date.

Section IX
Claim of insurance indemnity or amount

Insurance claim

Article 380. (1) The person who wants to receive insurance indemnity shall be obligated to forward to the insurer a written

insurance claim. The person shall be obligated, upon the filing of the claim, to provide full and accurate details of the bank account, into which the payments by the insurer are to be made, with the exception of the cases of in-kind indemnification.

(2) The insurer shall make the payment of the insurance indemnity into the bank account provided under Paragraph 1, regardless of whether the amount of the insurance indemnity was determined by the insurer or by the judicial system. Any change in the bank account shall be binding on the insurer only after the insurer is explicitly notified in writing thereof prior to making the payment, including in the course of a lawsuit.

(3) The failure to provide the bank account details by the person under Paragraph 1 shall result in a delay on the part of the creditor as regards the payment, where the insurer shall not owe any interest under Article 409.

Non-liability for sequestration

Article 381. (1) No coercive enforcement in respect of an insurance amount shall be permitted under Life and Accident Insurances, as well as in respect of the insurance indemnity under Third Party Liability Insurance and under Accidence Insurance of the passengers in the public transport vehicles.

(2) Coercive enforcement on an insurance indemnity under property insurances shall be allowed, where it might have been directed at the property insured.

Chapter Thirty Seven
INSURANCE OF SECURITY FOR A LOAN OR BANK CREDIT. INSURANCE OF LEASED ASSETS

Insurance concluded by a lender for security

Article 382. (1) In case of insurance concluded in favour of a creditor between the insurer and an insuring person, who is creditor of a third debtor person, upon occurrence of an insured event, the insurer shall be liable to the creditor up to the amount of the unrepaid portion of the obligation, for the security of which the insurance contract is concluded, including principal, interest and expenses as of the date of occurrence of the insured event. In case of insurance amount for a particular insured person is not fixed as an amount, unless otherwise agreed upon, it shall be equal to the unrepaid portion of the principal, for the security of which the insurance contract is concluded, together with the interest past due. When the indemnity or insurance amount due according to the terms and conditions of the insurance contract exceeds the amount of the unrepaid portion of the liability under Sentence One and after payment is made to the creditor, the residual shall be paid to the debtor or to its heirs. In connection with the payment of indemnity under an insurance under Sentence One, the debtor shall have all the rights of an insured person other than the right to receive the indemnity up to the amount of the unrepaid portion of the liability.

(2) An insurance contract between an insuring creditor and an insurer concerning material or immaterial benefit of a debtor shall be concluded in favour of the creditor to secure its receivable only with the prior written consent of the debtor, where no written consent shall be required in the case of declaring the receivable due and payable prematurely.

(3) In case of death of an insured debtor under an insurance contract in connection with his/her intangible benefit according to Paragraph 1, the creditor shall be obligated to undertake, with the care of good husbandry, all necessary actions concerning the claiming and the payment by the insurer of the insurance amount under the insurance contract. In connection with the payment of indemnity under an insurance under Paragraph 1, the heirs of the debtor, as well as his/her co-debtors or guarantors under the credit, shall have the rights of an insured person other than the right to receive the indemnity up to the amount of the unrepaid portion of the liability.

(4) The contracts under Paragraph 1 shall obligatorily be concluded under general terms and conditions according to Article 348. In the event of discrepancy between the insurance contract and the general terms, the covenants of which the debtor has been notified in writing in advance shall apply.

(5) The creditor shall provide to the debtor in advance all the information related to the conclusion and execution of the insurance contract, including:

1. the general terms of the insurance and information about the insurer, the subject of the insurance, the insurance amount, the term of the insurance and the persons who have the right to receive the insurance indemnity or the insurance amount;

2. the questions posed by the insurer under Article 362;

3. the answers given by the creditor.

(6) The creditor shall, by the 15th day of the month following the month of conclusion of the contract under Paragraph 1, submit to the debtor a certificate containing information about the insurer, the subject of the insurance, the insurance amount, the term of the insurance and the persons who have the right to receive the insurance indemnity or the insurance amount.

(7) The creditor shall be obligated to notify in writing and immediately after becoming aware thereof the debtor of any changes, acts or failures to act or other circumstances which might have as a consequence the termination of the insurance contract, reduction of the amount of the insurance indemnity or amount or which might jeopardise the interests of the debtor in some other manner. Upon request, the insurer may not refuse the debtor to provide him/her with the information under Sentence One.

(8) The creditor shall be obligated to notify immediately the debtor of termination of the contract under Paragraph 1.

(9) In the event of payment of indemnity or insurance amount under the insurance under Paragraph 1, the liability of the debtor shall be reduced by the amount of the payment received by the creditor.

(10) In the case of an insured event, the debtor shall immediately notify the creditor of its occurrence.

Insurance concluded by a debtor in favour of a creditor

Article 383. (1) In case of insurance concluded in favour of a creditor between an insurer and an insuring person, who is a debtor or a third person who is a pledge or mortgage debtor, upon occurrence of an insured event, the insurer shall be liable to the creditor up to the amount of the unrepaid portion of the obligation, for the security of which the insurance contract is concluded, including principal, interest and expenses as of the date of occurrence of the insured event.

(2) In case of an insured event, the insuring person, his/her heirs or beneficiaries, as well as the insurer, shall be obligated to notify immediately the creditor of the occurrence of the insured event.

(3) In case of death of an insured debtor under an insurance contract in connection with his/her intangible benefit according to Paragraph 1, the creditor shall be obligated to undertake, with the care of good husbandry, all necessary actions concerning the claiming and the payment by the insurer of the insurance amount under the insurance contract. In connection with the payment of indemnity under an insurance under Sentence One, the heirs of the debtor, as well as his/her co-debtors or guarantors under the credit, shall have the rights of an insured person other than the right to receive the indemnity up to the amount of the unrepaid portion of the liability.

(4) In case of occurrence of an insured event and according to the terms and conditions of the master contract between the creditor and the debtor and according to the terms and conditions of the insurance contract, the insurer shall make a payment to the creditor up to the amount of the unrepaid portion of the liability under Paragraph 1. The residual of the insurance indemnity, if any, shall be paid:

1. to the debtor or his/her heirs, or to the third beneficiary persons, when the debtor is the insuring person;

2. to the pledge or mortgage debtor, when a pledge or a mortgage debtor is the insuring person.

Insurance concluded in connection with leased assets

Article 384. (1) Prior to conclusion of an insurance contract under Items 3 - 12, Section II of Annex No. 1, between a lessor

and an insurer in connection with leased assets, in the case of a financial lease and when the premium is due and payable by a lessee, including in the case when the insurance premium is included in the lease price, the lessor shall be obligated to obtain the explicit prior written consent of the lessee on the terms and conditions of the insurance contract. Article 382, Paragraphs 5 - 8 shall apply mutatis mutandis.

(2) In connection with the payment of an indemnity under the insurance under Paragraph 1, the lessee shall have the rights of an insured person, where:

1. in the case of partial damages, the indemnity shall be paid to the lessee, unless it was agreed upon that the damages would be paid in kind, in the case of which the expenses shall be paid directly to the external contractor;

2. in the case of theft or a total loss of the leased assets, the indemnity shall be paid to the lessor, where the insurer shall be obligated to notify explicitly and in writing the lessee within a 1-day time limit from the date of the payment, while stating the amount of the payment made.

(3) In the cases under Paragraph 2, Item 2, the lessor may retain the indemnity paid only up to the amount of the unpaid liabilities under the lease contract. The amount retained by the lessor shall serve for repayment of the liabilities of the lessee under the financial lease contract, where the lessor shall be obligated to pay to the lessee the residual within a 7-day time limit of receiving the indemnity.

TITLE TWO
INSURANCE AGAINST DAMAGES

Chapter Thirty Eight
GENERAL REQUIREMENTS TO THE CONTRACTS FOR INSURANCE AGAINST DAMAGES

Section I
General provisions

Scope

Article 385. The insurance against damages shall include the insurance under the types of insurance policies specified in Section II of Annex No. 1

Insurance amount. Insurance indemnity

Article 386. (1) Upon the occurrence of an insured event, the insurer shall be obligated to pay the insurance indemnity, which may not exceed the insurance amount (the limit of liability), unless otherwise provided for in this Code.

(2) Upon the occurrence of the insured event, the insurer shall be obligated to pay an insurance indemnity, which is equal to the damages actually sustained as of the date of the occurrence of the event, except for the cases of sub-insurance and insurance at contractual insurance value.

Contractual insurance value

Article 387. (1) The parties to the insurance contract may stipulate a contractual insurance value, which is a fixed pecuniary amount, where Article 386 (2) shall not apply in this case. The contractual insurance value shall be considered also to be the value of the insurance interest upon occurrence of an insured event and may not be disputed by the parties.

(2) Different insurance values may be stipulated for the different insurance risks under the same insurance contract.

Overinsurance

Article 388. (1) Except for the cases under Article 387 (1), in case the insurance amount agreed exceeds the actual insurance value or the recovery insurance value of the property insured, the contract shall remain in force, where each of the parties may request that the insurance amount be reduced to the amount of the actual or the recovery value, respectively.

(2) An insurer shall be obligated to reimburse the part of the premium paid, which corresponds to the difference between the insurance amount agreed and the actual or the recovery value of insured property respectively, unless the insured person has acted in bad faith.

(3) If no insured event has occurred and if the parties fail to reach consensus on the amount of the necessary reduction of the insurance amount or of the insurance premium, each of the parties shall have the right to terminate the contract.

Underinsurance

Article 389. (1) Except for the cases under Article 387 (1), in case the agreed insurance amount is less than the actual or the recovery value of the insured property, and the insured property perishes or is damaged, the insurer shall pay indemnity in the full amount of the damage up to the insurance amount.

(2) If the insurance contract is concluded with a covenant for proportionate indemnification, the indemnity shall be determined based on the ratio between the insurance amount and the actual or recovery value respectively.

Total loss of a motor vehicle

Article 390. (1) Before the payment of an indemnity determined as a total loss of a motor vehicle registered in the Republic of Bulgaria, the insurer shall require from the consumer of the insurance service a certificate issued by the competent registration authorities attesting to the deregistration of the motor vehicle, wherein it shall be stated that the deregistration is due to the total loss that has occurred.

(2) A total loss of a motor vehicle shall be a damage where the cost of the repairs needed exceeds 70 percent of its actual value. The amount of costs for the repairs needed shall be determined according to the specific indemnification method based on:

1. a proforma invoice issued by a service station in case the damages are repaired in kind, or

2. an expert assessment in case of cash indemnification.

Section II
Multiple insurance

More than one insurer

Article 391. (1) A person, which insures the same interest against the same risk with more than one insurer, shall be obligated to notify immediately each and every one of the insurers of the existence of the other insurance contracts, while specifying the other insurers and the insurance amounts under each of these contracts.

(2) Paragraph 1 shall also apply if benefits foregone for one interest are insured with one insurer and other damages related to the same interest are insured with another insurer.

Liability in the case of multiple insurance

Article 392. (1) "Multiple insurance" shall arise, when the same interest is insured against the same insurable risk with more than one insurer and the sum total of the separate insurance amounts exceeds the actual insurance value or the amount of the damages actually sustained. In such a case, each insurer shall be liable in the proportion, in which the insurance amount under the insurance concluded with it relates to the total insurance amount under all the insurances, where the insured person may not receive a total from the insurers exceeding the damages actually sustained.

(2) In the cases of multiple insurance policies for Third Party Liability Insurance, the consumer of insurance services may lodge a claim up to the amount of the insurance amount against each and every one of the insurers, and in the relations between them the liability of each of the insurers for indemnification of the damages arising from the insured event shall be determined in the proportion, in which the insurance amount under the insurance policy concluded with this specific insurer relates to the total insurance amount of all insurance policies, where the insured person may not receive from the insurers an amount exceeding the damages actually sustained.

(3) In the cases of multiple insurance, each insurer against which a claim has been lodged shall be obligated to notify the remaining insurers that it is aware of. Each insurer, which has made payment, shall be obligated to notify immediately the remaining insurers of such payment.

(4) If the legislation of another country is applied to one of the contracts under Paragraph 1, the insurer, the insurance policy of which such legislation is applicable to, may lodge a claim against the remaining insurers for reimbursement only when it would have a similar obligation to make reimbursement under the legislation applicable to it.

(5) If the insured person has concluded the contracts under Paragraph 1 with the goal of unlawful enrichment, the contracts concluded shall be null and void. In such a case, the insurer shall be entitled to receive the premium up to the moment when it became aware of the circumstances, on which the nullity of the contract is based.

Removal of multiple insurance

Article 393. (1) If the insuring person has concluded an insurance contract, as a result of which multiple insurance has arisen, he/she may request termination of one of the contracts or reduction of the insurance amount and of the insurance premium respectively down to the amount of the interest not covered under the insurance policy that was concluded first in time.

(2) Paragraph 1 shall also apply when the multiple insurance has arisen because of reduction of the insurance amount after the conclusion of the contracts. If in this case the multitude of insurance contracts are concluded simultaneously or with the consent of the insurers, the insured person may request only appropriate reduction of the insurance amounts and premiums.

Section III
Insured event

Occurrence of an insured event

Article 394. Upon occurrence of an insured event, the insurer shall be hereby obligated to pay an insurance indemnity according to the terms and conditions of the insurance contract.

Prevention or limitation of the damages by the insured person or by the insuring person

Article 395. (1) The insured person shall be under the obligation to take measures for the protection of the insured property from damages, to follow the instructions of the insurer and the competent authorities for elimination of the sources of risk of damage, and to allow the insurer to make inspections.

(2) If the same risk is insured by more than one insurer and the insurers give different instructions to the insured person, the insured person must act at his/her own reasonable discretion for the purpose of fulfilling his/her obligations under Paragraph 1, while informing each of the insurers of the actions undertaken.

(3) Upon violation of the obligations under Paragraphs 1 or 2, the insurer shall have the right to terminate the insurance contract if no insured event has occurred.

(4) In case the occurrence of the insured event ensues from non-fulfilment of the obligation under Paragraph 1, the insurer may refuse payment only in case the above has been explicitly stipulated in the contract. In case the occurrence of the insured event ensues from non-fulfilment of the obligation under Paragraph 1 but this non-fulfilment is not stipulated as grounds for refusal in the contract, the insurer may reduce the insurance indemnity in accordance with the gravity of the non-fulfilment.

(5) Regardless of Paragraph 4, the insurer shall be obligated to pay indemnity, when the non-fulfilment of the obligation of the insured person under Paragraphs 1 and 2 is not related on a cause-and-event basis with the occurrence of the insured event or if the type and amount of the damage is impossible to determine.

(6) Upon the occurrence of an insured event, the insured person shall be obligated to exert maximum efforts to reduce the amount of the damages and to comply with the instructions of the insurer, where in the case of non-compliance by the insured person the insurer shall have the right to reduce the insurance indemnity.

(7) Upon occurrence of an insured event, the insured shall allow the insurer to make an inspection or a medical exam and shall have to submit the documents required by the insurer, which are directly related to the ascertainment of the event and the amount of damages.

Indemnification of the expenses on limiting the amount of damages

Article 396. (1) The insurer shall separately indemnify the insured person for the expenses he/she has incurred to limit the damages, acting with due care, in accordance with the circumstances of the case, even if his/her efforts have remained without result. In such case, the insurer's liability may even exceed the insurance amount, if expenses have been incurred in fulfilment of its directions.

(2) If the insurer has the right to reduce the insurance indemnity on the grounds of Article 395 (4) because of gross negligence, the insurer may also reduce the indemnity under Paragraph 1.

(3) The expenses incurred by the insured person in fulfilment of the instructions of the insurer shall be indemnified even when they together with the other indemnities exceed the insurance amount.

(4) In the case of insurance of animals, the expenses on food and care and the expenses on a veterinary exam and treatment shall not be considered expenses to be indemnified by the insurer according to Paragraph 1-3.

Expenses of the insured person for determining the amount of damages

Article 397. (1) The insurer must reimburse the insured person for the expenses incurred for determining the causes and amount of the damages, when these expenses were approved in advance by the insurer.

(2) If the insurer has the right to reduce the due indemnity on the grounds of Article 395 (4), the insurer may also reduce proportionately the amount for reimbursement of the expenses under Paragraph 1.

Section IV
Insurance to the benefit of a third person

Insurance to the benefit of a third person

Article 398. (1) The insuring person may conclude an insurance contract on his/her own behalf to the benefit of a third beneficiary person (beneficiary). The third beneficiary person may also be determinable.

(2) If it is not explicitly stated in the insurance contract that the contract was concluded to the benefit of a third person, it shall be considered that the contract is concluded to the personal benefit of the insuring person.

(3) In case of insurance to the benefit of a third beneficiary person, such person shall have the rights that stem from the insurance contract. The insurer shall provide the insurance policy and the insurance certificate only to the insuring person, unless otherwise provided in the insurance contract or in the law.

(4) In the cases of insured event, the third beneficiary person under the insurance contract shall have the right to receive the insurance indemnity and all rights under the contract.

(5) The insuring person may revoke the arrangement to the benefit of a third beneficiary person without his/her consent, unless an insured event has occurred.

(6) The revocation under Paragraph 5 shall be binding on the insurer after the insurer receives a written notification thereof from the insuring person.

Chapter Thirty Nine
PROPERTY INSURANCE

Section I
General provisions

Object of the insurance contract

Article 399. Any property, which is assessable in monetary terms for an insured person may be the object of an insurance contract for property insurance.

Insurance value

Article 400. (1) The value, in return for which another property of the same quality, instead of the insured one, may be bought, shall be considered to be its actual insurance value.

(2) The price for recovery of a property of the same kind and quality, including all inherent expenses incurred with regard to delivery, construction, setting up, etc., without applying depreciation shall be considered its recovery insurance value.

(3) Unless otherwise stipulated, it shall be accepted that the insurance amount under the contract is set in compliance with the

actual value of the property. In order to establish the actual value, the insurer shall have the right to inspect the insured property.

Insurance of a set of items

Article 401. (1) An insurance contract, concluded for a set of items, shall pertain to each separate item from the set.

(2) If the insurance contract is concluded for a set of items, the contract shall pertain also to the items which belong to the persons, with whom the insured person cohabitates as of the moment of occurrence of the insured event or which are hired by the insured person as of that same point in time for performance of activities at a location agreed upon in the insurance contract. In such cases, the insurance contract shall be considered concluded for someone else's account.

Conclusion of contract without authority

Article 402. (1) Anyone who insures the property of another in his/her own name shall be held personally liable for the payment of the insurance premium.

(2) The contract for insurance of the property of another shall be valid in case approval has been given by the property owner.

(3) In case the premium has been duly paid, the approval of an insurance contract shall also have effect in case it has been made upon occurrence of the insured event.

Obligation for notification of an insured event

Article 403. (1) Upon occurrence of an insured event, the insured person shall be obligated to notify the insurer within a 7-day time limit of gaining knowledge thereof, unless the contract provides for a different adequate time limit.

(2) The time limit for notification of an insured event that has occurred under the contract may not be less than 3 business days of gaining knowledge thereof. In the case of insurance against theft or robbery, the notification time limit in accordance with the contract may not be shorter than 24 hours as of gaining knowledge.

(3) If a third person has the right to receive payment under an insurance contract, such third person shall be obligated to notify the insurer of the occurrence of the insured event within the time limits and according to the procedure of Paragraphs 1 and 2, regardless of the obligation of the insured person to do so.

(4) The insurer shall have the right to refuse payment in case neither the insured person or the insuring person, nor the third person under Paragraph 3 has fulfilled his/her obligations within the terms under Paragraphs 1 and 2 with the aim of hindering the insurer in establishing the circumstances, under which the event has occurred, or where such non-fulfilment has made it impossible for the insurer to establish said circumstances.

(5) The insurer may not refuse payment, if it gained knowledge of the occurrence of the insured event prior to being notified according to the procedure of Paragraphs 1 and 2.

Obligation to provide information in the case of an insured event

Article 404. (1) After the occurrence of an insured event, the insurer shall have the right to request from the insured person and from the insuring person the necessary information for ascertaining the facts and circumstances in connection with the insured event or for determining the amount of the indemnity by the insurer.

(2) Paragraph 1 shall also apply in the cases in which a third person has the right to receive payment under an insurance contract.

Insurance indemnity

Article 405. (1) Upon occurrence of the insured event, the insurer shall be under the obligation to pay insurance indemnity within the agreed time limit. The time limit may not be longer than the time limit under Article 108, Paragraphs 1 - 3 or 5.

(2) The insurer shall not owe indemnity for benefits foregone, unless otherwise agreed in the insurance contract.

(3) In case upon payment of insurance indemnity the stolen or lost property is found, the insured person shall be obligated to transfer the ownership title to the insurer or to a person specified in writing by the insurer. In case the insured person wants to retain the property found, he/she shall be obligated to return to the insured the indemnity received and all the other reasonable expenses incurred by the insurer in connection with the damage that arose.

In-kind repair of damages

Article 406. Upon occurrence of an insured event, the insurer may, with consent of the insured, also repair the damages incurred by the latter in kind, where Article 108 (7) shall apply to this case.

Partial loss

Article 407. In the case of partial loss of insured property, it shall be considered insured until the expiry of the insurance contract term at an amount, equal to the difference between the initial insurance amount and the insurance indemnity paid, unless otherwise provided for in accordance with the insurance contract. The insurance amount shall not be reduced according to the procedure of Sentence One, when the insured person has provided all necessary evidence for exercising the right to redress against the person who inflicted the damage or his/her insurer under Third Party Liability Insurance and this evidence was accepted as sufficient by the insurer under the property insurance.

Refusal to pay insurance indemnity

Article 408. (1) An insurer may refuse the payment of indemnity only:

1. in case a person entitled to receive the insurance indemnity deliberately caused the insured event to occur;

2. if the insuring person deliberately caused the insured event to occur so that another person may receive the insurance indemnity;

3. upon non-fulfilment by the insured person of an obligation under the insurance contract, which is material with a view to the insurer's interest, which has been provided for in a law or in the insurance contract and which has led to the occurrence of the insured event;

4. in other cases provided for by law.

(2) In the cases under Paragraph 1, Item 1, when a third beneficiary person deliberately caused the insured event without the knowledge and participation of the insured person or of the other beneficiary persons, the indemnity shall be paid to the other beneficiary persons and, if there are no such persons, to the insured person or to his/her heirs. In case of payment of insurance indemnity under Sentence One, the insurer shall be subrogated into the rights of the insured person against the person who deliberately caused the insured event.

Interest on the insurance indemnity

Article 409. The insurer shall owe the legitimate interest for delay on the insurance indemnity owed after the expiration of the time limit under Article 405, except for the cases of Article 380 (3).

Subrogation into the rights of the insured person

Article 410. (1) On payment of the insurance indemnity, the insurer shall be subrogated into the rights of the insured person up to the extent of the indemnity paid and the usual expenses incurred in determining the indemnity amount against:

1. the person who has inflicted the damage, including in the cases of damages resulting from non-fulfilment of a contractual obligation, or

2. the employer for the work assigned by the employer to a third person, during or in connection with which damages have arisen under Article 49 of the Obligations and Contracts Act, or

3. the owner of the item and the person upon whom it was incumbent to exercise oversight over the item that inflicted damages on the insured person under Article 50 of the Obligations and Contracts Act.

(2) If the person who inflicted the damage is related by direct ascending or descending line, married to or belongs to the household of the insured person or is in actual marital cohabitation with the insured person , the insurer shall enjoy the rights specified under Paragraph 1 if the person who inflicted the damage has acted deliberately.

(3) The insured person, the insuring person or the third persons who are entitled to receive insurance indemnity shall be obligated to cooperate with the insurer in exercising its rights against the person who has inflicted the damage.

(4) If the property of the person who has inflicted the damage is insufficient, the subrogated insurer shall be indemnified after the insured person or the third damaged persons who are entitled to receive indemnity.

(5) In cases where the person who has inflicted the damage has indemnified the insured person in full, the insurer shall be relieved of his or her obligation to pay insurance indemnity.

Subrogation into the rights of the insured person against the person who inflicted the damage or his/her insurer under Third Party Liability Insurance by the insurer under the property insurance

Article 411. In cases when the person who has inflicted the damage has third party liability insurance, the property insurer shall be subrogated into the rights of the insured person against the person who inflicted the damage or his/her insurer under third party liability insurance to the extent of the indemnity paid and the usual expenses incurred in determining the indemnity amount. The property insurer may lodge his or her claim directly to the third party liability insurer. Where the damage is caused by a driver of motor vehicle who has a valid compulsory third party liability insurance for motorists, the property insurer who has subrogated into the rights of the damaged person may lodge his or her claim to the person who inflicted the damage only to the amount of the damages caused which exceed the insurance amount under the contract for compulsory insurance, as well as for the damages caused by the driver of the motor vehicle for which the insurer under the compulsory third party liability insurance for motorists has refused to pay indemnity on the grounds of Article 494.

Settling of claims between the property insurer of the damaged person and the third party liability insurer of the person who inflicted the damage

Article 412. (1) The property insurer who has subrogated into the rights of the insured person against the third party liability insurer of the person who has guiltily inflicted a damage to the insured property shall lodge its claim against such insurer, attaching the file with the available evidence, including evidence establishing occurrence of the road accident in the cases of Third Party Liability Insurance of the motorists. The third party liability insurer shall verify every claim lodged under Sentence One.

(2) Where the property insurer has not submitted all evidence or where additional evidence is necessary for establishing the ground or the size of the damage, the need for which could not have been foreseen as of the date of lodging the claim, the third party liability insurer shall be entitled to require such evidence within 45 days from the date of the lodging of the claim, where Article 106 (5) shall apply in this case.

(3) Within 30 days from submission of all evidence the insurer shall:

1. determine and pay the amount of its obligation under the claim lodged, or

2. legitimately refuse to effect payment.

Section II
Transfer of insured property

Transfer of insured property

Article 413. (1) If during the term of validity of the insurance contract, the insured property is transferred, the acquirer shall be subrogated into the rights and obligations of the insured person under the insurance contract.

(2) The transferor and the acquirer shall have joint and several liability for paying the unpaid portion of the premium as of the date of subrogation.

Termination of the insurance contract after transfer of the insured property

Article 414. (1) In the cases under Article 413 (1), the insurer shall have the right to terminate the insurance legal relation with the acquirer of the insured property by a 1-month written prior notification. The right of termination by the insurer shall expire, when it is not exercised by the insurer within one month from gaining knowledge of the change in the ownership title to the insured property.

(2) In the cases under Article 413 (1), the acquirer of the insured property shall have the right to terminate the insurance legal relation immediately, after notifying in writing the insurer of that. The right of termination by the acquirer shall expire, if it is not exercised by the acquirer within one month after the acquisition and, if the acquirer was not aware of the existence of the insurance contract - upon becoming aware of the insurance contract.

(3) In case of termination of the insurance legal relation according to the procedure and within the time limits under Paragraphs 1 or 2, the transferor shall be obligated to pay the due premium till the date of the transfer. In this case, the acquirer shall not owe any premium.

(4) In case of termination of the insurance legal relation according to the procedure and within the time limits under Paragraphs 1 or 2, the insurer shall be obligated to return to the transferor the portion of the premium corresponding to the period after the date of termination of the insurance cover.

Notifying the insurer of the transfer

Article 415. (1) The transferor or the acquirer shall inform the insurer about the transfer in writing within 7 days of the transfer of the ownership title. If no notification under Sentence One is made, the insurer shall not be obligated to pay insurance indemnity, in case the insured event occurs after the expiration of one month from the date of transfer of the ownership title and provided that the insurer would not have concluded the existing contract anew with the acquirer because of significant increase of the risk.

(2) The insurer may not invoke Paragraph 1, Sentence Two, when as of the moment of occurrence of the insured event the insurer knew of the transfer of the ownership title or when the time limit under Article 414 (1) for making a prior notification of termination of the insurance contract by the insurer has expired and the insurer has failed to terminate the contract.

Protection of the buyer

Article 416. The insurer may not invoke to the detriment of the acquirer insurance terms and conditions other than the provisions of Article 413 - 415.

Change in the ownership title of a motor vehicle

Article 417. The provisions of Article 413 - 415 shall not apply in cases of change of ownership title of a motor vehicle in the cases of compulsory third party liability insurance contract for motorists.

Coercive enforcement, acquisition of the right to use

Article 418. Articles 413 - 416 shall also apply when the ownership title to the insured property is acquired within coercive enforcement according to the procedure of the Code of Civil Procedure and if a third person acquires the rights to insured agricultural produce from land as a result of a right to use, a lease or another legal relation.

Chapter Forty
SEPARATE TYPES OF INSURANCE AGAINST DAMAGES

Section I
Transport insurance

Insurance against transportation risks

Article 419. (1) For overland, air and river transport the insurance contract shall cover all risks to which the transported cargo is exposed, unless agreed otherwise.

(2) The transported cargo may be insured at the market price at the destination.

(3) The insurance contract shall enter into force on delivery of the cargo for transportation and shall remain in force until delivery of the cargo to the recipient, including during trans-loading and storage, unless agreed otherwise.

(4) The insurer shall not cover the risks when transportation is interrupted or diverted, unless agreed otherwise.

(5) If the recipient of the transported cargo accepts the cargo before any damage is ascertained, the insurer shall not be liable to pay indemnity.

(6) If damage could not be ascertained externally on receipt and is subsequently noted, but within the deadline specified in the rules of the respective type of transport, the insurer shall be liable to pay indemnity only if the recipient sends him or her notification, but not later than 15 business days from receipt of the cargo.

Section II
Legal costs insurance

Main points

Article 420. (1) Under a legal costs insurance contract the insurer shall be obliged to cover risks under Item 17, Section II, Letter "A" of Annex No. 1 and in exchange for payment of a premium shall be obligated to assume at its own expense the costs of the insured person in connection with his or her participation in judicial, pre-judicial, administrative and arbitration proceedings and to provide other services directly connected to the insurance cover, particularly in the case of:

1. provision of indemnity for the loss, damage or bodily injury sustained by the insured person, through an extra-judicial agreement or through civil or criminal proceedings;

2. defence or representation of the insured person in civil, criminal, administrative or other proceedings or in connection with each claim lodged against such person.

(2) The requirements of this section shall not apply to legal costs insurance:

1. in cases of judicial dispute and risks arising from or in connection with the use of seagoing vessels;

2. in cases of defence or representation of the insured party in connection with a third party liability insurance contract, which the insurer provides for the protection of his or her own interests as well.

(3) Liability for fines, confiscation or other pecuniary sanctions in accordance with a penal or administrative-penal provision shall not be eligible for insurance.

Legal costs insurance contract. Compulsory contents

Article 421. (1) A legal costs insurance contract shall be signed:

1. separately from any contract covering other risks, or

2. as a separate part of a contract covering other risks in which the amount of the premium and the type of legal costs covered are indicated.

(2) A legal costs insurance contract shall expressly indicate:

1. the procedure for avoiding conflict of interests under Article 147 adopted by the insurer;

2. the rights of the insured person under Article 423 and Article 424.

Settlement of claims

Article 422. Each insurer shall be obligated to adopt and apply at least one of the following methods for settlement of claims under legal costs insurance policies:

1. not to permit any of its employees involved in settlement of claims for legal costs or involved in legal consultations in connection with such claims to simultaneously carry out a similar activity in another undertaking, which is financially, commercially or administratively related to the insurer and which performs insurance operations under one or more of the remaining types of insurance specified in Section II, Letter "A" of Annex No. 1;

2. the insurer must transfer the operations for settlement of claims in connection with insurance for legal costs to another legal entity; this entity shall be designated in a contract under Article 421 (1) and must meet the conditions under Item 1;

3. the insurer shall provide the insured person with the right to authorise a lawyer at his or her own discretion to defend his or her interests from the moment at which the insured person's right to receive an indemnity in accordance with the insurance has arisen.

The right of choice

Article 423. (1) The insured person shall enjoy the right to authorise a solicitor or other person according to his or her own choice to provide legal advice or to implement procedural representation in proceedings under Article 420 (1) in accordance with the law at the headquarters of the authority in which the proceedings are being held.

(2) The insured person shall also enjoy the right specified under Paragraph 1 in cases of conflict of interests in relations with the insurer.

(3) Persons authorised by the insured person in accordance with Paragraph 1 or 2 may not receive instructions from the insurer in connection with their activities.

Extra-judicial resolution of disputes

Article 424. The insured person shall enjoy the right to refer to an objective and impartial authority for extra-judicial resolution of disputes in all cases of disagreement with the insurer in connection with the legal costs insurance contract. The right to judicial claims may not be restricted.

Notification of the insured person

Article 425. The insurer, respectively the person designated for settlement of claims under Article 147, Item 2, shall be obliged to notify the insured person of his or her rights under Article 423 and 424 in all cases of conflict of interests or of disagreement with the insured person.

Section III
Travel Assistance Insurance

Main points

Article 426. (1) Under a travel assistance insurance contract, the insurer shall be obliged, against payment of an insurance premium, to provide immediate assistance to a person who, as a consequence of a chance event, has encountered difficulties during travel. The events and conditions for provision of assistance shall be defined in the insurance contract.

(2) The insurer shall provide assistance in cash or in kind in accordance with the terms of the contract.

(3) The travel assistance insurance contract shall not cover repairs, overhaul or warranty service of property, nor expenditures incurred for intermediation in seeking and obtaining assistance.

Section IV
Health (medical) insurance

Medical insurance contract

Article 427. (1) By virtue of the medical insurance contract, the insurer shall be obligated to cover the expenses for medical goods and services resulting from sickness or as a consequence of an accident or for other agreed-upon medical goods and services, including those related to prophylaxis, pregnancy and childbirth of the insured person or temporary loss of income as

a consequence of sickness or accident, as well as any combination of the covers enumerated above.

(2) The medical insurance contract may be concluded for payment of fixed monetary amounts in connection with accident or sickness, regardless of the expenses incurred, as well as for payment of indemnities, as well as for a combination of the these two types of payments.

(3) By a medical insurance contract, the insurer may also cover the expenses for other goods and services related to the healthcare provided to the insured person as a result of sickness or as a consequence of accident, including transportation, specialised care and palliative care.

(4) Medical insurance contracts may stipulate the maximum monetary amount of the insurer's obligation in the form of a sum insured or in terms of the volume and scope of the health services and goods which are to be provided for a specified period.

General provisions

Article 428. (1) A medical insurance contract may oblige the insurer to reimburse expenses incurred by the insured person or to provide the relevant goods and services via contractors with whom the insurer has entered into contracts.

(2) Article 454 shall be applied to the medical insurance contracts.

Chapter Forty One
THIRD PARTY LIABILITY INSURANCE

General provisions

Article 429. (1) By virtue of the Third Party Liability insurance contract, the insurer:

1. shall be obliged, within the insurance amount specified in the contract, to cover the liability of the insured person for material and non-material damage inflicted by the insured person on third persons, where the said damages are a direct and immediate result of the insured event;.

2. may take upon itself the obligation, within the insurance amount specified in the contract, to cover the liability of the insured person for defaulting on his or her contractual obligations.

(2) The following shall also be included in the insurance indemnity under Paragraph 1:

1. benefits foregone representing a direct and immediate result of unlawful injury;

2. interest for delay, when the insured person is liable for the payment thereof before the damaged person under the condition of Paragraph 3.

(3) The interest for delay for which the insured person under Paragraph 2, Item 2 is liable before the damaged person shall be paid by the insurer only within the limits of the insurance amount (limit of liability). In this case, the insurer shall pay only the interest for delay due and payable by the insured person from the date of the notification by the insured person of the occurrence of the insured event according to the procedure of Article 430, Paragraph 1, Item2 or from the date of notification or of the lodging of an insurance claim by the damaged person, depending on which of the above two dates is earlier.

(4) The insurer may cover liability for benefits foregone arising from defaulting on contractual obligations in exchange for an additional premium, unless agreed otherwise.

(5) The insurer shall also pay, within the limits of the insurance amount (the limit of liability), the expenses adjudicated to the benefit of the damaged person under lawsuits pursued against the insured person for establishing his/her third party liability, when the insurer is drawn into the said lawsuit.

Notification and drawing into lawsuits Representation

Article 430. (1) The insured person shall be obligated, in connection with his/her third party liability, within a time limit of 7 business days from:

1. gaining knowledge thereof to notify the insurer of the circumstances, which could lead to such third party liability arising;

2. gaining knowledge thereof to notify the insurer of the occurrence of an insured event;

3. gaining knowledge thereof to notify in writing the insurer of the claims lodged against him/her;

4. serving of a notice to notify in writing the insurer of a legal claim against him/her;

5. making payments under the claims lodged against him/her to notify in writing the insurer thereof.

(2) In cases of claims lodged by the damaged party, the insured person shall be obliged, within the legally prescribed time limit, to demand the involvement of the insurer in the proceedings when this is permissible by law.

(3) The insurer or a person designated by the insurer may, if authorised by the insured person, represent him or her in judicial proceedings or in extra-judicial settlement of claims in connection with his or her third party liability when this is in the interest of the insurer. The expenses in connection with the authorisation and representation under Sentence One shall be paid by the insurer and shall be included in the insurance amount. Any circumstances ascertained in court rulings enacted with the participation of the persons under Sentence One shall bind the insurer.

Third party liability insurance of a legal entity

Article 431. If the third party liability insurance is concluded by a legal entity, it shall cover the liability both of the legal entity and of the persons representing the legal entity and of the persons who are in employment legal relations with the legal entity. The rules of insurance at the expense of another shall be applied for such insurance contracts.

Direct claim of the damaged party

Article 432. (1) The damaged party, to which the insured person is liable, shall have the right to request indemnity directly by the insurer under the Third Party Liability insurance in strict compliance with the requirements of Article 380.

(2) The insurer under Third Party Liability insurance may submit objections arising from the insurance contract and from the third party liability of the insured person, with the exception of objections under Article 395 Paragraphs 6 and 7 and Article 430, Paragraph 1, Items 1 - 4 and Paragraph 2. When third party liability insurance is required by law, the insurer may not make objections about the self-participation of the insured person. Furthermore, the insurer may not make objections under Article 363, Paragraph 4, Article 364, Paragraph 4, and Article 365, Paragraph 2 under a compulsory third party liability insurance for motorists.

(3) With compulsory third party liability insurance the insurer shall be liable to the damaged party even when the insured person has inflicted the damage deliberately.

Regressive claim of the insurer

Article 433. The insurer shall enjoy the right to make a regressive claim against the insured person:

1. for all payments to the damaged party in cases under Article 432, Paragraph 3;

2. for the amount of the agreed self-participation in cases under Article 432, Paragraph 2, Sentence 2.

3. for all payments to the damaged party in the cases when the insured person inflicts a damage through his/her actions or omissions to act as consequence of the use of alcohol with a blood concentration that exceeds the level permissible by the law or under the influence of a narcotic substance or its equivalent.

Settlement

Article 434. (1) A settlement between the damaged party and the insured person, as well as an admission on the part of the insured person of his or her obligations, shall have effect on the insurer if he or she approves them.

(2) A settlement reached with the knowledge and consent of a representative under Article 430 (3) shall be considered approved by the insurer.

Rights of the insured person

Article 435. If the insured person has satisfied the claim of the damaged person, the insured person shall have the right to receive from the insurer the insurance indemnity within the limits of the insurance amount (the limit of liability) and within the limits of the cover under the insurance contract and in strict compliance with the requirements of Article 434.

More than one damaged person

Article 436. (1) When the insured person bears liability to more than one damaged person, the insurer shall determine the actual amount of the damages for each of the persons and, if the total amount of the damages exceeds the insurance amount, the insurer shall pay indemnity to each of the persons on a pro-rata basis of the insurance amount at a percentage commensurate with the percentage attributable to each damaged person in the total damage.

(2) When the payment of the insurance indemnity depletes the insurance amount, a damaged person, who has not participated in the distribution under Paragraph 1, because it has not lodged a claim as of the date of payment of the last indemnity, may not subsequently lodge an insurance claim against the insurer, provided that the insurer has not envisaged and should not have envisaged that another claim would be lodged on the basis of the documents provided to insurer at the time of the lodging of previous claims.

Offsetting in regard to the damaged persons

Article 437. Article 369 shall not apply to the damaged persons.

TITLE THREE
LIFE INSURANCE. ACCIDENT INSURANCE

Chapter Forty Two
LIFE INSURANCE

Object of the insurance contract

Article 438. (1) Life insurance contracts shall be taken out against events related to the life, health or corporal integrity of natural persons.

(2) The life insurance contract may provide cover for attaining a certain age only, cover for death only, cover for attaining certain age or for earlier death, as well as cover in the event of a marriage or childbirth. Fixed amounts may be paid under the life insurance contract - on a one-off basis or in the form of annuities.

(3) The insurance amount or a pro-rata portion of the insurance amount according to the conditions of the contract shall constitute the insurance payment under a life insurance policy.

(4) The insured person under a life insurance policy shall be a physical person whose life, health or corporal integrity shall be the object of the insurance contract. The insured person and the insuring person may be two different persons.

(5) A life insurance contract shall be null and void if it provides cover in the event of death of an insured person who is not yet of age or of an insured person placed under judicial disability, as well as if it provides cover of the risks of abortions or still birth. The insurer shall be obligated to reimburse the insurance premiums received in execution of a life insurance contract providing cover for these types of risks. When the insuring person has knowingly concealed information about the persons under Sentence 1, whose life, health or corporal integrity is the object of a life insurance contract, the insurer shall enjoy the right to deduct the value of the expenses incurred in concluding the insurance contract from the premium which is subject to reimbursement.

Insurance with payment of annuities (pension or rent)

Article 439. (1) Under an insurance for payment of annuities (pension or rent), the insurer undertakes to make lifelong or term-delimited regular payments against payment of a lump-sum or regular premium.

(2) Contracts concluded by the nature of trade and containing operations for acquisition of real rights in real estate through payment of lifelong or term-delimited payments shall be regulated by this Code. In the cases of Sentence One, the transfer of real rights shall be accepted as payment of insurance premium.

(3) In the case of the contracts under Paragraph 2, the value of the real estate property shall be determined by at least two independent assessors of real estate properties.

Insurance for pension or rent upon transfer of pension rights from the pension schemes of the European Union, the European Central Bank and the European Investment Bank

Article 440. When concluded upon the transfer of retirement rights under Article 343c, Paragraph 1, Item 3 of the Social Insurance Code, the retirement or rent insurance contracts shall regulate:

1. provision of lifelong monthly payments to the insured person not earlier than attaining 60 years of age and not later than 65 years of age;

2. inadmissibility of termination of contract before attaining the age specified in it under Item 1 and following the beginning of lifelong monthly payments;

3. payment of the amount due under the insurance contract to the heirs or to the third party beneficiaries upon death of the insured person.

Group insurance

Article 441. (1) By virtue of a single life insurance contract (group insurance), the insuring person may insure two or more persons whose number is determined or determinable and who are included in a list in accordance with certain criteria. In this case it is not necessary for the contract to contain the names and addresses of the insured persons if they are defined in another unambiguous manner, including by indicating particular qualities which they have.

(2) In the cases when an employer concludes group insurance, insured persons shall be his/her employees and/or workers whose life, health, corporal integrity and ability to work shall be the object of the insurance. When an employer concludes at his/her own expense insurance for his workers and/or employees to their benefit and to the benefit of their heirs, the consent of the workers and employees for the conclusion, amendment and termination of the insurance shall not be required.

(3) The insuring person shall be obligated to provide in writing the insured persons with all the information, which he/she has received from the insurer regarding the contract concluded for life insurance, including with the general terms and conditions or with the insurance contract, if it is not concluded subject to general terms and conditions. The information under Sentence One shall include data on the insurer, the object of the insurance, the insurance amount, the term of the insurance, the third beneficiary persons and the procedure to be applied in the case of occurrence of an insured event. The information or future changes in the information shall be provided by the 15th of the month following the month of conclusion of the insurance under Sentence One or following the month of the changes therein.

(4) In case of occurrence of an insured event, the insurer shall be obligated to provide the authorised persons with the information under Paragraph 3, Sentence Two.

Mutual insurance

Article 442. (1) A mutual insurance contract may be signed by spouses, persons living in actual extra-marital cohabitation, related persons, associates in a company under Article 357 of the Obligations and Contracts Act, as well as associates in a limited partnership, an unlimited partnership or a company of solicitors.

(2) In the event of divorce, the mutual insurances shall be split from the date of the divorce. This rule shall not be implemented if the contract is in favour of a child from the discontinued marriage.

(3) Mutual insurance shall be split in cases of discontinuation of companies listed under Paragraph 1.

(4) On discontinuation of a relationship between persons living in actual extra-marital cohabitation, they may request a split of the insurance unless the contract is in favour of a child born to and recognised by these persons.

Life insurance on the life of another person

Article 443. (1) An insuring person may take out a life insurance contract, the object of which is the life, health or corporal integrity of a another person (insured person). This contract shall be valid only if it is signed with the express written agreement of the insured person.

(2) The insured person may at any time terminate the insurance contract under Paragraph 1 by an unilateral written expression of will made to the insurer. In this case, if the contract has a savings component and the right of redemption has arisen, the insurer shall be obligated to pay to the insuring person the redemption value of the insurance.

(3) If the insuring person dies before the insured person and if the parties have not agreed otherwise, anyone who has a legal interest may replace the insuring person. If the insuring person is not replaced, the contract shall be terminated.

(4) In the case under Paragraph 3, Sentence Two, if the contract has a savings component and the right of redemption has arisen, the insurer shall be obligated to pay to the heirs of the insuring person the redemption value of the insurance.

(5) The insurer shall not make payments under the insurance contract under Paragraph 1, if the insuring person, the insured person or the third beneficiary person deliberately causes the occurrence of the insured event.

(6) A person who has committed a crime in order to receive payment under a life insurance policy on the insured person shall not have the right to receive payments under the insurance contract.

Life insurance with designation of a third beneficiary person

Article 444. (1) On taking out a life insurance, as well as at any time during which such a contract is in force, the insuring person may designate a third person as beneficiary. The third beneficiary person may be designated as revocably designated, where in such a case the insuring person may change it at any time during the term of validity of the contract, or as irrevocably designed, where in such a case it may not be changed during the term of validity of the contract.

(2) The third beneficiary person under a life insurance contract shall be the person entitled to receive the insurance amount under the conditions and within the time limits of the insurance contract.

(3) The consent of the third beneficiary person shall not be required for the conclusion, amendment or termination of the insurance contract under Paragraph 1.

(4) When the insurance contract under Paragraph 1 is signed in favour of the children of the insured person, without being designated by name, the beneficiaries shall include the children born after the signing of the contract unless otherwise agreed in the insurance contract.

(5) If the insurance contract under Paragraph 1 is signed in favour of the spouse of the insured person, who is not designated by name, the rights under the contract shall be enjoyed by the person married to the insured party on the day on which the insured event occurs unless otherwise agreed in the insurance contract.

(6) When the third beneficiary persons stated in the insurance contract under Paragraph 1 are several, they shall have equal rights unless otherwise agree in the insurance contract. If the third beneficiary person refuses to receive or does not receive his/her portion, his/her portion shall be added to the portion of the other beneficiary persons. If the third beneficiary person fails to demand, by the expiration of the term of limitation, his/her portion of the insurance amount, the insurer shall distribute this portion proportionately amongst the other beneficiary persons. If, in the cases under Sentence Three and within a 1-year time limit from the expiration of the term of limitation, a beneficiary person does not receive the additional portion, it shall remain to the benefit of the insurer.

(7) If the third beneficiary person dies before the insured person and there are no other beneficiary persons designated under the insurance contract under Paragraph 1, upon occurrence of the insured event the payment of the insurance amount under the insurance contract shall be made to the insured person or to the heirs of the insured person, unless agreed otherwise in the insurance contract. Sentence One shall also apply in the case of termination of a legal entity, when such legal entity is a third beneficiary person. If, as of the moment of occurrence of the insured event, there is no person authorised to receive the payment, it shall remain to the benefit of the insurer after expiration of the term of limitation.

(8) A third beneficiary person or a legal heir shall forfeit his/her rights under the insurance contract under Paragraph 1, if:

1. such person has caused the insured event, or

2. such person has convinced or has assisted the insured person to commit suicide or to cause an insured event.

(9) If there are several beneficiaries, the part ascribable to the beneficiary under Paragraph 8 shall be divided equally between the other beneficiaries unless otherwise agreed in the insurance contract.

(10) When there are no other beneficiary persons designated in the cases under Paragraph 8, the insurance amount shall be paid to the insured person or to his heirs, unless otherwise agreed in the insurance contract.

(11) When by virtue of a claim by the creditors of the insuring person, the insurance contract under Paragraph 1 is cancelled according to the applicable legislation, the third beneficiary person shall be liable to return a monetary amount up to the amount he/she has received but not more than the premium paid by the insuring person.

Right of a third beneficiary person under life insurance

Article 445. (1) The insurance amount under life insurance shall not be considered part of the inheritance of the insuring person, insured person or third beneficiary person even when his or her heirs are designated as the beneficiaries.

(2) If the beneficiary is an heir, he or she shall enjoy the right to the insurance amount even if he or she declines the inheritance.

Non-payment of premium under life insurance with a savings component

Article 446. (1) If an insuring person for life insurance with a savings component fails to pay a due instalment of the premium under deferred premium payment, the insurer shall not enjoy the right to claim payment of the premium in court.

(2) The insurer shall be obliged to request in writing that the insuring person pay the premium instalment within a time limit, which may not be shorter than one month from receipt of that request.

(3) When the instalment due is not paid within the time limit under Paragraph 2, the validity of the insurance contract may be extended with a reduced insurance amount, when the premiums under the insurance contract have been paid for at least two year or if 15 percent or more of the premiums under the insurance contract have been paid. Failing this, the insurer may terminate the contract.

(4) The reduced insurance amount shall be determined on the basis of the redemption value as of the date of the transformation, which is assumed to be the lump-sum premium for analogous insurance cover for the remainder of the insurance term. The date of maturity of the first unpaid premium instalment shall be considered date of the transformation.

(5) In the cases under Paragraph 3, when the insured event occurs after expiration of the time limit under Paragraph 2, it shall be considered that the insurance amount has been reduced or that the contract has been terminated.

The right to unilateral termination of the contract

Article 447. (1) A physical person who has signed an individual life insurance contract with a term exceeding 6 months shall enjoy the right to terminate the contract unilaterally within 30 days of the date of conclusion of the contract.

(2) The person under Paragraph 1 may exercise his/her right to terminate the insurance contract by an unilateral written notification sent to the insurer. The insurance contract shall be terminated from the date of receipt of the notification by the insurer, in which case the insuring person shall be relieved of his or her obligations under the contract and shall enjoy the right to receive the insurance premium paid, not including the part corresponding to the period during which the insurer has carried a risk, if an insured event has not taken place. The insurer shall be obligated to return the respective part of the premium within a 30-day time limit of receiving the notification under Sentence One.

Insurance amount under life insurance policies

Article 448. (1) On occurrence of the insured event or of the conditions of life insurance specified in the contract, the insurer shall be obliged to pay the insurance amount or the part thereof which has been specified in the insurance contract.

(2) The insurance amount under Paragraph 1 shall also be paid in cases when the person who inflicted the damage is obliged to compensate the insured person or has already compensated him or her, and if the insured person has received payment under another insurance contract.

(3) The insurer shall make the payment within a time limit of 15 business days from the date on which the required evidence for ascertainment of the insured event and the amount of payment has been presented.

(4) On specifying the amount payable for disability caused by an insured event, except in cases of loss of limbs or other human organs, the insurer may stipulate a deadline for stabilisation of the disability, which may not exceed one year from the date on which the insured event has taken place. In this case, within the deadline specified in Paragraph 3, the insurer shall determine and pay an amount in advance no smaller than the minimum indisputable amount of payment.

(5) In case of death of the insured person, who is also the insuring person under the contract, when the insurance policy has not been concluded to the benefit of third beneficiary persons, the insurance amount shall be paid to the heirs of the insured person.

(6) Under life insurance contracts, an insurer who has paid the insurance amount may not be subrogated into the rights of the insured person against the person who has caused the event.

(7) Upon the occurrence of an insured event, only the person entitled to receive the insurance amount shall have the right to a direct claim against the insurer.

(8) If the contract stipulates that the insurer may refuse to make payment or may make payment in a reduced amount, when there are sicknesses, bodily harms or diseases of chronic nature, which have exerted an impact on the disability or on the consequences thereof following the insured event, it is incumbent on the insurer to prove the grounds for the refusal or for the reduced payment.

Risks excluded from life insurance

Article 449. (1) If not agreed otherwise, the insurer shall be exempted from his or her obligations under the insurance contract if:

1. injury, damage to corporal integrity, disability or death takes place as a result of a publicly actionable criminal offence committed by the insured person;

2. death of the insured person takes place as a result of execution carried out under a valid death sentence;

3. injury, damage to corporal integrity, disability or death of the insured person takes place as a result of war, military actions or as a consequence of a terrorist act.

(2) The parties to the insurance contract may agree upon other excluded risks as well.

(3) In the cases under Paragraph 1 in the case of a life insurance policy, when the current premiums have been paid for at least two years, the insurer shall pay the redemption value of the insurance to the persons who would have been entitled to receive the insurance amount upon occurrence of an insured event, which is not an excluded risk.

Suicide

Article 450. (1) In the case of an insurance covering the risk of death, the insurer shall not be obligated to make payment, when, prior to expiration of three years from the conclusion of the contract, the insured person deliberately commits suicide or make an attempt to commit suicide, as a result of which the injury, damage to corporal integrity, disability of the insured person takes place. Sentence One shall not apply, when the suicide or the attempt at suicide has been committed in a state of mind where the person is unable to understand the nature and significance of his/her acts, as well as to exercise control over his/her acts.

(2) The time limit under Paragraph 1, Sentence One may be increased based on an explicit agreement between the parties to the insurance contract.

(3) In the cases under Paragraph 1, when the insurer is not obligated to pay the insurance amount, the insurer shall pay the redemption value of the insurance to the persons who would have been entitled to receive the insurance amount upon occurrence of an insured event, which is not an excluded risk.

Right of a buy-out under life insurance

Article 451. (1) Under life insurance, the insurer shall be obliged to pay the redemption value under the contract on demand by the insuring person for termination of the insurance contract if at least two years have passed since the beginning of the term of insurance cover and all premium payments for this period have been made. The requirement that at least two years should have passed shall not apply, if 15 percent or more of the premiums under the insurance have been paid. The redemption value shall be paid by the insurer within 15 days of the demand.

(2) The conditions must be indicated in the insurance contract under which the insuring person may demand payment of the redemption value, as well as the amount of the redemption value for each year of the term of the contract.

(3) If a third beneficiary person has been specified on signing the contract and he or she has declared acceptance of the stipulation in his or her favour, the beneficiary shall enjoy the right to receive the redemption value only if such a right has been stipulated in the contract.

Redemption value

Article 452. The "redemption value" shall be the contractual amount under the insurance policies under Items 1 - 3 and 5, Section I of Annex No. 1 which the insurer shall be obligated to pay to the insured person or to a third beneficiary person in the case of premature termination of the contract and which constitutes the value of the savings portion of the premiums accrued reduced by the non-recoverable acquisition costs, the due but unpaid premium instalments, the unrepaid amount under a loan provided by the insurer under the contract, the buy-out fee, provided that such a fee has been stipulated in the insurance contract. The value under Sentence One shall be increased by the distributed income from the investment of the savings portion according to the conditions of the contract.

Providing a loan against life insurance

Article 453. The insurer may, against the life insurance, grant the insured party a loan not exceeding the redemption value. The conditions and procedures for granting and paying off the loan and the interest on the loan shall be specified in the insurance contract. When the insured event has occurred and the loan has not been repaid, it shall become due and payable as of the date of occurrence of the insured event. In this case, the insurer shall pay the due insurance amount reduced by the total amount of the principal, interest and expenses under the loan as of the date of occurrence of the insured event.

Provision of information

Article 454. (1) Before signing a life insurance contract and during the term of the contract, the insurer shall enjoy the right to receive detailed and precise information about the age, sex, health and financial status of the person whose life, health or corporal integrity are the object of the insurance.

(2) Upon occurrence of an insured event, the insurer shall have a right of access to the entire medical documentation in connection with the health status of the person, whose life, health and corporal integrity are insured, where the insurer may request such documentation from all persons storing such information, including in accordance with the Medical Treatment Facilities Act, the Health Insurance Act and the Health Act.

False data about age

Article 455. When the age of the insured person is falsely stated, the payment by the insurer shall change in the ratio of the premium which would have been due and payable for the true age to the premium agreed upon in the contract. In the cases of falsely stated age, the insurer may terminate unilaterally the contract, only if the insurer would not have concluded the contract were the true age of the person stated.

Insurance as security for obligations

Article 456. (1) When life insurance has been taken out in favour of a creditor to cover against the obligations of a natural person, such natural person or his/her heirs shall enjoy the right to a claim against the insurer even if he or she has not been a party to the insurance contract and has paid his or her obligations on occurrence of the insured event to the creditor. All third parties who have paid this obligation on a legal basis shall also enjoy this right.

(2) The insurer may make any objection arising from the insurance contract.

Life insurance connected to an investment fund

Article 457. In the case of life insurance connected to investment funds, the insured person shall bear the risk of the investment in assets selected by the insured person, directly connected to the value of shares in collective investment vehicles for investment in transferrable securities within the meaning of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 concerning the Coordination of Primary Legislation, Secondary Legislation and Administrative Provisions regarding Collective Investment Vehicles for Investment in Transferrable Securities (OJ, L 302/32 of 17 November 2009) or directly connected to the value of assets included in an internal fund of the insurer.

Covering risks under supplementary insurance

Article 458. (1) Supplementary insurance policies under Section I of Annex No. 1 shall be concluded as supplementary cover to the life insurance under Items 1, 2 or 3 of that same section and, in particular, insurance against bodily harm, including incapacitation for employment, insurance against death caused by an accident and insurance against incapacitation caused by accident or sickness.

(2) For the purpose of covering risks under supplementary insurance, the insurer shall owe one-time or annuity payments in compliance with the conditions laid down in the contract.

Chapter Forty Three
ACCIDENT INSURANCE

Object of the insurance contract

Article 459. (1) Life insurance contracts shall be taken out against risks related to the life, health or corporal integrity of physical persons, which have arisen as a result of an accident.

(2) "Accident" shall be each event resulting in death or bodily harm to the insured person as a result of unforeseen and abrupt impacts of external nature which the insured person has not caused to himself/herself deliberately. The unforeseen nature shall be assumed till proving otherwise.

(3) The accident insurance contract may be concluded for payment of fixed monetary amounts, indemnities of the damages inflicted or a combination of the two above.

(4) Article 397, Article 438 (5), Articles 441, 442, Article 443, Paragraphs 1 - 3 and Paragraphs 5 and 6 , Articles 444, 445, 448, 454 and 456 shall apply mutatis mutandis to accident insurance with payment of fixed monetary amounts.

(5) Articles 397, 438, 441, 448, Paragraphs 3 - 5 and Paragraphs 7 and 8 and Article 454 shall apply mutatis mutandis to accident insurance with payment of indemnities in the amount of the damages inflicted.

Excluded risks

Article 460. (1) Unless otherwise agreed upon, the insurer shall be exempt from its obligations under the insurance contract, if the injury, damage to the corporal integrity, incapacitation for employment or death have occurred:

1. if the insured person deliberately causes his/her own death;

2. as a result of committing a crime of general nature by the insured person;

3. during war, military action or as a result of an act of terrorism.

(2) The parties may also agree to other excluded risks.

PART FIVE
COMPULSORY INSURANCE

TITLE ONE
COMPULSORY INSURANCE POLICIES

Chapter Forty Four
GENERAL DISPOSITIONS

Types of compulsory insurance

Article 461. Compulsory insurance shall include:

1. third party liability insurance for motorists under Item 10.1, Section II, Letter "A", Annex No. 1, hereinafter referred to as "compulsory third party liability insurance for motorists";

2. accident insurance for public transport vehicle passengers under Item 1, Section II, Letter "A" Annex No. 1, hereinafter referred to as "compulsory accident insurance for passengers";

3. other insurances established by law or by international treaty which has been ratified and promulgated and has entered into force in the Republic of Bulgaria.

Obligation of the insurer to conclude a compulsory insurance contract

Article 462. An insurer who carries out compulsory insurance on the territory of the Republic of Bulgaria may not refuse to sign a contract for the respective compulsory insurance.

Compulsory insurance for occupational accident

Article 463. Each insurer offering compulsory insurance against occupational accident under the conditions of the right of establishment or of the freedom to provide services shall be obligated to designate the Bulgarian legislation as the applicable law to the insurance contract.

Term of compulsory insurance

Article 464. (1) The term of the compulsory insurance shall be defined by the parties to the contract unless stipulated otherwise by law.

(2) A compulsory insurance contract shall be renewed before expiry of its term except in cases when interest in the insurance has lapsed.

Compulsory insurance contract with an insurance amount exceeding the minimum requirements

Article 465. (1) A compulsory insurance contract may be signed for an insurance amount exceeding the minimum requirements established by law. In this case the requirement to take out insurance shall be considered to have been fulfilled.

(2) In the cases of third party liability insurance with an insurance amount exceeding the minimum obligatory requirements established by law for an insurance amount exceeding the obligatory level of coverage, a second insurance contract may also be concluded with another insurer except for the cases of third liability insurance for the motorists.

Control on the signing of compulsory insurance contracts

Article 466. (1) Control on the existence of signed compulsory insurance contracts shall be exercised by the authorities assigned by law to do so.

(2) Control on the existence of signed compulsory accident insurance contracts for employees in state institutions shall be exercised by a higher state authority of the respective institution, or in the absence thereof, by the Public Financial Inspection Agency.

(3) Control on the existence of signed compulsory accident insurance contracts for passengers shall be exercised by the Ministry of Transport, Information Technology and Communications and by the Ministry of Interior authorities.

Information on compulsory insurance to be placed at the disposal of the European Commission

Article 467. (1) The Commission shall notify the European Commission of compulsory insurance stipulated by Bulgarian legislation, indicating:

1. the particular legislative provisions relating to this insurance;

2. the obligatory properties of the certifying documents which the insurer is obliged to place at the disposal of the insured person in order to prove that the obligation to take out insurance has been fulfilled.

(2) When the compulsory insurance has been taken out with an insurer from a member state in adherence with the requirements under Paragraph 1, it shall be accepted that the obligation to take out insurance has been fulfilled.

Chapter Forty Five
COMPULSORY THIRD PARTY LIABILITY INSURANCE

Compulsory insurance

Article 468. (1) Third party liability insurance, for the conclusion of which there exists a legal obligation (compulsory insurance), shall be concluded with an insurer who has the right to perform operations on the territory of the Republic of Bulgaria.

(2) The requirements of this chapter shall also apply when the insurance contract provides cover exceeding the minimum cover required by the law.

(3) Unless stipulated otherwise by a legislative act, the minimum insurance amount in the case of compulsory third party liability insurance shall be in the amount of BGN 500,000 per insured event and BGN 2,000,000 for all insured event over the period of one year.

Contract for compulsory professional liability insurance

Article 469. (1) Unless stipulated otherwise by a law, the insured event under professional liability insurance shall be the occurrence of the harm-inflicting result that the insured person is to blame for. The insured person may be a natural person or a legal entity.

(2) The rights and obligations under a compulsory professional liability insurance shall expire upon expiry of the term of limitation under Article 378 (2).

(3) Unless stipulated otherwise by a legislative act, the compulsory professional liability insurance contract shall cover the liability of the insured person for damages inflicted by him/her in performing on the territory of the Republic of Bulgaria the operations in connection with which the insurance contract was concluded. For the purposes of Sentence One, it shall be considered that the performance of operations takes place on the territory of the Republic of Bulgaria, if the insured person is registered or has been recognised legal competence to carry on the respective profession or operations on the territory of the Republic of Bulgaria and the operations are performed within this registration or legal competence.

(4) The insurer shall have the right of redress against the insured person only in the cases under Article 433.

(5) The compulsory professional liability insurance contract shall cover the liability of the insured person, including of the persons who represent the insured person, of the persons who are in employment legal relations with the insured person and of the persons to whom the insured person has assigned performance and whom the insured person has included in the insurance contract.

(6) Unless stipulated otherwise by a law, upon termination of the operations subject to compulsory insurance, the person shall be obligated to conclude supplementary insurance which covers the 5-year period following the termination of the operations.

Sequence of satisfaction of claims

Article 470. (1) When the claims for indemnity arising from the same insured event, exceed the insurance amount (the limit of liability), the payments shall be made in the following sequence and under the terms of commensurability within the same order:

1. claims for non-material and material damages as a consequence of bodily harm or death, unless the damaged person has received indemnity from another insurer, from the social security system or from a third person;

2. claims for damages to property inflicted by natural persons or legal entities, unless the damaged persons have received indemnity from another insurer or from a third person;

3. claims of insurers or third persons who have been subrogated into the rights of the insurer regarding non-material or other damages;

4. all other claims.

(2) When the insurance amount has been depleted in satisfying the claims under Paragraph 1, the person who is from the circle of those entitled with rights under Paragraph 1 but has not been part of the distribution for reasons that he/she is responsible for, may not subsequently lodge a claim against the insurer, provided that the insurer has not envisaged and should not have envisaged that such a claim would be lodged based on the documents submitted to the insurer at the time of the lodging of the previous claims.

Chapter Forty Six
COMPULSORY ACCIDENT INSURANCE FOR PUBLIC TRANSPORT PASSENGERS

Parties under obligation

Article 471. (1) Operators of public transport, when the point of departure and terminus are located within the territory of the

Republic of Bulgaria, shall be obliged to take out and maintain compulsory accident insurance for passengers.

(2) Public transport vehicles shall be:

1. rail vehicles;

2. trolley buses and omnibuses;

3. aircraft;

4. all types of vessels;

5. cable cars, chairlifts and drag lifts;

6. taxi cabs.

Object of insurance

Article 472. (1) The object of compulsory accident insurance for passengers shall be the health, life and corporal integrity of passengers in public transport vehicles.

(2) Passengers under Paragraph 1 shall be considered to be persons located in the vehicle or in the immediate vicinity of the vehicle before embarkation and after alighting.

(3) The health, life and corporal integrity of the drivers of the vehicles and service personnel shall not be objects of the insurance.

(4) Public transport operators may take out voluntary accident insurance for persons defined under Paragraph 3.

Operation of compulsory accident insurance

Article 473. (1) Compulsory insurance under Article 471 shall operate only when the insured event has taken place on the territory of the Republic of Bulgaria.

(2) Embarkation and alighting of passengers while the vehicle is moving or away from the places designated for this purpose shall annul the operation of the insurance unless abandonment of the vehicle while moving was provoked by immediate danger to the life or health of the passenger.

(3) When, under travel conditions as defined in Paragraph 1, an emergency dictates diversion of a passenger aircraft, seagoing or river vessel, the insurance shall operate during this diversion.

Insurance cover

Article 474. (1) Insurer liability to pay the insurance amount or the respective part of it shall arise in cases when death or permanent disability of a passenger is caused as a result of an accident covered by the insurance contract under Article 471.

(2) On occurrence of an accident, the insured passenger or his or her heirs shall enjoy the right to seek payment of the insurance amount or the respective part of it from the insurer, with which the contract was concluded.

Exceptions from cover

Article 475. The insurer shall not owe payment when the death or permanent disability caused to the passenger results from:

1. war, unrest or actions of a military nature, rebellions, civil unrest or similar;

2. an act of terrorism, except in cases when cover of such a risk has been explicitly agreed with the insurer;

3. a general criminal act committed by the passenger or an attempt to do so;

4. suicide or attempted suicide by the passenger;

5. an ailment of any kind of the passenger, including epileptic fits or fits arising from other ailments, haemorrhages, paralyses, gastro-intestinal infections, food poisoning and others, except in cases when suffering from sickness has arisen from the insured event and causes death or bodily injury;

6. premature birth or miscarriage by a passenger, unless they are caused by the accident;

7. temperature disorders (colds, freezing, sunstroke or heatstroke), operations, irradiation, injections and other medical attention to a passenger, inasmuch as these are not a consequence of the accident;

8. alcohol poisoning and injury to the passenger resulting directly from alcohol poisoning or the use of narcotics or analogues thereof by the passenger;

9. earthquake or atomic and nuclear explosions, radioactive products and pollution by radioactive products, ionising radiation.

Insurance amount

Article 476. The minimum insurance amount for compulsory accident insurance for passengers under Article 471 shall be BGN 50,000 for every event for every passenger.

TITLE TWO
THIRD PARTY LIABILITY INSURANCE FOR MOTORISTS

Chapter Forty Seven
COMPULSORY THIRD PARTY LIABILITY INSURANCE FOR MOTORISTS

Object of insurance and insurance cover

Article 477. (1) An object of compulsory third party liability insurance for motorists shall be the civil liability of the insured natural persons and legal entities for material and non-material damage caused by them to third parties, connected to the ownership and/or use of motor vehicles for which the insured persons are answerable in accordance with the Bulgarian legislation or the legislation of the state in which the damage has been caused.

(2) The owner, user and holder of the motor vehicle for which there is a validly executed insurance contract, as well as any person who performs factual actions for driving or using the motor vehicle on legal grounds, shall be insured under a compulsory third party liability insurance for motorists. The driver of the motor vehicle does not have to have an explicit written power of attorney issued by the persons under Sentence One for driving or using the motor vehicle.

(3) All damaged persons, with the exception of the person who is liable for the inflicted damages, shall be considered third persons under Paragraph 1, with the exception of the persons entitled to rights as a result of his/her death. The persons entitled to rights shall have the right to indemnity for the damages resulting from their capacity of damaged persons.

(4) Agreements shall not be permitted which exclude from third party liability cover damage caused to a third damaged party who has known or was obliged to know that the driver of the motor vehicle was under the influence of alcohol, narcotics or other intoxicating substance at the time of the road accident. In this case, the insurer may make objections to the insured person

for complicity of the third damaged person in the damages inflicted on him/her.

(5) Third party liability insurance for motorists shall not cover the liability of the insured person as a freight hauler.

Injured person. Damaged person.

Article 478. (1) A "injured person" shall be a person, to whom death or disability was inflicted by a motor vehicle.

(2) A "damaged person" shall be a person, including an injured person, who has the right to indemnity for damage caused by motor vehicles.

Third party liability insurance of motorists of a trailer

Article 479. (1) Damages, inflicted by a trailer under Article 481, Paragraph 1, Sentence Two and Paragraph 2, Item 3, which is attached to a motor vehicle and which is functionally dependent on this motor vehicle during movement and or which has detached during movement, shall be covered by the insurer under the compulsory third party liability insurance of motorists, associated with the possession and use of the hauling motor vehicle.

(2) Damages, inflicted by a trailer, which is not attached to a motor vehicle, which is not functionally dependent on a motor vehicle, which was not moving, as well as in the event of self-propelling, shall be covered by the insurer under the compulsory third party liability insurance of motorist, associated with the possession and use of the trailer.

Operation of a contract for compulsory third party liability insurance for motorists

Article 480. (1) An insurance contract for compulsory third party liability insurance for motorists shall cover the liability of the insured persons for damage caused on the territory of:

1. the Republic of Bulgaria in accordance with Bulgarian law;

2. a member state in accordance with the law of such member state;

3. a third state when the damage has been caused to persons from a member state while travelling between the territories of two member states and on condition that there is no national insurance office to bear liability for this territory; in this case the liability shall be covered in accordance with the law of the member state in which the motor vehicle of the guilty driver is usually located, in connection with which the insurance has been taken out.

4. a third state whose national insurers' bureau is a party to the Multilateral Agreement in accordance with its law;

5. a third state whose national insurers' bureau is a member of the Green Card System.

(2) A compulsory third party liability insurance contract for motorists shall provide cover on the territory of the Republic of Bulgaria, on the territory of the other member states and on the territory of third states under Paragraph 1, Items 4 and 5, on the basis of one insurance premium and throughout the entire term of the contract, including in every period within this term in which the motor vehicle is located in another member state or in a third state under Paragraph 1, Items 4 and 5.

(3) The compulsory third party liability insurance contract of the motorists shall prove, in each member state, the cover according to its legislation or the cover according to this Code, when the latter is higher.

(4) The compulsory third party liability insurance contract of the motorists shall provide, in each third state under Paragraph 1, Items 4 and 5, the cover according to its legislation.

(5) The insurer may not, in any shape or form, agree or require a supplementary premium or additional payment of premium or of other payments in connection with cover of third party liability of the motorists outside of the territory of the Republic of Bulgaria and within the territory of the countries whose national bureaus are members of the Green Card System, including in the form of reimbursement of a discount granted upon the conclusion of the insurance policy.

(6) The price schedule of each insurer for compulsory third party liability insurance of the motorists must clearly stipulate that the contracts provide cover for the territory of all countries under Paragraph 1 for the entire term of the contract, including in each period within this term, when the motor vehicle is located on the territory of any of the countries specified.

(7) The driving of the motor vehicle within the territory under Paragraph 2 in each period within the term of the contract does not constitute any significant change of the risk within the meaning of Article 367.

Motor vehicle

Article 481. (1) (Supplemented, SG No. 8/2017) For the purposes of compulsory insurance under this chapter, a motor vehicle shall be defined as any vehicle for overland transport propelled by its own engine, as well as tram cars, trolley buses and self-propelled equipment under the Agricultural and Forestry Machines and Equipment Registration and Control Act, including camping vehicles. Trailers and semi-trailers under the Road Traffic Act, including camping trailers, shall also be considered to be motor vehicles.

(2) For the purposes of compulsory insurance under this chapter, the following shall not be considered to be motor vehicles:

1. rail vehicles, with the exception of tram cars;

2. self-propelled machinery, in the sense of Paragraph 1, Item 12 of the supplementary provisions of the Agricultural and Forestry Machines and Equipment Registration and Control Act, the engine power of which does not exceed 10 kW;

3. trailers of O1 category (up to 750 kilograms) under Ordinance No. 60 for Approval of the Type of New Motor Vehicles and Their Trailers (Promulgated, SG No. 40/2009; amended, No. 75/2012, No. 77/2013 and No. 17/2015).

(3) Movement of a motor vehicle on roads open for public use in the sense of Article 2, Paragraph 1 of the Road Traffic Act shall not be permitted unless the driver is insured in accordance with this Code.

The territory on which the motor vehicle is usually located

Article 482. (1) The territory on which the motor vehicle is usually located shall be the territory of the state:

1. where the registration number of the motor vehicle has been issued, irrespective of whether it is permanent or temporary;

2. where the insurance or other distinguishing mark, analogous to the registration number under item 1, of the motor vehicle has been issued - in cases in which the registration of particular kinds of motor vehicles is not necessary;

3. in which the owner of the motor vehicle is permanently resident - in cases in which a registration number or an insurance or other distinguishing mark is not required for particular kinds of motor vehicles.

(2) For the purposes of lodging a claim to a guarantee fund or a national insurance bureau in cases in which the motor vehicle has no registration number or when it has a registration number which does not refer or which no longer refers to that vehicle, and the road accident takes place with its participation, the territory on which the motor vehicle is usually located shall be the territory of the state where the road transport accident has taken place.

Obligation to sign compulsory third party liability insurance contracts for motorists

Article 483. (1) A compulsory third party liability insurance contract for motorists must be signed by every person who:

1. owns a motor vehicle, which is registered on the territory of the Republic of Bulgaria and has not been decommissioned from movement; this requirement does not prohibit any other person other than the owner of the motor vehicle from concluding the insurance contract;

2. drives a motor vehicle from a third state on entry into the territory of the Republic of Bulgaria, when he or she does not have valid insurance for the territory of the Republic of Bulgaria.

(2) A person as defined under Paragraph 1, Item 2 shall take out frontier third party liability insurance for motorists at the border crossing point at which he or she enters the territory of the Republic of Bulgaria. A person as defined under Paragraph 1, Item 2 must have valid frontier third party liability insurance for motorists until he or she leaves the territory of the Republic of Bulgaria.

(3) The person as defined under Paragraph 1, Item 2 shall not be obligated to take out a motorist's third party liability insurance contract on entering the territory of the Republic of Bulgaria, provided that he/she holds a valid Green Card Certificate.

(4) No third party liability insurance contract of the motorists shall be concluded for a motor vehicle:

1. from another member state;

2. when the payment of indemnity in relation to the third party liability is guaranteed by a competent institution of a member state and the motor vehicle or the respective person is included in a list elaborated by the competent authority of the member state indicating motor vehicles or persons relieved of the obligation to take out compulsory third party liability insurance for motorists and placed at the disposal of the Republic of Bulgaria.

(5) The merchants within the meaning of the Commerce Act, who perform import and sale of motor vehicles, which receive temporary registration number licence plates, shall be obligated to conclude compulsory third party liability insurance of the motorists for such temporary licence plates. The insurance shall be concluded solely based on the registration number of the temporary licence plates for the term of validity of the temporary licence plates but not for more than one year.

(6) The owner of a motor vehicle with a registration number issued by a competent Bulgarian registration authority, for which there is a frontier third party liability insurance of the motorists validly concluded by an insurer in another member state, shall be obligated to conclude compulsory third party liability insurance of the motorists for the territory of the Republic of Bulgaria.

(7) The owner of a motor vehicle, which participates in a competition, in the case of which the compliance with the road traffic rules is not obligatory for the participants in the competition, shall be obligated to procure cover under a third party liability insurance of the motorists for its liability in connection with participation in the competition.

Prohibition from concluding an insurance contract

Article 484. An insurer shall not have the right to conclude compulsory third party liability insurance of the motorists, if another such insurance is in place for the same motor vehicle, if the insurance terms of the two insurances overlap fully or partially.

Special requirements in connection with imprecisely stated circumstances in connection with conclusion of a compulsory third party liability insurance of the motorists

Article 485. (1) In the case of imprecisely stated or withheld circumstance, for which the insurer has posed a question in writing, the insurer may not terminate the compulsory third party liability insurance contract of the motorists on the grounds of Article 363, Paragraphs 1 and 3, Article 364, Paragraph 2 and Article 365.

(2) When the imprecisely stated or withheld circumstance has exerted an impact for the occurrence of the event or for increasing the amount of the damages, the insurer may not refuse to make payment to the damaged person, nor may reduce the amount of the insurance indemnity.

(3) In the cases of withheld circumstances, for which the insurer has posed a question in writing, the insurer shall have the right, within the time limit under Article 363 (1) and Article 364 (1) respectively, to demand the difference between the contractual premium and the premium which corresponds to the risk when accounting for the withheld circumstances, depending on what this difference amounted to as of the date of conclusion of the insurance contract based on the price schedule of the insurer, together with the interest for delay. The insurer shall notify the consumer of insurance services of its right under Sentence One before concluding the contract.

Special rules for the control of compulsory third party liability insurance for motorists

Article 486. (1) Control on the existence of signed compulsory third party liability insurance contracts for motorists as part of state border control shall be exercised with relation to:

1. motor vehicles usually located on the territory of a third state and entering the territory of the Republic of Bulgaria from a third state, as well as in cases when such motor vehicles leave the territory of the Republic of Bulgaria;

2. certain motor vehicles and motor vehicles with special registration numbers, exempted from compulsory third party liability insurance for motorists in accordance with the legislation of the respective member state and included in a list elaborated by this member state and placed at the disposal of the Republic of Bulgaria;

3. motor vehicles usually located on the territory of the Republic of Bulgaria, when such motor vehicles leave the territory of the Republic of Bulgaria.

(2) Control shall not be implemented on the existence of signed compulsory third party liability insurance contracts for motorists for motor vehicles usually located on the territory of another member state or of the Confederation of Switzerland, the Principality of Andorra and the Republic of Serbia (states whose national insurers' bureaux are parties to the Multilateral Agreement), nor for motor vehicles usually located on the territory of a third state, when they enter the territory of the Republic of Bulgaria from the territory of another member state. This shall not apply to spot checks carried out on other grounds by the authorised control bodies. It shall be assumed for the motor vehicles under Sentence One that they have presumed cover of the third party liability of the guilty driver.

(3) The authorities of Border Police General Directorate shall not allow motor vehicles under Paragraph 1, Items 1 and 3 to leave the territory of the Republic of Bulgaria without proof of concluded and effective compulsory third party liability insurance contract for motorists.

(4) Control on the existence of signed compulsory third party liability insurance contracts for motorists for motor vehicles which are usually located on the territory of the Republic of Bulgaria or on the territory of a third state shall be exercised by the Ministry of Interior authorities.

Certification of the signing of an insurance contract

Article 487. (1) The existence of a compulsory third party liability insurance contract for motorists shall be certified by means of an insurance policy issued according to the procedure of Article 575 (1) and by means of a mark issued by the Guarantee Fund.

(2) In the case of agreed payment in instalments of the insurance premium in any one insurance period, the mark under Paragraph 1 shall also certify the time period for which the insurance premium has been paid. The insurer shall be obligated to issue the mark under Paragraph 1 for the entire time period for which insurance premium has been collected.

(3) In the case of agreed payment in instalments of the insurance premium in any one insurance period, an insurer shall not have the right to issue the mark under Paragraph 1 for the entire term of the third party liability insurance policy of the motorists, if the insurance premium has not been collected in full.

(4) Upon conclusion of third party liability insurance contract for motorists, the insurer shall provide a form of bilateral written statement of ascertainment of road accident in two counterparts according to template approved by the ordinance under Article 125a, Paragraph 2 of the Road Traffic Act.

Certification by means of a Green Card Certificate

Article 488. (1) A Green Card Certificate shall be issued together with the third party liability insurance policy of the motorists, without any additional fee or other payment by the consumer of insurance services.

(2) In the case of agreed payment in instalments of the insurance premium, the insurer shall be obligated to issue a Green Card Certificate for the entire time period for which insurance premium has been paid.

(3) An insurer shall not have the right to issue a Green Card Certificate for the entire term of the third party liability insurance policy of the motorists, if the insurance premium has not been paid in full.

(4) When a Green Card Certificate has been issued in violation of Paragraph 3 for a time period longer than the time period for which the insurance premium has been paid, the insurer shall have liability for the time period and cover for the third states specified in the certificate.

(5) When the insurance premium has been paid in full, the Green Card Certificate shall be issued for the entire term of the insurance policy for third party liability insurance of the motorists.

Term of compulsory third party liability insurance for motorists

Article 489. (1) Except for the cases under Paragraph 2, the third party liability insurance contract of the motorists shall be concluded for a single insurance time period, which shall be one year.

(2) When this is agreed upon between the parties, the compulsory third party liability insurance contract of the motorists may be concluded for a term of three insurance time periods, where each one of them shall be one year. In the cases under Sentence One, the premium for each separate insurance period shall be determined at the time of conclusion of the contract.

(3) In the case of multi-year contracts under Paragraph 2, the premium for each subsequent insurance period or the first instalment thereof for the next insurance period shall be paid 15 days before the expiration of the current period at the latest.

(4) Taking out third party liability insurance for motorists for a term shorter than the term under Paragraph 1 but no less than 30 days, shall be permitted in the following cases:

1. upon conclusion of the insurance of motor vehicles, which have temporary or transit registration according to the applicable Bulgarian legislation; in this case the term of the insurance must coincide with the term of validity of the registration of the motor vehicle but must not be longer than one year;

2. upon conclusion of insurance for slow motor vehicles;

3. upon conclusion of insurance for self-propelled machines;

4. (new, SG No. 8/2017) upon conclusion of insurance for motor vehicles categories L1 – L5 pursuant to Article 149, paragraph 1, item 1, letters "a" – "j" of the Road Traffic Act;

5. (new, SG No. 8/2017) upon conclusion of insurance for camping trailers or camping vehicles.

(5) Upon acquisition of a motor vehicle, which has a foreign registration number, for the purposes of initial registration of the motor vehicle according to the procedure of the applicable Bulgarian legislation, it shall be obligatory to conclude a third party liability insurance contract of the motorists for a term of 30 days based on the frame number of the motor vehicle, where such insurance may not be issued a second time. The ownership title to a motor vehicle, which has a foreign registration number, shall be proven before the insurer by means of the respective legal documents of acquisition, which should be translated in Bulgarian.

(6) The frontier compulsory third party liability insurance of the motorists may be issued for one motor vehicle for a term of up to 90 days, where it shall be possible to issue such an insurance for a second time, so far as the total term of all issued insurances for this specific motor vehicle does not exceed 180 days within one calendar year.

(7) The parties may not agree for the insurance contract to enter into force earlier than the respective time and date of the conclusion of the insurance contract.

Premium under compulsory third party liability insurance of the motorists

Article 490. (1) In cases of payment in instalments, the deferred instalments of the insurance premium shall be paid within the time limit specified in the insurance contract.

(2) Upon termination of an insurance contract according to the procedure of Article 368 (4), the insurer shall be obligated to submit information about the termination to the Information Centre of the Guarantee Fund simultaneously with the termination itself.

(3) Upon an increase of the insurance premium under Article 489 (2) for a subsequent insurance period on the initiative of the insurer because of an increase of the risk, the insurer shall be obligated to notify in writing the insuring person not later than one month before the expiration of the current insurance period. In the cases under Sentence One, the insuring person shall have the right to terminate without default penalties or other expenses the insurance contract, where such termination shall enter into force from the end of the current insurance period. In the cases under Sentence One and Two, the contract shall be considered terminated upon expiry of the time period of the current insurance term also when the insuring person fails to pay the increased premium for the next insurance period.

(4) Upon termination of an insurance contract according to the procedure of Paragraph 3, Sentence One, the insurer shall be obligated to submit information as of the moment of termination of the contract, indicating the end of the current insurance term to the Information Centre of the Guarantee Fund not later than the date of receipt of the prior notification. Paragraph 2 shall apply in the cases under Paragraph 3, Sentence Two.

(5) The insurance premium under a compulsory third party liability insurance of the motorists shall be adjusted by the insurer in accordance with unified requirements for adjusting the insurance premium depending on the behaviour of the driver when driving on the road and/or the damages inflicted (bonus-malus system). The unified requirements, as well as the procedure and conditions for their application, shall be stipulated by an ordinance issued jointly by the Commission, Minister of Interior and Minister of Transport, Information Technologies and Communications, where the opinion of the Guarantee Fund shall also be taken into account when elaborating such ordinance.

Changes in ownership

Article 491. (1) In cases of change of ownership of the insured motor vehicle, the compulsory third party liability insurance contract for motorists shall not be terminated. The transferor shall be obligated, as part (Annex) of the contract for transfer of the ownership title to the motor vehicle, to hand over to the acquirer all documents certifying the concluded compulsory third party liability insurance of the motorists. The transferor and the acquirer shall be obliged to notify the insurer in writing within 7 days of the transfer.

(2) The acquirer shall be jointly liable for the unpaid part of the premium until the transfer.

(3) The insurer shall enjoy the right to seek the premium from the transferor until notified of the transfer.

(4) The acquirer may unilaterally terminate the contract without indicating the grounds for doing so within the time limit specified under Paragraph 1.

(5) The insurer shall not have the right to terminate the compulsory third party liability insurance contract of the motorists in the event of a change in the ownership title to the insured motor vehicle, regardless of when and how the insurer was notified of this change. In this case, with a view to an assessment of the risk, the insurer shall have the right to request additional payment of insurance premium from the acquirer.

(6) In cases of a change of the insurance premium because of an increase of the risk in the event of a change of the ownership title, the insurer must notify in writing the acquirer of the amount of the premium and of the time limit in which such premium has to be paid. In the case of non-payment of the premium within the time limit specified by the insurer, the contract shall be terminated from the date of expiration of the time limit for payment of the increased premium.

Insurance amount

Article 492. For each motor vehicle which is located on the territory of the Republic of Bulgaria and which has not been banned from movement, a compulsory third party liability insurance must be concluded for the following minimum insurance amount (limit of liability):

1. for non-material or material damages as a consequence of bodily injury or death - BGN 10,000,000 per each event, regardless of the number of injured persons;

2. for damages to property (items) - BGN 2,000,000 per each event, regardless of the number of damaged persons.

Insurance cover under a contract for compulsory third party liability insurance for motorists

Article 493. (1) An insurer providing compulsory third party liability insurance for motorists shall cover the liability of the insured person for damage caused to third parties, including pedestrians, cyclists and other road users, resulting from the ownership or use of a motor vehicle during movement or when parked. In these cases, the insurer shall cover:

1. non-material and material damages resulting from bodily injury or death;

2. damage caused to the property of third parties;

3. benefits foregone representing a direct and immediate result of the injury;

4. reasonable expenditure incurred in connection with claims lodged under Items 1 - 3, including legal fees adjudicated to be at the expense of the insured person;

5. interest under Article 429, Paragraph 2, Item 2.

(2) The third party liability insurance of the motorists shall cover also the liability for the damages under Paragraph 1:

1. caused by the guilty driver also in the cases:

a) when he or she is not explicitly or tacitly authorised to drive the motor vehicle, provided that he or she has not acquired possession of the motor vehicle by means of theft, robbery or criminal act under Article 346 of the Criminal Code;

b) when he or she does not have a licence to drive the respective category of motor vehicle or when he or she has been temporary deprived of a licence to drive the motor vehicle;

c) when he or she has infringed the legal requirements for motor vehicle roadworthiness.

2. when the driver is incapacitated to act;

3. caused by a device or installation of the motor vehicle, including for damages from accidental detachment of a trailer, semi-trailer or side-car hauled by such motor vehicle during motion;

4. caused by third persons, as a direct consequence of the opening of the doors of the motor vehicle during motion or when the motor vehicle has been stopped and no measures have been taken for the safety of the other participants in the road traffic, including those who are outside of the motor vehicle;

5. caused as a result of a breakdown in the motor vehicle, which has led to a road accident and infliction of damages;

6. caused during motion of the motor vehicle as a result of deterioration of the health status of the driver, which has hampered the driving of the motor vehicle;

7. resulting from the motor vehicle as an item under Article 50 of the Obligations and Contracts Act.

(3) The insurer may refuse to make payment for those of the injured persons, for which he succeeds in proving that they have voluntarily got on the motor vehicle, knowing that the motor vehicle has been seized through theft, robbery or criminal act under Article 346 of the Criminal Code.

(4) The insurance under Paragraph 1 shall also cover the liability for damages caused in connection with the possession or use of a motor vehicle, which is usually located on the territory of the Republic of Bulgaria, by a person who has acquired control over the motor vehicle after theft, robbery or another criminal act and when the road accident has occurred on the territory of another member state, the legislation of which envisages liability of the insurer in these cases.

Exceptions from cover

Article 494. The insurer under a third party liability insurance of the motorists shall not pay indemnity for:

1. damage suffered by the guilty driver of the motor vehicle;

2. damages caused to the property of a family member of the insured person;

3. damage caused to the motor vehicle driven by the guilty driver and damages caused to property transported in this motor vehicle;

4. damages caused during the use of a motor vehicle in competitions, on condition that adherence to road traffic regulations was not compulsory for the participants in the competition and if not agreed otherwise;

5. damages caused in the course of use of the motor vehicle during an act of terrorism or war, on condition that the injury to third parties is directly connected to such an act;

6. damages caused to a motor vehicle transporting nuclear or other radioactive materials, as well as chemical or other materials posing an increased threat;

7. environmental damages constituting contamination or pollution of the environment according to the Liability for Prevention and Remedying of Environmental Damages Act;

8. damages resulting from loss or destruction of money, jewellery, securities, all kinds of documents, stamps, coins or other similar collections;

9. reimbursement of payments made by the state social or health insurance system in cases of, or by reason of, death or bodily injury resulting from the insured event;

10. interest and legal expenses, except for the cases under Article 429, Paragraphs 2 and 5 in compliance with the conditions of Article 429 (3);

11. depreciation of the damaged property;

12. fines and other pecuniary sanctions for the guilty driver in connection with the insured event.

Obligations of the insured person under third party liability insurance of the motorists in the case of occurrence of an insured event

Article 495. (1) In the case of occurrence of an insured event, the insured person under third party liability insurance of the motorists shall be obligated, unless he/she is justifiably unable to do so:

1. to take the necessary steps to rescue the injured persons and to limit the damages inflicted on property;

2. to notify immediately the competent authorities for road traffic control, when this is envisaged in a legislative act;

3. to fulfil his/her obligations under Article 430 to notify his/her insurer under third party liability insurance of the motorists;

4. not to leave the scene of the accident until the competent authorities arrive - in the cases envisaged by the law, except for the cases of necessity to render emergency medical aid in a medical treatment facility;

5. not to consume alcohol and other intoxicating and narcotic substances until the competent authorities arrive - in the cases envisaged by the law.

(2) The insured person shall be obligated to provide the damaged person with the data necessary to lodge a claim before the insurer under third party liability insurance, including:

1. his or her name and address;

2. the name and address, respectively the company, headquarters and management address of the owner of the motor vehicle,

when different from the driver;

3. the registration number of the motor vehicle;

4. the company and headquarters of the insurer who has signed the compulsory third party liability insurance contract for motorists, and the policy number.

(3) In the case of occurrence of an insured event, the insured person shall be obligated, together with the notification under Paragraph 1, Item 3, to describe in detail the circumstances surrounding such event and to provide assistance thereafter during the investigation by the insurer in connection with such event.

(4) In addition to the circumstance under Paragraphs 1 and 3, the insured person shall be obligated to inform in writing his/her insurer under third party liability insurance for the motorists of the following facts and circumstances:

1. are there criminal or administrative proceedings against him/her in connection with the insured event that has occurred and what phase are they at;

2. have the damaged persons exercised their right to request indemnity from third persons or authorities, if the insured person has become aware of such circumstances.

Obligations of the insurer under third party liability insurance of the motorists in the case of a claim lodged

Article 496. (1) The deadline for final pronouncement on claims under compulsory third party liability insurance for motorists may not exceed three months from the date on which the claim is lodged according to the procedure of Article 380 against the insurer who signed the third party liability insurance for motorists or against his or her claims settlement representative.

(2) Within the deadline specified under Paragraph 1, the person to whom the claim is addressed must:

1. define and pay the indemnity amount, or

2. give a reasoned reply to the claims lodged, when:

a) it refuses to make payment, or

b) the grounds for the claim have not been established fully, or

c) the amount of the damages has not been determined fully.

(3) An insurer shall not refuse to rule on the validity of the claim for indemnity under compulsory third party liability insurance for motorists where any of the following documents has been presented to ascertain the road accident:

1. a written statement of ascertainment of a road accident;

2. a protocol of a road accident;

3. a protocol of a road accident not visited by the authorities of the Ministry of Interior;

4. another certificate issued on legal grounds by the authorities of the Ministry of Interior;

5. a bilateral written statement of ascertainment, which shall be drawn up where only property damages are caused as a result of the road accident, which do not prevent the motor vehicle's self-propelled motion and there is agreement between the participants in the road accident on the circumstances related to its occurrence.

(4) Where the documents under Paragraph 3 are insufficient to ascertain material circumstances related to the occurrence of the road accident, the insurer may require presentation of documents and evidence prepared by other competent bodies or persons. Sentence One shall not limit the right of the damaged persons to submit evidence.

Interest for delay on the insurance indemnity owed

Article 497. (1) The insurer shall owe the legitimate interest on the amount of the insurance indemnity, if it has failed to determine and pay it on time from the earlier of the following two dates:

1. the expiration of a time limit of 15 business days from the presentation of all evidence under Article 106 (3);

2. the expiration of the time limit under Article 496 (1), except for the cases when the damaged person has not presented the evidence requested by the insurer according to the procedure of Article 106 (3).

(2) The interest due and payable by the insurer under Paragraph 1, as well as the interest for delay and the legal expenses adjudicated to be at the expense of the insurer may exceed the insurance amount under Article 492.

Obligations of the damaged person in the case of occurrence of an insured event

Article 498. (1) The damaged person who wants to receive insurance indemnity shall be obligated to address to the insurer a written insurance claim according to the procedure of Article 380, except for the cases when the insurer under property insurance of the damaged person has subrogated into the rights of the damaged person and lodges a claim on the grounds of Article 411.

(2) The damaged party shall be obliged to present to the insurer under the third party liability insurance for the motorists the available documents which are connected to the insured event and the damage incurred and to cooperate with the insurer in ascertaining the circumstances connected with the event and the extent of the damage.

(3) The damaged party may lodge the claim for payment before the court only if the insurer has not paid up within the time limit under Article 496, refuses to pay indemnity or the damaged party disputes the compensation amount of indemnity determined or paid.

Determining the insurance indemnity under compulsory third party liability insurance for motorists

Article 499. (1) In cases of death or bodily injury to natural persons, the indemnity shall be defined by an expert insurance commission of the insurer of the guilty driver or by judicial procedure. By virtue of the ordinance under Article 504, the Commission may adopt minimum requirements to the process of determining by an insurer the indemnity amounts in cases of death or bodily injury of natural persons.

(2) In cases of damage to property, the indemnity amount may not exceed the actual cost of the damage caused. The indemnities for damage to motor vehicles shall be determined in accordance with the methodology of claims settlement for damage caused to motor vehicles adopted by the ordinance under Article 504.

(3) The indemnity under the compulsory third party liability insurance for the motorists shall be determined and paid in the currency in which the claim is lodged, unless the investments in this currency are subject to regulation, the currency is subject to transfer restrictions or for other similar reasons the currency is not suitable for cover of the technical reserves, where claims for indemnities in connection with insured events that have occurred in the Republic of Bulgaria shall be lodged in Bulgarian levs.

(4) In the case of an insured event, for which there is a claim lodged for payment of indemnity before an insurer or before the Guarantee Fund, and in the case when in the process of settlement of the claim a dispute arisen between the Guarantee Fund and the insurer which has concluded a compulsory third party liability insurance for the motorists regarding which of them is to pay indemnity to the damaged person, the indemnity shall be paid by the insurer. If it is established subsequently that the liability is with the Guarantee Fund, the latter shall reimburse to the insurer the amount paid to the damaged party, together with the legitimate interest from the date of payment.

(5) When the insured event has occurred outside of the territory of the Republic of Bulgaria, if in the process of settlement of the claim a dispute arises between the Guarantee Fund under Article 518 and the insurer which has concluded a compulsory third party liability insurance for the motorists regarding which of them is to pay indemnity to the damaged person and the bureau under Article 506 has made payment according to the procedure prescribed by the internal rules of the Council of Bureaus, the insurer shall reimburse to the bureau the monetary amounts paid by the bureau. If it is established subsequently

that the liability is with the Guarantee Fund, the latter shall reimburse to the insurer the amount paid by the bureau, together with the legitimate interest from the date of payment.

(6) In the cases when it is impossible to ascertain the contribution of each of the participants for the occurrence of the insured event, of the damages or of their amount, the liability shall be shared equally amongst all participants, where each of the parties shall be entitled to receive indemnity in the proportion in which it is not liable for the occurrence.

(7) When there are multiples perpetrators of the insured event, each one of the insurers and the Guarantee Fund under Article 518 or an institution charged with making guarantee payment analogous to the Guarantee Fund under Article 518 shall be liable before the damaged person in much the same way as the perpetrators are liable. When the perpetrators have joint liability, the insurers and the Guarantee Fund under Article 518 or an institution charged with making guarantee payment analogous to the Guarantee Fund under Article 518, shall also have joint liability.

The right to regression

Article 500. (1) Except for the cases under Article 433, Items 1 and 2, the insurer shall have the right to receive from the guilty driver the indemnity amount paid by the insurer, together with the interest and expenses paid, when the guilty driver:

1. at the time of occurrence of the road accident has committed a violation of the Road Traffic Act, where he or she has driven the motor vehicle under the influence of alcohol with an alcohol concentration in the blood exceeding the permissible level under the law or under the influence of narcotic or other intoxicating substances and has refused to subject himself or herself or has guiltily evaded the test for alcohol, narcotic or other intoxicating substances;

2. has failed to stop and has not taken measures to repair a fault to the vehicle which has arisen in the course of driving and which jeopardises road safety, and the road traffic accident has occurred as a result of this.

3. has left the scene of the road accident prior to the arrival of the road traffic control authorities, when they are required by the law to visit the scene of the accident, except for the cases when medical aid has to be rendered to him/her or when there was another urgent reason; in such cases the burden of proof shall be on the guilty driver;

4. has deliberately caused the road accident;

5. has caused the road accident while perpetrating a deliberate crime according to the Criminal Code, including while trying to escape detention.

(2) The insurer shall have the right to receive the indemnity amount paid, together with the interest and expenses paid, from the person who drove the motor vehicle when such person does not have a driver's licence for the respective category of motor vehicle or when such person has temporarily been deprived of his or her driver's licence. Sentence One shall not apply, when the motor vehicle is a training motor vehicle and is driven by an applicant for acquiring a driver's licence during his/her training according to the procedure of the ordinance under Article 152, Paragraph 1, Item 3 of the Road Traffic Act or during the examination for acquiring the driver's licence according to the procedure of the ordinance under Article 152, Paragraph 1, Item 4 of the Road Traffic Act.

Settling the relations between the property insurer of the damaged person and the Guarantee Fund

Article 501. (1) When the insured event has occurred on the territory of the Republic of Bulgaria, the insurer under property insurance, who has subrogated into the rights of the insured person against the guilty driver who drove a motor vehicle for which there is no compulsory third party liability insurance concluded, shall not have a right to a receivable from the Guarantee Fund under Article 518.

(2) When the insured event has occurred outside of the territory of the Republic of Bulgaria, a Bulgarian insurer under property insurance, who has subrogated into the rights of the insured person against the guilty driver who drove a motor vehicle for which there is no compulsory third party liability insurance concluded, may exercise its rights against the institution charged with making guarantee payments analogous to the Guarantee Fund under Article 518, in the member state when the insured event occurred, if the legislation of this member state provides for such a possibility.

(3) When the insured event has occurred outside of the territory of the Republic of Bulgaria, a foreign insurer under property insurance, who has subrogated into the rights of the insured person against the guilty driver who drove a motor vehicle for which there is no compulsory third party liability insurance concluded, may exercise its rights against the Guarantee Fund under Article 518, if the legislation of the member state where the insured event occurred provides for such a possibility.

Certificate of previous insured events

Article 502. (1) A person who has taken out compulsory third party liability insurance for motorists shall enjoy the right at all times to receive from the insurer who has signed the insurance contract a certificate of claims for indemnity for damage caused in connection with ownership or use of the motor vehicle for which the contract has been signed, or of the lack of such claims over a period of 5 years before the date on which the application is submitted.

(2) The insurer shall be obliged to issue the certificates within 15 days of the date on which the application is submitted. The certificate shall be issued in Bulgarian and in exchange for payment of the reasonable expenses for issuance.

(3) The certificate from the insurer shall obligatorily contain the following information: name of the insurer; PIN/UIC or BULSTAT UIC of the insured person; name/designation of the insured person; data of the motor vehicle - registration number, frame number; insurance policy number; date of causing an event and date of payment of indemnity; the damages declared within the term of the contract and actual reserve available as yet for the unsettled claims; if the reserve under claims lodged and unpaid has not been released within 3 years of its formation, without any insurance indemnities having been paid from it, the insurer must issue a certificate attesting to this fact.

Claims settlement representatives

Article 503. (1) An insurer who has received or wishes to receive a licence for providing third party liability insurance for motorists shall be obliged to appoint a representative for settlement of claims under this type of insurance in all member states except for the member state of its seat of business. The appointment of a representative under Sentence One does not constitute opening of a branch and shall not be considered a representative office or establishment of the insurer in the respective member state.

(2) A claims settlement representative as defined under Paragraph 1 for a member state may be a natural person resident, or a legal entity with headquarters in this member state. Natural persons directly occupied with settling claims must have a fluent command of the official language of the respective member state.

(3) A claims settlement representative may work for more than one insurer.

(4) A claims settlement representative shall answer for the consideration and settlement of claims made by damaged person resident in the member state in which the representative is appointed, when:

1. the motor vehicle with which the insured event has been caused has taken out compulsory third party liability insurance for motorists with the insurer who has appointed the representative;

2. the motor vehicle with which the insured event has been caused is usually located in a member state other than the member state in which the damaged person is resident;

3. the insured event has occurred in a member state other than the member state where that damaged person is resident or the accident has occurred on the territory of a third state, the bureau of which participates in the Green Card System, when using motor vehicles which are insured and are usually located on the territory of member states.

(5) In cases as defined under Paragraph 4 the claims settlement representative shall have the authority to gather all the necessary information to ascertain the occurrence of the insured event and the cost of the damage caused, as well as to reach extra-judicial agreement on settlement of the claim and to fulfil the obligations arising from these claims in full.

(6) The appointment of a representative under this article does not limit the right of the damaged person to lodge his or her claims directly before the insurer under third party liability insurance of the guilty driver or against the guilty driver.

(7) Paragraphs 1 - 6 shall also be applied accordingly to the activities of claims settlement representatives acting in the Republic of Bulgaria on behalf of insurers whose seat of business is located in a member state.

(8) The Guarantee Fund under Article 518 shall maintain a register of the claims settlement representatives designated by the insurers of the member states to represent them on the territory of the Republic of Bulgaria, as well as of the claims settlement representatives designated by the insurers which have obtained a licence for third party liability insurance for the motorists.

Delegation

Article 504. (1) The Commission shall adopt an ordinance on the conditions and procedure for effecting the compulsory third party liability insurance for the motorists and the accident insurance for passengers, as well as on the procedure for their reporting.

(2) The ordinance under Paragraph 1 shall also stipulate:

1. the single unified numbering of the policies under third party liability insurance for the motorists, the policies under frontier third party liability insurance for the motorists, the Green Card Certificates and the policies under the compulsory accident insurance for the passengers;

2. a unified methodology for settlement of claims for indemnification of damages caused by motor vehicles;

3. the content of the policies under third party liability insurance of the motorists.

Applicability of Chapters Forty One, Forty Four and Forty Five

Article 505. Chapters Forty One, Forty Four and Forty Five shall be applied to the compulsory third party liability insurance of the motorists, unless otherwise provided under this Title.

Chapter Forty Eight
NATIONAL BUREAU OF BULGARIAN MOTOR VEHICLE INSURERS

Section I
General provisions

Status of the National Bureau of Bulgarian Motor Vehicle Insurers

Article 506. (1) The National Bureau of Bulgarian Motor Vehicle Insurers, hereinafter referred to as "the Bureau", shall be a non-profit organisation with headquarters in Sofia, registered under the Non-Profit Legal Persons Act.

(2) The Bureau shall be a representative national office of the insurers for the Republic of Bulgaria in the Council of Bureaus and will participate and cooperate in the functioning of the Green Card system and compulsory third party liability insurance for motorists in the member states and in the states that have signed the Multilateral Agreement.

(3) The bureau shall carry out the functions of a compensatory authority, whereby it shall make payments in the cases under Article 515. The payment due from the compensatory authority shall be made with financial resources from the guarantee fund of the bureau.

(4) The organisation and activities of the bureau shall be stipulated in this Code, the Internal Rules of the Council of Bureaus

and the Statutes of the Bureau.

Oversight

Article 507. (1) The Bureau shall be subject to oversight under this Code through the application of Article 576 (1), Articles 579 and Articles 587 - 589 respectively.

(2) The amendments to the Statutes of the Bureau shall be submitted to the Commission.

Membership in the Bureau

Article 508. (1) Each insurer which has received a licence under Item 10.1, Section II, Letter "A" of Annex No. 1 or an insurer from a member state which offers the compulsory third party liability insurance of the motorists in the Republic of Bulgaria according to the procedure envisaged in this Code shall be obligated to become a member of the bureau before commencing its operations under such insurance.

(2) The requirement for membership in the bureau shall be stipulated in its Statutes. Bureau members shall be obliged to comply with the requirements of the Statutes of the Bureau, including to provide and maintain a bank guarantee pursuant to the statutes of the bureau and a reinsurance contract in compliance with criteria determined by the bureau.

(3) Membership in the Bureau shall be terminated only pursuant to withdrawal of the licence under Paragraph 1 or when an insurer from a member country has ceased to offer compulsory third party liability insurance for motorists in the Republic of Bulgaria.

(4) If the insurer is not a member of the bureau, it may not perform operations for offering the compulsory third party liability insurance of the motorists on the territory of the Republic of Bulgaria.

Financing the operations of the bureau

Article 509. (1) Bureau members shall pay the bureau a membership fee and other contributions provided for in the statutes.

(2) Payments due shall be established in terms of justification and amount with a resolution of the Bureau’s Management Board.

Correspondents of insurers

Article 510. (1) The bureau shall approve for the territory of the Republic of Bulgaria the correspondents of the insurers which are members of the national bureaus participating in the Green Card system.

(2) The bureau shall adopt rules for approval of correspondents, as well as for interacting with correspondents.

Insured events that have occurred on the territory of the Republic of Bulgaria

Article 511. (1) In the cases of occurrence of an insured event on the territory of the Republic of Bulgaria with the participation of a guilty driver who drives a motor vehicle which is usually located in a state whose national bureau is a member of the Council of Bureaus, the claim shall be processed by:

1. the correspondent for the territory of the Republic of Bulgaria of the insurer of the guilty driver;

2. the bureau - in the cases when there is no correspondent for the territory of the Republic of Bulgaria of the insurer of the guilty driver or when there is a correspondent for the territory of the Republic of Bulgaria of the insurer of the guilty driver but according to the Internal Rules of the Council of Bureaus the bureau has adopted a decision to liquidate the damage;

3. the bureau - in the cases when the motor vehicle of the guilty driver is not insured and is usually located in a member state or in a third state whose national bureau is a party to the Multilateral Agreement.

(2) In the cases of occurrence of an insured event on the territory of the Republic of Bulgaria with the participation of a guilty driver who drives a motor vehicle under Article 483, Paragraph 4, Item 2, the claim shall be processed by the bureau.

(3) In the cases under Paragraph 1, the damaged person may lodge his or her claim for payment before the court only if the correspondent or the bureau have failed to pass judgment on the lodged claim within the time limit under Article 496 (1), there was a refusal to make payment of indemnity or if the damaged person disagreed with the indemnity amount, where Article 380 shall apply accordingly. In the cases under Paragraph 2, the damaged person may lodge his or her claim for payment before the court only if the bureau has failed to pass judgment on the lodged claim within the time limit under Article 496 (1), there was a refusal to make payment of indemnity or if the damaged person disagreed with the indemnity amount, where Article 380 shall apply accordingly.

Claims processing operations

Article 512. (1) Article 496 shall apply, when a claim for indemnity payment has been lodged before the bureau or the correspondent.

(2) Paragraph 1 shall not apply, when the bureau acts as a Compensatory Authority.

Procedural legitimacy

Article 513. (1) In the cases of a lawsuit resulting from an insured event under Article 511, Paragraphs 1 or 2 and in compliance with the procedure under Article 511 (3), the bureau is procedurally legitimate only before the competent Bulgarian court, unless the claim has been lodged against the insurer of the guilty driver. The correspondent of this insurer is not procedurally legitimate for the claims under Sentence One.

(2) In the cases of a lawsuit on the grounds of Article 515, Paragraph 1, Item 1 and in compliance with Article 516 (8), the bureau is procedurally legitimate only before the competent Bulgarian court. The representative of the insurer under Article 503 is not procedurally legitimate for the claims under Sentence One.

Provision of information from and to the Bureau

Article 514. (1) The bureau shall have a right of access to the information in the Information Centre of the Guarantee Fund only in connection with specific claims within the powers of the bureau under this Code.

(2) The Bureau shall send the information received to the insurer and to the national insurance office of the state in which the motor vehicle is usually located.

(3) The insurers shall be obligated to submit statistical information to the bureau under the conditions and within the time limits stipulated in the statutes of the bureau.

(4) When processing personal data, the bureau shall apply the Personal Data Protection Act.

Section II
Compensatory Authority

Compensatory Authority

Article 515. (1) In its capacity as Compensatory Authority, the Bureau shall pay indemnity to a damaged party resident in the Republic of Bulgaria, only when:

1. the insurer of the guilty driver or its claims settlement representative in the Republic of Bulgaria have not given a reasoned reply to the requests included in the claim, within a 3-month time limit from the date on which the damaged person lodged his or her claim for payment before the insurer or the representative, or

2. the insurer of the guilty driver has not appointed a representative for settlement of claims in the Republic of Bulgaria.

(2) A damaged person resident in the Republic of Bulgaria shall be entitled to an indemnity payment under Paragraph 1, if the following conditions are met:

1. the insurance contract of the guilty driver has been taken out with an insurer established in a member state other than the Republic of Bulgaria;

2. the insured motor vehicle of the guilty driver is usually located in a member state other than the Republic of Bulgaria;

3. the insured event has occurred in a member state other than the Republic of Bulgaria or when the accident has occurred on the territory of a third state, the bureau of which participates in the Green Card System, when using motor vehicles which are insured and are usually located on the territory of member states.

(3) In its capacity as Compensatory Authority, the Bureau shall pay indemnity to a damaged party resident in the Republic of Bulgaria, also when:

1. it is not possible to identify the motor vehicle which has caused the insured event in a member state other than the Republic of Bulgaria, or

2. the insurer of the guilty driver cannot be identified within two months of the insured event in a member state other than the Republic of Bulgaria.

(4) The damaged persons may not lodge a claim before the bureau in its capacity of Compensatory Authority, when:

1. they have lodged their claim for indemnity directly before the insurer or its representative in the Republic of Bulgaria under the conditions of Paragraph 1, Item 2 and they have received a reasoned refusal of the claim with the 3-month time limit under Paragraph 1, Item 1.

2. they have lodged their claim to the insurer under a judicial procedure.

Compensatory Authority procedure

Article 516. (1) The damaged person shall lodge his or her claims for indemnity payment to the Compensatory Authority by means of a written application accompanied by the available evidence. Article 380 shall apply in this case.

(2) The time limit for pronouncement by the Compensatory Authority may not exceed two months from the date on which the claim was lodged before it.

(3) Upon receiving an insurance claim under Paragraph 1, the Compensatory Authority shall immediately notify the fact that the damaged person has lodged a claim before it and that it will pass judgment on the claim within a 2-month time limit of the submission thereof as follows:

1. the insurer of the guilty driver or its claims settlement representative in the Republic of Bulgaria;

2. the institution charged with acting as compensatory authority in the member state where the insurer is established;

3. the guilty driver, if his or her identity and address are known.

4. the guarantee fund of the member state, where the motor vehicle of the guilty driver is located, when the insurer cannot be identified;

5. the guarantee fund of the member state, in which the insured event has occurred and when the motor vehicle of the guilty driver cannot be identified.

(4) The Compensatory Authority shall owe the legitimate interest for delay on the insurance indemnity paid, where this interest shall accrue from the date of expiration of the time limit under Paragraph 2 to the date of payment.

(5) The proceedings before the Compensatory Authority shall be discontinued if, before the deadline for pronouncement under Paragraph 2, the damaged person receives the indemnity from the guilty driver, from the insurer or from a third party, except in cases when life insurance or accident insurance payment has been received. Proceedings for indemnity in accordance with Article 515 (1) shall also be discontinued when the insurer or its claims settlement representative issues a reasoned standpoint on the claim against them before the deadline for pronouncement of the Compensatory Authority specified in Paragraph 2.

(6) The damaged person shall not be obligated to prove that the guilty driver cannot or refuses to pay the indemnity.

(7) The functions of the Compensatory Authority shall comprise settlement of claims in cases which are subject to objective ascertainment, for which reason its activities are limited to verifying whether a given indemnity claim has been lodged in accordance with established procedures and within the stipulated deadlines, without making any assessment on the claim on its own merits. Grounds must be provided for refusal of payment under Article 515.

(8) The damaged person may lodge his or her claim for payment before the court only if the Compensatory Authority has failed to pass judgment on the lodged claim within the time limit under Paragraph 2, there was a refusal to make payment of indemnity or if the damaged person disagreed with the indemnity amount.

Reimbursement of indemnity paid and subrogation into the rights of the satisfied creditor

Article 517. (1) In cases of payment under Article 515 (1), a receivable from the institution acting as compensatory authority in the member state in which the insurer of the guilty driver is established shall arise in favour of the Compensatory Authority.

(2) In cases of payments made under Article 515 (3), a receivable shall arise in favour of the Compensatory Authority from:

1. the institution charged with making guaranteed payments analogous to the Guarantee Fund under Article 518 in the member state in which the motor vehicle of the guilty driver is usually located, when the insurer cannot be identified;

2. the institution charged with making guaranteed payments analogous to the Guarantee Fund under Article 518, in the member state in which the insured event has taken place, when the motor vehicle cannot be identified;

3. the institution charged with making guaranteed payments analogous to the Guarantee Fund under Article 518, in the member state in which the insured event has taken place, when the motor vehicle is usually located in a third state;

4. the institution charged with making guaranteed payments analogous to the Guarantee Fund under Article 518, in the member state which has included the motor vehicle in a list of vehicles excluded from compulsory third party liability insurance for motorists in accordance with Article 483 (4).

(3) In cases of a receivable from the Compensatory Authority by a compensatory authority in a member state, it shall reimburse the full amount of the indemnity paid and shall be subrogated into the rights of the damaged person with respect to the guilty driver and his/her insurer or with respect to the Guarantee Fund under Article 518 - in the cases of an uninsured motor vehicle.

TITLE THREE
GUARANTEE FUND

Chapter Forty Nine
GENERAL DISPOSITIONS

Status of the Guarantee Fund

Article 518. (1) The Guarantee Fund shall be a legal entity with a seat of business in Sofia.

(2) The Guarantee Fund may be transformed, dissolved or liquidated by a law only.

(3) Upon liquidation of the Guarantee Fund after payment of its liabilities, the remainder of its property shall distributed among the insurers in proportion to the contributions paid by them, with the exception of those insurers the liabilities of which to the consumers of insurance services have been paid by the security fund under Article 521, Paragraph 1, Item 1.

(4) The Guarantee Fund shall be exempt from paying state and local taxes and fees in connection with the performance of the activities of the funds under Article 521 (1).

Functions of the Guarantee Fund

Article 519. The Guarantee Fund:

1. shall make payments to the benefit of the damaged persons for damages inflicted by an unidentified motor vehicle, when the guilty driver of a motor vehicle does not have valid third party liability insurance concluded or when there is no compulsory accident insurance of the passengers concluded;

2. shall guarantee the receivables of the damaged persons for the liability associated with motor vehicles which are usually located in the Republic of Bulgaria, under the conditions and according to the procedure of this Code in the case of bankruptcy of insurers offering compulsory third party liability insurance of the motorists and/or compulsory accident insurance of the passengers, where such insurers have their seats of business in the Republic of Bulgaria or are from a third state through a branch registered in the Republic of Bulgaria;

3. shall guarantee the receivables under the insurances under Section I of Annex No. 1 in the case of bankruptcy of insurers with a seat of business in the Republic of Bulgaria or from a third state through a branch registered in the Republic of Bulgaria;

4. shall create and maintain an Information Centre, which shall provide information to the damaged persons in relation to the compulsory third party liability insurance of the motorists and the compulsory accident insurance of the passengers;

5. shall carry out the functions envisaged in this Code in connection with the bankruptcy of an insurer;

6. shall create and maintain an electronic information system for risk assessment, management and control, including for issuing insurance policies under compulsory third party liability insurance of the motorists and compulsory accident insurance of the passengers.

Contributions to the Guarantee Fund

Article 520. (1) All insurers with a seat of business in the Republic of Bulgaria and the insurers from a third state which have registered a branch under the Commerce Act in the Republic of Bulgaria, offering compulsory third party liability insurance of the motorists and/or compulsory accident insurance of the passengers or insurance under Section I of Annex No. 1, shall be obligated to make contributions into the Guarantee Fund in an amount and in a manner stipulated in accordance with this Code.

(2) All insurers from member states, offering compulsory third party liability insurance to motorists and/or compulsory accident insurance to passengers in the Republic of Bulgaria under the conditions of the right of establishment or the freedom to provide services, shall make contributions to the Fund under Article 521, Paragraph 1, Item 1. The contributions shall be determined on the same basis and under the same conditions as those for the insurers under Paragraph 1.

Monetary funds in the Guarantee Fund

Article 521. (1) The Guarantee Fund shall create and manage as special accounts the following:

1. Fund for guaranteeing the receivables of the damaged persons from uninsured and unidentified motor vehicles, hereinafter referred to as "Fund for Uninsured Motor Vehicles";

2. Fund for guaranteeing the receivables in the case of bankruptcy of an insurer under Article 519, Items 2 and 3, hereinafter referred to as "Security Fund".

(2) The funds under Paragraph 1 shall be created and managed separately. The payment of liabilities of one of the funds with financial resources from the other fund shall be prohibited.

(3) Transfer of financial resources from one of the funds into the other shall be prohibited, except on a temporary basis in the case of a shortage of funds - by a decision of the Commission on the proposal by the Management Board of the Guarantee Fund.

Non-refund ability of contributions

Article 522. The contributions made by the insurers shall not be refundable, including in the case of dissolution of an insurer.

Covering the deficiency of financial resources in the funds

Article 523. (1) If the financial resources in the funds under Article 521, Paragraph 1, Item 1 or 2 are not sufficient to cover its liabilities under this Code, by a decision of the Commission on a proposal of the management board of the Guarantee Fund the deficiency shall be covered in one of the following ways:

1. use of loans, including through issuing debt securities under the conditions and according to a procedure stipulated by the Commission;

2. obliging insurers to make in advance annual contributions or supplementary contributions, where determination of the amount of the advance contributions shall be made on the basis of the annual contributions for the previous year;

3. increasing the annual contribution.

(2) The amount paid in advance under Paragraph 1, Item 2 shall be deducted from the annual contribution due by the insurer for the next year and the excess amount shall be subject to return by the 31st of May of the year following the year to which it pertains.

(3) The loans used from the Guarantee Fund may be secured by assets of the Guarantee Fund, including by the future receivables of the Guarantee Fund from the insurers as annual contributions.

Notification in case of non-payment of annual contributions

Article 524. If within three months an insurer fails to pay the required contribution to a fund under Article 521 (1) or interest due under Article 555 (3) or under Article 563 (4), the management board of the Guarantee Fund shall notify the Commission of that fact immediately.

Gathering of information by the Guarantee Fund

Article 525. (1) The Commission shall provide, upon request by the management board of the Guarantee Fund, the necessary information for calculation of the contributions due by insurers.

(2) The management board of the Guarantee Fund may use the data received thereby only for performance of the functions assigned to it.

(3) The members of the management board of the Guarantee Fund and the employees of the Guarantee Fund may not disclose personally or through somebody else information which has come to their knowledge professionally, where such information constitutes insurance, commercial or other legally protected secret.

Requirements to the management and activity of the Guarantee Fund

Article 526. The requirements of Chapters Seven, Eight and Ten shall be applied accordingly to the management and activity of the Guarantee Fund, where Articles 77, Paragraph 1, Items 2 and 3, Letter "h", Articles 81, 82, Article 86 (3), Articles 87 and 91 shall not be applied.

Supplementary requirements to the reporting of the Guarantee Fund

Article 527. (1) The Guarantee Fund shall prepare financial statements according to the international accounting standards.

(2) Supplementary requirements to the reporting of the Guarantee Fund shall be stipulated by the ordinance under Article 125 (2).

(3) For the purpose of guaranteeing the opportunity for accurate and full fulfilment of its obligations to make payments, the Guarantee Fund shall be obligated to form an outstanding claims reserve, where the amount of the reserve shall be calculated on the basis of the amount of the liabilities which are expected to be fulfilled in the future and on the basis of the expenses associated with the fulfilment of these liabilities, as well as on the basis of a possible adverse deviation of the risk from the assumptions.

(4) The Guarantee Fund shall be obligated to cover the gross amount of the technical reserves with commensurate assets according to Part Two, Title Two and Four.

Property and budget of the Guarantee Fund

Article 528. (1) The assets in the earmarked accounts of the Fund for Uninsured Motor Vehicles and of the Security Fund shall be included in the property of the Guarantee Fund.

(2) The Guarantee Fund shall be obligated to adopt a budget for each calendar year. The budget of the Guarantee Fund shall stipulated the amount of its administrative upkeep.

(3) The investment of the Guarantee Fund in assets for its own activity shall be stipulated on an annual basis by the budget of the Guarantee Fund.

Adopting the budget of the Guarantee Fund

Article 529. (1) The Commission shall approve the draft annual budget of the Guarantee Fund or shall send it back to be redrafted where the budget contradicts the provisions of this Code or the statutory regulations governing its application, where the budget poses threats to the financial stability of the Guarantee Fund or to the interest of the persons who are entitled to receivables from the Guarantee Fund or where the administrative expenditures of the Guarantee Fund are unjustifiably inflated, while giving binding instructions thereof.

(2) Where no annual budget of the Guarantee Fund is adopted by the beginning of the relevant year, the expenditures of the Guarantee Fund until the budget adoption shall not exceed the respective expenditure amount as set for the corresponding period in the preceding year. Where the need of making higher expenditures occurs, the Management Board shall obtain the Commission’s approval for such expenditures.

Reinsurance contract of the Guarantee Fund

Article 530. (1) The fund shall be obligated to purchase liability cover under this Code at the international reinsurance market according to criteria specified with a resolution of the Commission. The Commission may relieve the Guarantee Fund of its obligation under Sentence One after a sufficient financial capacity has been reached.

(2) The obligation of the Guarantee Fund under Paragraph 1 regarding its liability in connection with uninsured motor vehicles under compulsory third party liability insurance of the motorists, as well as in connection with bankruptcy of an insurer under such insurance shall also be considered fulfilled when a reinsurance contract is concluded by the bureau under Article 506 and this reinsurance contract provides cover for the Guarantee Fund as well and if the requirements of the Commission have been complied with.

Rules for the activity of the Guarantee Fund

Article 531. The Commission shall adopt Rules for the Structure and Operations of the Guarantee Fund, which shall be published in the State Gazette.

Supervision over the activity of the Guarantee Fund

Article 532. (1) The Fund shall be subject to supervision under this Code, where the rules for the supervision over insurers shall apply mutatis mutandis.

(2) The internal audit function and the compliance function of the Guarantee Fund shall submit their reports, as well as their annual plans, to the Deputy Chairperson.

Chapter Fifty
MANAGEMENT OF THE GUARANTEE FUND

Bodies of the Guarantee Fund

Article 533. The bodies of the Guarantee Fund shall be:

1. Board of the Guarantee Fund;

2. Management Board;

3. two Executive Directors

Composition of the Board of the Guarantee Fund

Article 534. The Board of the Guarantee Fund shall consists of all insurers which are obligated to make contributions thereto.

Competence of the Council of the Guarantee Fund

Article 535. The Council of the Guarantee Fund:

1. shall elect and dismiss the members of the Management Board and the Executive Directors from amongst them, where it shall designate one of the Executive Directors who shall independently exercise the powers of the Guarantee Fund and shall represent it as a trustee-in-bankruptcy in the case of a bankruptcy of an insurer or a reinsurer;

2. shall determine the remuneration of the members of the Management Board and of the Executive Directors;

3. shall supervise the operations of the Management Board;

4. shall relieve of liability the members of the Management Board;

5. shall adopt the certified annual financial statements and the report of the management board on the activity of the Guarantee Fund;

6. shall adopt the annual budget of the Guarantee Fund after preliminary approval by the Commission;

7. shall propose to the Commission the amount of contributions under Article 554, Item 1;

8. in case the financial resources of the Fund for Uninsured Motor Vehicles are below the minimum amount under Article 556 (2) or in the presence of any other need to finance the activities of the Fund for Uninsured Motor Vehicle, shall propose to the Commission the amount of supplementary contributions under Article 554, Item 2 in accordance with the average market share of each of the insurers under these insurances in the last three calendar years;

9. shall adopt rules for investing the financial resources of the funds under Article 521 (1);

10. shall adopt and update on an annual basis a methodology for settlement of claims for indemnification of damages caused by motor vehicles and shall submit such methodology to the Commission;

11. shall adopt and update on a regular basis a methodology of the Guarantee Fund for determining the amount of the indemnity due in the case of non-material and material damages as a consequence of bodily injury or death, including the criteria and economic and financial factors for indemnification of damages sustained and benefits foregone, which constitute a direct and immediate result of the injury;

12. shall select an external auditor - an international specialised audit undertaking;

13. shall also resolve other issues made part of its competence under this Code and by the Rules of the Guarantee Fund under Article 531.

Holding meetings and convening the Council of the Guarantee Fund

Article 536. (1) The Council of the Guarantee Fund shall hold deliberations at least two times a year. The meeting shall be valid where more than half of the insurers under Paragraph 534 are in attendance.

(2) In the cases when the Management Board ascertains a risk of deficiency of the available financial resources under Article 556 (2) of the Guarantee Fund, the Management Board shall be obligated to notify immediately the Commission and to convene the Council of the Guarantee Fund.

Convening the Council of the Guarantee Fund

Article 537. (1) A meeting of the Council of the Guarantee Fund shall be convened by the Management Board upon its initiative or upon request of at least one third of the insurers under Article 534. The meeting shall be convened on a decision of the Management Board by means of a written invitation received by each of the insurers not later than 14 days before the date of the meeting or by means of an invitation published in the State Gazette not later than 14 days before the date of the meeting.

(2) When the Management Board fails to convene a meeting of the Council of the Guarantee Fund within a 1-month time limit from the request of the insurers under Paragraph 1, Sentence One, the Commission shall convene the meeting of the Council of the Guarantee Fund or shall empower one of the insurers which requested the convening or a representative thereof to convene the meeting.

(3) The invitation for the meeting should specify the date, hour and place of the meeting, the issues on the agenda and the draft resolutions. The Council of the Guarantee Fund may take decisions on issues not included in the agenda, only in case all insurers under Paragraph 534 are represented at the meeting and agree on the issue to be discussed.

Inclusion of items in the agenda

Article 538. After convening a meeting of the Council of the Guarantee Fund according to the procedure of Article 537 (1), at least one third of the insurers under Article 534 may request that new items and draft resolutions be included into the agenda. The proposals must be sent in writing to all members of the Council of the Guarantee Fund and to the members of the Management Board 7 days before the date for which the meeting is scheduled at the latest.

Right to information

Article 539. (1) The written materials related to the agenda of the meeting of the Council of the Guarantee Fund must be available to the members of the Guarantee Fund by the date of sending the invitations under Article 537 (3) at the latest.

(2) When the agenda includes election of members of the Management Board or selection of a registered auditor, the materials shall also include data on the names, permanent addresses and professional qualification and experience of the persons proposed.

List of the attendees Representatives

Article 540. (1) At the meeting of the Council of the Guarantee Fund, the insurers shall be represented by their legal representatives, where each insurer may authorise in writing a person to represent it at the meeting of the Council of the Guarantee Fund.

(2) A list of the insurers who attend the meeting shall be drawn up for the meeting of the Council of the Guarantee Fund. The persons who represent the insurers shall attest to their presence with a signature. The list shall be certified by the Chairman or by the Secretary of the meeting.

Quorum of the Council of the Guarantee Fund Voting. Majorities

Article 541. (1) The Council of the Guarantee Fund may adopt decisions, if more than half of the insurers under Article 534 are in attendance.

(2) In the absence of a quorum under Paragraph 1, a new meeting may be scheduled not earlier than 7 days from the date of the first meeting and the new meeting shall be legally valid if more than half of the insurers under Article 534 are in attendance. The date of the new meeting caused by an absence of a quorum shall obligatorily be stated in the invitation for the first meeting.

(3) Each insurer under Article 534 shall be entitled to one vote at the meetings of the Council of the Guarantee Fund. The members of the Management Board shall participate in the meetings of the Council of the Guarantee Fund without the right to vote, unless they represent an insurer.

(4) The Council of the Guarantee Fund shall make decisions with a majority of more than half of the insurers under Article 534.

Decisions of the Council of the Guarantee Fund

Article 542. The decisions of the Council of the Guarantee Fund shall enter into force immediately, unless their effect is postponed by the decision adopted.

Minutes from the meeting of the Council of the Guarantee Fund

Article 543. (1) Minutes shall be kept of each meeting of the Council of the Guarantee Fund, wherein the following shall be indicated:

1. the place and time of holding the meeting;

2. the names of the Chairman and of the Secretary, as well as of the vote counters in the case of voting;

3. the attendance of the members of the Management Board, as well as of other persons who do not represent the insurers;

4. the proposals made in their essence;

5. the votes held and the results thereof;

6. the objections made.

(2) The minutes from the meeting shall be signed by the Chairman and by the Secretary of the meeting and by the vote counters.

(3) The following shall be attached to the minutes:

1. a list of the attendees;

2. the documents related to convening the meeting of the Council of the Guarantee Fund.

(4) The minutes and the materials pertaining thereto shall be kept for at least 5 years.

Composition of the Management Board

Article 544. (1) The Management Board of the Guarantee Fund shall consists of 7 members.

(2) Articles 79 and 80, Article 83 (1) and Article 84 shall be applied accordingly to the members of the Management Board and to the Executive Directors.

(3) A member of the Management Board may also be an insurer, where the natural person who represents such insurer in the Management Board must meet the requirements of Article 80 and Article 83 (1).

(4) The relations between the Guarantee Fund and the members of the Management Board shall be regulated by a contract for assignment of the management. This contract shall be concluded in writing on behalf of the Guarantee Fund through a person especially authorised by the Council of the Guarantee Fund.

Term of office of the Management Board

Article 545. (1) The term of office of the Management Board shall be 4 year. A member of the Managing Board can be re-elected without restrictions.

(2) The members of the Management Board may also be dismissed prior to expiration of the term of office for which they have been elected.

Competence

Article 546. The Management Board:

1. shall elect Chairman of the Management Board from among its members, who shall convene and manage the meetings of the Board;

2. shall adopt rules for its work;

3. shall adopt the payroll and the rules for salaries in the Guarantee Fund;

4. shall organise the collection of financial resources of the funds under Article 521 (1);

5. shall adopt the policies under Article 77 and shall pass judgment on claims for indemnities exceeding an amount stipulated according to the rules of the liquidation activities and the Rules of the Guarantee Fund;

6. shall adopt decisions regarding the investment of the financial resources of the funds under Article 521 (1) in strict compliance with the requirements of this Code and of the policies of the Guarantee Fund;

7. shall adopt the draft annual budget of the Guarantee Fund and shall submit such draft annual budget to the Commission for approval;

8. shall organise and shall be responsible for the expenditure of the financial resources for administrative upkeep;

9. shall prepare annual financial statements and a report for the operations of the Guarantee Fund and shall present those to the Council of the Guarantee Fund;

10. shall take decisions for the Guarantee Fund's participation in specialised international organisations with a similar scope of activity;

11. shall approve agreements for cooperation of the Guarantee Fund with state institutions, authorities and public organisations in relation to its activity;

12. shall ascertain and certify the technical procurement of each insurer in connection with obtaining access to the information system of the Guarantee Fund;

13. shall select a responsible actuary and shall select the managers of the other key functions of the Guarantee Fund;

14. shall exercise the other relevant powers of a management and control body within the meaning of Part Two;

15. shall review and decide on other issues related to the operations of the Guarantee Fund outside the exclusive competence of the Council of the Fund.

Convening and holding the meetings of the Management Board

Article 547. (1) The Management Board shall hold meetings at least once a month. The meetings shall be convened by the Chairperson on its initiative or upon a member's request.

(2) The meetings of the Management Board shall be valid where more than half of its members attend. The decisions of the Managing Board shall be adopted by a majority of more than half of its members.

(3) The Management Board may adopt decisions in absentia as well as an exception and according to a procedure stipulated in the Rules, when all the members have declared in writing their consent with the decision.

Conflict of interests

Article 548. Each member of the Management Board shall be obligated to notify in writing the Chairperson prior to the beginning of the meeting, if such member or a person related to such member has a vested interest in the deliberations of an issue set for discussion and will not participate in the quorum and in the vote on taking the decision.

Minutes

Article 549. Minutes shall be kept on the decisions of the Management Board and these minutes shall be signed by all attending members, where note shall be made of how each of them voted on the issues under deliberations.

Rights and obligations

Article 550. The members of the Management Board shall have the same rights and obligations regardless of the internal segregation of functions amongst them and the right to manage and represent granted to some of them.

Liability the members of the Management Board

Article 551. (1) The members of the Management Board shall obligatorily provide a guarantee for their management in the amount of three monthly gross salaries and shall present a third party liability insurance with an insurance amount and conditions as stipulated in the Rules of the Guarantee Fund for covering the liability under Paragraph 2.

(2) Each of the members of the Management Board shall be liable for the damages which he or she has guiltily inflicted on the Guarantee Fund.

Contracts with the members of the Management Board and with the persons related to such members

Article 552. (1) The members of the Management Board shall be obligated to notify in writing the Management Board when they or their related persons:

1. conclude with the Guarantee Fund contracts that go beyond its ordinary activity or significantly deviate from the market conditions;

2. receive indemnity in their capacity of damaged persons.

(2) The actions under Paragraph 1 shall be performed only after an advance decision of the Management Board.

Executive Directors

Article 553. (1) The Executive Directors shall jointly:

1. represent the Guarantee Fund and implement its day-to-day management;

2. appoint and dismiss the employees of the Guarantee Fund;

3. dispose of the financial resources of the Guarantee Fund in accordance with this Code, the Rules for the Structure and Operations of the Guarantee Fund and the decisions of the Management Board;

4. perform also other actions assigned to them by the Management Board.

(2) When the Guarantee Fund is a trustee-in-bankruptcy in the bankruptcy proceedings of an insurer or of a reinsurer, Paragraph 1 shall not be applied and the Guarantee Fund shall be represented in such proceedings solely by the Executive Director designated to do so by the Council of the Guarantee Fund in accordance with Article 535, Item 1.

(3) Each of the Executive Directors shall report immediately to the Management Board of the occurred circumstances which are of significant importance to the condition of the Guarantee Fund.

(4) The Executive Director of the Guarantee Fund, who implements its powers and represents it in his or her capacity of a trustee-in-bankruptcy in the bankruptcy proceedings of the insurer or a reinsurer, shall not be bound in his or her decisions in

the bankruptcy proceedings by the decisions of the Management Board and of the Council of the Guarantee Fund.

(5) The Chairperson of the Management Board shall conclude the management contracts with the Executive Directors. When the Chairperson of the Management Board is also an Executive Director, the management contract with him or her shall be concluded by a member of the Management Board specially authorised by the Management Board.

Chapter Fifty One
FUND FOR UNINSURED MOTOR VEHICLES OF THE GUARANTEE FUND

Financing of the Fund for Uninsured Motor Vehicles

Article 554. The financial resources of the Fund for Uninsured Motor Vehicles under Article 521, Paragraph 1, Item 1 shall be collected by:

1. contributions of the insurers under Paragraph 520, determined on the basis of the concluded compulsory third party liability insurances with motorists and compulsory accident insurances with passengers, including the frontier insurances under Article 483 (2).

2. supplementary contributions of the insurers under Article 535 (8);

3. fines and pecuniary penalties under Article 638;

4. revenues from investments of the financial resources of the Fund for Uninsured Motor Vehicles;

5. revenues from receivables under regression claims of the Guarantee Fund;

6. other sources, not prohibited by the law.

Determining and paying the contributions to the Fund for Uninsured Motor Vehicles

Article 555. (1) The Commission shall, on a proposal by the Council of the Guarantee Fund or on its own initiative, determine by a decision the amount of the contributions under Article 554, Item 1 and the time limit for making them. The decision shall be published in the State Gazette. The contribution shall be paid by the insuring person together with the insurance premium or the first instalment of the insurance premium and shall be stated in a separate line of the insurance policy.

(2) The Commission shall, on a proposal by the Council of the Guarantee Fund or on its own initiative, determine by a decision the amount of the supplementary contributions under Article 554, Item 2 and the time limit for making them. The decision shall be published in the State Gazette.

(3) Insurers who fail to make the contributions due under Article 554, Items 1 and 2 shall be liable for the legitimate interest for the period of delay. The Guarantee Fund's receivables for contributions and interest thereon shall be determined in terms of justification and amount by a decision of the Fund's Management Board.

Financial resources available in the Fund for Uninured Motor Vehicles

Article 556. (1) The financial resources available in the Fund for Uninsured Motor Vehicles shall be the corresponding assets of this special account reduced by the foreseeable liabilities, including the liabilities for lodged but unpaid claims and the liabilities for claims that have arisen but have not been lodged for events from a past period.

(2) The minimum amount of the financial resources available in the Fund for Uninsured Motor Vehicles shall be BGN 10,000,000.

Grounds for payments from the Fund for Uninsured Motor Vehicles

Article 557. (1) The Guarantee Fund shall pay to the damaged persons from the Fund for Uninsured Motor Vehicles indemnities for:

1. tangible and intangible damages resulting from death or bodily injuries inflicted on the territory of the Republic of Bulgaria by a motor vehicle which has left the scene of the accident and has not been identified (unidentified motor vehicle);

2. tangible and intangible damages resulting from death or bodily injuries, and for damages to third party's property, caused:

a) on the territory of the Republic of Bulgaria, on the territory of another Member State or on the territory of a third state whose national insurers' bureau is a party to the Multilateral Agreement by a motor vehicle which is usually located on the territory of the Republic of Bulgaria and for which there is no motorists' compulsory third party liability insurance concluded;

b) on the territory of the Republic of Bulgaria or of another Member State by a motor vehicle delivered to the Republic of Bulgaria from another Member State which was not formally registered in the Republic of Bulgaria, provided that the event occurs within 30 days from the acceptance of the motor vehicle from the transferee and there is no motorists' compulsory third party liability insurance concluded for such motor vehicle;

c) on the territory of the Republic of Bulgaria by a motor vehicle usually located on the territory of a third country and for which there is no frontier insurance or "Green Card" certificate issued.

d) on the territory of the Republic of Bulgaria by a motor vehicle which is usually located on the territory of the Republic of Bulgaria or on the territory of another members state and which was stolen through theft, robbery or another criminal act; in this case the Guarantee Fund shall pay indemnity for the damages inflicted on the property of the damaged persons in excess of BGN 400.

(2) The Guarantee Fund shall not pay indemnity for damages caused by an unidentified motor vehicle, unless such unidentified motor vehicle caused considerable bodily harm and this necessitated treatment in a medical treatment facility or unless death was inflicted. In this case, the Guarantee Fund shall also pay indemnity for the damages inflicted on the property of all person in excess of BGN 500. Which bodily harm may be considered considerable shall be stipulated by the Rules of Organisation and Activity of the Guarantee Fund.

(3) The Guarantee Fund shall not make payment from the Fund for Uninsured Motor Vehicles for the damages sustained by a person who was travelling in the motor vehicle of its own free will, knowing that:

1. the motor vehicle was acquired through theft, robbery or criminal act under Article 346 of the Criminal Code, or

2. the motor vehicle is not insured and the Guarantee Fund has proven that the person was aware of this fact.

(4) The Fund shall also pay indemnities under a compulsory accident insurance to passengers, in case the carrier did not have such insurance.

(5) The Guarantee Fund shall not make payment to the insurer under property insurance of the motor vehicle of the damaged person in the cases, when the guilty driver has no motorists' third party liability insurance concluded for event that have occurred on the territory of Bulgaria.

Procedure and method for payments from the Fund for Uninsured Motor Vehicles

Article 558. (1) The amount of indemnity paid by the Guarantee Fund cannot exceed the minimum insurance amount under compulsory insurances determined for the year in which the road accident occurred. The interest for delay of the Guarantee Fund shall be calculated and paid in compliance with Article 497.

(2) Chapter Forty Six and Chapter Forty Seven shall be applied accordingly to the determination and payment of the indemnities by the Guarantee Fund.

(3) The damaged person shall present his or her claim for payment of indemnity before any of the insurers licensed for and offering motorists' compulsory "Third party liability" insurances or passengers' compulsory "Accident" insurances, or before the Guarantee Fund. An insurer licensed for and offering motorists' compulsory insurance "Third party liability" insurance or passengers' compulsory "Accident" insurance respectively, cannot refuse to accept a claim presented in accordance with sentence one or to make an inspection of the damaged property should such be needed. The insurer shall be obligated, within a time limit of 7 days from receiving the claim of the damaged person, to submit to the Guarantee Fund the entire documentation in connection with the claim lodged. The collection of additional evidence, determination of the amount and payment of the indemnity to the damaged person shall be made by the Guarantee Fund according to Paragraph 2. The relations between the Guarantee Fund and the insurer shall be regulated by a contract.

(4) The damaged person shall not be obligated to prove that the guilty driver cannot make or refuses to make payment of indemnity.

(5) The damaged person may lodge his or her claim for payment before the court only if the Guarantee Fund has not paid up within the time limit under Article 496, refuses to pay indemnity or the damaged party disputes the indemnity amount determined, where Article 380 shall be applied.

(6) Payment from the Guarantee Fund to the damaged person through an authorised representative shall be permitted only on the basis of an explicit written power of attorney with a notary certification of the signatures regarding the specific claim, in which a statement shall be contained that the damaged person was informed that he or she has the right to receive the payment personally. When the Guarantee Fund makes a payment through an authorised representative, it shall be obligated to notify explicitly and in writing the damaged person, while stating the amount of the payment made.

(7) After payment of the indemnity under Article 557, Paragraphs 1 and 2, the Guarantee Fund shall be subrogated into the rights of the damaged person up to the amount of the indemnity and interest paid, as well as the expenses for determining and making the payment.

(8) After payment of the indemnity under Article 557 (4), the Guarantee Fund shall be entitled to a claim against the carrier up to the amount of the indemnity and interest paid, as well as the expenses for determining and making the payment.

Reimbursement of monetary amounts from the Fund for Uninsured Motor Vehicles to a Compensatory Authority of a member state

Article 559. (1) The Guarantee Fund shall reimburse amounts paid by a compensatory fund of a member state where:

1. the motor vehicle of the guilty driver is usually located on the territory of the Republic of Bulgaria and the insurer cannot be identified within two months from occurrence of the insured event;

2. the insured event has occurred on the territory of the Republic of Bulgaria and the motor vehicle cannot be identified;

3. the insured event has occurred on the territory of the Republic of Bulgaria and has been caused by a motor vehicle usually located on the territory of a third country and the insurer cannot be identified within two months from occurrence of the insured event.

(2) The amounts under Paragraph 1 shall be reimbursed in full within 30 days from the written application of the relevant compensatory authority.

(3) After payment of the indemnity under Paragraph 1, the Guarantee Fund shall be subrogated into the rights of the damaged person up to the amount of the indemnity and interest paid, as well as the expenses for determining and making the payment.

Payments for preventative measures from the Fund for Uninsured Motor Vehicles

Article 560. (1) Five per cent of the financial resources of the Fund for Uninsured Motor Vehicles raised under Article 554, Item 1 in the previous year under compulsory third party liability insurance for motorists shall be spent on investment in equipment and information and communication technologies for improving road traffic safety. The funds shall be expended on

projects approved by a joint decision of the Commission and the Minister of Interior, after consulting the Guarantee Fund's opinion. If necessary, an opinion by the government authorities and non-government organisations dealing with road safety shall also be requested.

(2) The projects under Paragraph 1 shall be year-long, shall contain a financial justification for the specific activities and the financial resources necessary for them and shall be submitted by the Minister of Interior to the Commission not later than 1st of April of the respective year.

(3) The contracts on the implementation of the projects referred to in Paragraph 1 shall be concluded by the Guarantee Fund. Ownership of the items acquired in accordance with such contracts shall be granted for free to the authorities in charge of road traffic safety, where Article 518 (4) shall be applied.

(4) In case the projects under Paragraph 1 are not submitted to the Commission within the time limit under Paragraph 1 or the financial resources under Paragraph 1 envisaged for the respective year are not utilised under programs approved for that same year, the financial resources shall remain in the possession of the Guarantee Fund.

(5) The report on the activity of the Guarantee Fund under Article 535, Item 5 shall also include a detailed report on the spending of financial resources under Paragraph 1.

(6) Paragraph 1 shall not apply where the amount of financial resources available to the Fund for Uninsured Motor Vehicles, after deduction of the financial resources under Paragraph 1, is less than BGN 50,000,000. Where the deficiency arises after approval of the annual programme of costs, the management board shall notify immediately the Commission, the Minister of Interior and the parties to the contracts under Paragraph 3 and shall stop the financing. The guarantee fund or a person who is a party to a contract financed with financial resources under Paragraph 1 shall not be liable for penalties and other damages where financing under the contract has been stopped under the terms of Sentence Two.

Reimbursement of amounts paid by the bureau

Article 561. (1) The Guarantee Fund, when it is an ultimate payer, shall reimburse from the Fund for Uninsured Motor Vehicles to the bureau under Article 506 the respective monetary amount, when the bureau, in accordance with the international treaties that it is a party to, has paid indemnities for damages.

(2) The Guarantee Fund shall reimburse from the Fund for Uninsured Motor Vehicles to the bureau under Article 506 the respective monetary amounts also when the bureau, in accordance with international treaties that it is a party to, has paid the inherent expenses in connection with the processing of claims in connection with the road accidents under Paragraph 1 for which no indemnity has been paid.

(3) The Guarantee Fund shall reimburse the monetary amounts under Paragraph 1 or 2 within a 15-day time limit from receiving a written application from the bureau under Article 506. After the reimbursement of the monetary amounts, the bureau shall provide to the Guarantee Fund the documents available to the bureau in connection with the monetary amounts paid thereby.

Compulsory third party liability insurance of the motorists in connection with motor vehicles subject to a special mode of operation

Article 562. (1) Motor vehicles subject to a special mode of operation shall be the motor vehicles in state ownership used by the Ministry of Defence, Ministry of Interior, Ministry of Foreign Affairs, State Agency for National Security, State Agency for Technical Operations and other institutions, the data regarding which constitutes classified information under the applicable legislation.

(2) Each institution, whose motor vehicles are subject to a special mode of operation, shall insure all its motor vehicles with the same insurer within the respective insurance period. The insurer shall make the contribution under Article 554, Item 1 for each motor vehicle included in the insurance.

(3) The insurer under Paragraph 2 shall report to the Information Centre of the Guarantee Fund only the number of the insurance policy, the institution whose motor vehicles have been insured and the registration number and/or the frame number of

the insured motor vehicles.

(4) In connection with the reporting under Paragraph 3, the Guarantee Fund shall create the necessary organisation and conditions for protection of the classified information and for compliance with the requirements of the Classified Information Protection Act.

(5) In the event of disclosure of information on motor vehicles subject to a special mode of operation to third persons, including in the case of a check of the existence of a concluded third party liability insurance of the motorists on the internet page of the Guarantee Fund, these motor vehicles shall be stated as uninsured, unless the respective institution under Paragraph 1 has instructed the Guarantee Fund to do otherwise. A claim for indemnity for damages inflicted by motor vehicles subject to a special mode of operation shall be lodged before the Guarantee Fund, unless the respective institution under Paragraph 1 has instructed the Guarantee Fund to do otherwise. When the claim is settled by the Guarantee Fund, the Guarantee Fund shall be entitled to receive from the insurer the full monetary amount paid together with interest for delay from the date of the written application.

Chapter Fifty Two
SECURITY FUND

Financing of the Security Fund

Article 563. (1) The financial resources of the Security Fund under Article 521, Paragraph 1, Item 2 shall be raised from:

1. annual contributions by the insurers as determined according to the procedure of this Code;

2. income from investment of the financial resources of the Security Fund;

3. amounts received by the Security Fund from the property of the insurer in bankruptcy in the cases of subrogation of the Guarantee Fund;

4. revenues from receivables on recourse claims;

5. other sources, not prohibited by the law.

(2) Each insurer under Article 520 (1) shall make an annual contribution into the Security Fund in an amount stipulated by the Commission on a proposal by the Council of the Fund, where such amount shall be not less than:

1. for any person insured under every risk insurance contract under Section I of Annex No. 1, ensuring cover in the respective year – BGN 0.70 each;

2. for any person insured under all the other insurance contracts under Section I of Annex No. 1, ensuring cover in the respective year – BGN 1.00 each but not more than 2 per cent of the amount of the due annual premium;

3. for each motor vehicle in connection with which insurance under Item 10.1, Section II, Letter "A" of Annex No. 1 has been concluded for the respective year - BGN 1.50 each;

4. for every seat except the driver’s seat for which a compulsory accident insurance of the passengers for the respective year has been concluded – BGN 0.20 each.

(3) The insurers, including branches of insurers from a third country, shall transfer the due annual contribution by 31 May of the year following the year for which the contribution refers.

(4) On failure to pay the contribution within the stipulated time limit, a delay interest shall be charged on the due amount in the amount of the legal interest.

(5) The contribution under an insurance under Item 10.1, Section II, Letter "A" of Annex No. 1 shall be paid by the insuring

person together with the insurance premium or the first instalment of the insurance premium and shall be stated in a separate line of the insurance policy. The contribution under the remaining insurances under Paragraph 2 shall be paid by the insuring person together with the insurance premium or the annual instalment of the insurance premium and shall be stated in a separate line of the insurance policy.

Persons guaranteed by the Security Fund

Article 564. (1) The Security Fund shall guarantee the receivables of all person under the insurances stipulated in Article 565 (2).

(2) In case of a transfer of a portfolio of contracts under Section I of Annex No. 1 by questors of an insurer according to the procedure of Article 599 (2), the Commission may, by a decision, impose an obligation on the Guarantee Fund to finance the deficiency of financial resources for cover of technical reserves of the insurer up to the guaranteed amount under Article 565 (2).

Receivables from an insurer-in-bankruptcy guaranteed by the Security Fund

Article 565. (1) The receivables of the persons under Article 564 (1) shall be guaranteed under the conditions of this Code in the case of bankruptcy of:

1. an insurer with a seat of business in the Republic of Bulgaria;

2. a branch of an insurer from a third state, registered in the Republic of Bulgaria solely for performing operations in Bulgaria through the branch.

(2) Guaranteed shall be all insurance receivables under Paragraph 1 of the persons under Article 564 arising from insurance contract for compulsory third party liability insurance for motorists or for accident insurance of passengers or for insurance under Section I of Annex No. 1 as follows:

1. under compulsory third party liability insurance for motorists and the compulsory accident insurance of passengers – in full up to the amount of the minimum compulsory level of the insurance amount set out in this Code;

2. under the insurances under Section I of Annex No. 1 of a single person at a single insurer regardless of the number of receivables of the empowered person and their amount - up to BGN 196,000.

(3) The interest receivables for delay of the insurer under insurance receivables that are due and payable shall not be guaranteed.

(4) For the purposes of Paragraph 2, the receivables within the meaning of Article 602 (3) shall be considered insurance receivables.

(5) In the cases of payment of the bureau under Article 506 instead of an insurer in bankruptcy under Article 565 (1) to the benefit of persons under Paragraph 2 for events that have occurred outside of the territory of the Republic of Bulgaria, a receivable from the Guarantee Fund shall arise for the bureau under the conditions and according to the procedure of this part.

Exceptions

Article 566. (1) In case of bankruptcy of an insurer, guaranteed insurance receivables under Article 565 (2) shall not be paid to:

1. persons holding shares entitling them to 1 or more than 1 per cent of the votes in the general meeting of the insurer;

2. members of management or control bodies of the insurer, to the managing director of the branch of the insurer from a third country registered in the Republic of Bulgaria, as well as to other persons who have been empowered to manage or represent

the insurer or the branch of the insurer from a third country registered in the Republic of Bulgaria;

3. the head and the employees of the compliance department, the internal control department of the insurer and the registered auditors appointed in accordance with the legally established procedure to certify the annual report of the insurer;

4. persons who are related to the insurer, persons who have a participatory interest in the insurer and persons who are related to persons who have a participatory interest in the insurer, as well as persons under Item 1- 3 within such persons;

5. persons who are liable for the bankruptcy of the insurer or who have benefited from it;

6. spouses, relatives in direct and collateral line up to the second degree inclusive of natural persons under Items 1 - 5.

(2) No guarantee shall be provided on insurance receivables arising from or related to transactions and actions constituting money laundering within the meaning of Article 2 of the Measures against Money Laundering Act or financing of terrorism within the meaning of the Measures against Financing of Terrorism Act if the offender is convicted and has an effective sentence.

(3) The circumstances entailing the exceptions under Paragraphs 1 and 2 shall be established as of the date of the decision of the Commission on revocation of the issued licence for insurance.

Functions of the Guarantee Fund with regard to the Security Fund

Article 567. The Guarantee Fund under the conditions and procedure of this Part shall:

1. collect the annual contributions of the insurers;

2. pay the guaranteed amounts of insurance receivables;

3. pay expenses related to the bankruptcy proceedings of the insurer;

4. purchase reinsurance cover at the international market for its liabilities in the case of bankruptcy of insurers in accordance with criteria specified with a resolution of the Commission.

Terms and procedure for payment of amounts on the guaranteed insurance receivables

Article 568. (1) Out of the financial resources of the Security Fund, liabilities of the respective insurer to consumers of insurance services under Article 564 shall be paid upon entry into force of the decision on the declaring the insurer bankrupt.

(2) The guaranteed financial resources shall be paid by the Security Fund by bank transfer.

(3) Within 15 days from endorsement of the list of the receivables accepted, the Guarantee Fund shall make public in at least two central daily newspapers the day from which authorised consumers of insurance services may receive payments from the Security Fund, as well as the bank through which such payments will be made.

(4) Payment of amounts from the Security Fund on indisputable insurance receivables shall commence not later than 45 days from the date of the publication under Paragraph 3. The time limit under sentence one shall be 15 days for subsequent additionally claimed and admitted receivables approved by the court.

(5) Where the guaranteed receivable is denominated in a foreign currency, the consumer of insurance services shall be paid the lev equivalent of the guaranteed amount of the receivable at the exchange rate of the Bulgarian National Bank on the initial day of payment of the guarantee on the receivables.

(6) The amount of the liabilities of the respective insurer to the consumers of insurance services shall be reduced by the amount of the paid sums.

(7) For their receivables above the amount received from the Security Fund, the consumers of insurance services shall satisfy themselves against the property of the insurer in accordance with this Code.

Subrogation

Article 569. (1) From the date of publication of the final list of admitted receivables, the Guarantee Fund shall be subrogated into the rights of the consumers of insurance services against the insurer up to the amount of the guaranteed sums, regardless of the date on which the Guarantee Fund has made payments to every consumer of insurance service.

(2) The Guarantee Fund shall owe no interest on the guaranteed sums.

Restriction on advertising

Article 570. The insurers covered by the system for guarantee of insurance receivables may not advertise guarantee of insurance receivables in amounts exceeding those stipulated in this Part.

Chapter Fifty Three
INFORMATION CENTER OF THE GUARANTEE FUND

Information Centre

Article 571. (1) The Guarantee Fund shall build and maintain an Information Centre, in which it shall keep electronic registers of:

1. the insurance policies under Item 10.1, Section II, Letter "A" of Annex No. 1, the Green Card certificates, the frontier insurance contracts, as well as the insurance policies under compulsory accident insurance of the passengers in the public transport vehicles;

2. the claims lodged and paid under the insurances under Item 3 and 10.1, Section II, Letter "A" of Annex No. 1, lodged before the insurers with a seat of business in the Republic of Bulgaria and before the insurer from a third state performing operations through a branch in the Republic of Bulgaria, as well as the claims lodged and paid under the insurances under Item 10.1, Section II, Letter "A" of Annex No. 1 lodged before the insurers performing operations on the territory of the Republic of Bulgaria under the conditions of the right of establishment or of the freedom to provide services;

3. the motor vehicles which are usually located on the territory of the Republic of Bulgaria;

4. the insurers offering insurance under Item 10.1, Section II, Letter "A" of Annex No. 1, including those performing operations on the territory of the Republic of Bulgaria under the conditions of the right of establishment or of the freedom to provide services;

5. claims settlement representatives of:

a) the insurers offering compulsory third party liability insurance of the motorists, appointed for the Republic of Bulgaria by insurers with a seat of business in a member state;

b) the insurers with a seat of business in the Republic of Bulgaria, appointed in the member states;

6. the carriers which have obtained authorisation to perform public transport of passengers and cargo;

7. the insurers offering compulsory accident insurance to the passengers in the Republic of Bulgaria, including those operating under the conditions of the right of establishment and of the freedom to provide services;

8. the motor vehicles in each member state released from the liability to conclude motorists' compulsory third party liability insurance and the authorities liable for payment of indemnity to the persons injured by such motor vehicles; data under this item

should be collected in accordance with Article 572 (4);

9. road accidents and participants therein.

(2) The time period for storage of the information under Paragraph 1 shall be 50 years.

(3) The access to the data in the Information Centre shall be registered. All the applications for access and transactions for provision of data stored in the Information Centre shall be registered in an automated journal containing the following attributes:

1. identifier of the applicant or recipient;

2. qualified time stamp of the transaction for application for or provision of data;

3. scope of the data applied for or received;

4. status of the transaction (fulfilled or refused).

(4) The content, scope and format of the data under Paragraph 1, the procedure for its collection, processing, storage and protection and the conditions and procedure for registration and for providing access thereto shall be stipulated by an ordinance issued jointly by the Commission, Minister of Interior and Minister of Transport, Information Technologies and Communications, where the opinion of the Guarantee Fund shall also be taken into account when elaborating such ordinance.

(5) The Guarantee Fund shall provide information under Paragraph 1 in connection with an insured event to authorised persons under the conditions and procedure stipulated by this Code and by the ordinance under Paragraph 4.

(6) The insurers and the bureau under Article 506 shall have right of access to the information stored by the Guarantee Fund under the conditions and procedure stipulated in the ordinance under Paragraph 4.

(7) The Commission, Ministry of Interior, and Executive Agency "Automobile Administration" shall have a right of full and free-of-charge access to the information stored by the Guarantee Fund under conditions and procedure stipulated in the ordinance under Paragraph 4.

(8) When processing personal data in the Information Centre of the Guarantee Fund, the Personal Data Protection Act shall apply.

Disclosure of information

Article 572. (1) The Guarantee Fund shall be obligated to provide to the damaged persons, as well as to all persons participating in a road accident caused by a motor vehicle in connection with which there is a motorists' third party liability insurance concluded, the following information:

1. the firm, seat and registered address of the insurer;

2. the number of the insurance contract;

3. the name and the address, respectively the firm, seat and registered address of the representative for the settlement of claims in the Member State of which the damaged person is a resident.

(2) The Guarantee Fund shall also provide data about the identity and address of the owner, the habitual driver or registered holder of the transportation vehicle in accordance with the documents for its registration, in case the damaged person has legal interest to receive such data.

(3) The Guarantee shall provide the damaged person, with regard to his/her right to indemnity under the passengers' compulsory "Accident" insurance, with the firm, seat and registered address of the insurer and with the number of the insurance contract, as well as with information about the firm, seat and registered address of the carrier, should the damaged person have legal interest to receive such information.

(4) For the purposes of the Information Centre in connection with the provision of the information under Paragraph 1 about insurance contracts executed outside the Republic of Bulgaria or in relation to motor vehicles usually located outside the

Republic of Bulgaria, the Guarantee Fund shall request the necessary data from the information centres in the member states. Upon request of the information centres in member states, the Guarantee Fund through the Information Centre shall be obligated to provide information from the register.

(5) In case the Information Centre of the Guarantee Fund has no information about the identity or address of the persons under Paragraph 2, respectively the firm, seat or registered office of the persons under Paragraph 3, it may receive it upon written request from the insurer which is a party to the respective insurance contract or from the competent state authority keeping the registers of the owners of motor vehicles or of the carriers, or from another authority having the relevant data at its disposal.

(6) In order to receive the information under Paragraphs 1, 2 or 3, the damaged person shall specify in the application the exact date and place of occurrence of the insured event and the registration number of the motor vehicle and other data for the establishment of such motor vehicle of which the damaged person is aware.

(7) The Guarantee Fund shall provide the information under this article available to it no later than three day after receiving a written inquiry from the damaged person. This time limit may be extended as regards the information under Paragraph 5, but for no longer than 15 days after receipt of the written inquiry from the damaged person. The information shall be provided free of charge.

(8) The right of access to the information of the authorised persons under Paragraphs 1 and 3 shall be guaranteed for a period of 7 years from the date of the insured event.

(9) The Guarantee Fund through the Information Centre shall provide the information centres of the member states with data on the claims settlement representatives of the insurers under Article 571, Paragraph 1, Item 5, Letter "b". The Guarantee Fund through the Information Centre shall request from the information centres of the member states data on the claims settlement representatives of the insurers under Article 571, Paragraph 1, Item 5, Letter "a".

Provision of information to the Guarantee Fund for the purposes of the Information Centre

Article 573. The information under Article 571 (1) shall be provided as follows:

1. under Item 1 - by the insurers with a seat of business in the Republic of Bulgaria - for all concluded contracts under the insurance, including for their operations under the conditions of the right of establishment or of the freedom to provide services and by the insurers which perform operations on the territory of the Republic of Bulgaria under the conditions of the right of establishment or of the freedom to provide services, as well as by the insurers from a third state which perform operations through a branch registered in the Republic of Bulgaria - for the operations of the branch in the country;

2. under Item 2 - for the claims lodged and paid under Item 10.1, Section II, Letter "A" of Annex No. 1 - by the insurers with a seat of business in the Republic of Bulgaria for all contracts under the insurance, including for their operations under the conditions of the right of establishment or of the freedom to provide services and by the insurers from member states performing operations on the territory of the Republic of Bulgaria under the conditions of the right of establishment or of the freedom to provide services, as well as by the insurers from a third state which perform operations through a branch registered in the Republic of Bulgaria - for the operations of the branch in the country;

3. under Item 2 - for the claims lodged and paid under Item 3 of Section II, Letter "A" of Annex No. 1 - by the insurers with a seat of business in the Republic of Bulgaria for all contracts under the insurance, including for the their operations under the conditions of the right of establishment or of the freedom to provide services, as well as by the insurers from a third state which perform operations through a branch registered in the Republic of Bulgaria - for the operations of the branch in the country;

4. under Item 3 - by the Ministry of Interior;

5. under Items 4 and 7 - by the Commission;

6. under Item 5, Letter "a" and Item 8 - by the information centres of the other member states according to Article 572;

7. under Item 5, Letter "b" - by the insurers with a seat of business in the Republic of Bulgaria, as well as by the insurers from a third state, which perform operations through a branch registered in the Republic of Bulgaria;

8. under Item 6 - by Executive Agency "Automobile Administration";

9. under Item 9 - by the Ministry of Interior and by the insurers with a seat of business in the Republic of Bulgaria and from a third state, performing operations through a branch registered in the Republic of Bulgaria, as well as by the insurers which conclude on the territory of Bulgaria, under the conditions of the right of establishment or of the freedom to provide services, insurance under Item 10.1, Section II, Letter "A" of Annex No. 1 - for the road accidents involving a motor vehicle insured by them, which is usually located on the territory of the Republic of Bulgaria.

Exchange of information and interaction of the Information Centre with the competent state authorities

Article 574. (1) The Information Centre shall exchange information with the competent state authorities which:

1. register the motor vehicles in the Republic of Bulgaria;

2. exercise control under the Road Traffic Act;

3. exercise control over the persons performing regular inspection as to the good technical repair of motor vehicles;

4. exercise control over the public transport of passengers and cargo;

(2) The information which is exchanged between the Information Centre and the state authorities under Paragraph 1 shall be processed and stored for the following needs:

1. automated input into the registers kept under Article 571 of the data from the primary data administrators;

2. automated comparison and validation of data provided to the Information Centre by entities other that the authorities under Paragraph 1 with data provided by primary data administrators;

3. exercising the functions of the bureau under Article 514;

4. exercising the functions of the Guarantee Fund under Paragraph 10, Article 519, Items 4 and 6, Article 572 and Article 575 (4);

5. prevention and investigation of criminal acts by the competent state authorities.

(3) The Ministry of Interior shall provide the Information Centre with data about:

1. the motor vehicles registered in the Republic of Bulgaria, with information about:

a) registration number;

b) type of registration - permanent, temporary, transit;

c) term of validity of the registration;

d) identification number of the motor vehicle - frame (chassis) number;

e) trade mark (model), type, colour, mass of the motor vehicle;

f) type of engine, volume of engine, number of engine, maximum power of engine;

g) number of seats;

h) date of first registration;

i) name/designation, PIN/PFN/UIC/court registration and address/registered office of the owner of the motor vehicle according to the certificate of registration;

j) name/designation, PIN/PFN/UIC/court registration and address/registered office of the user of the motor vehicle according to the certificate of registration;

l) date of decommissioning from movement;

m) date of termination of the registration of the motor vehicle;

n) date of discontinuing the reporting on the motor vehicle;

o) restrictions imposed by competent state authorities or by judiciary authorities;

2. temporary plates with a registration number provided to merchants performing import and sale of motor vehicles with information on:

a) registration number;

c) term of validity of the registration number;

c) name/designation, PIN/PFN/UIC/court registration and address/registered office of the merchant;

d) date of return of the plate;

e) date of termination of the registration;

3. data under the conditions and the procedure of the ordinance under Article 125a (2) of the Road Traffic Act on the registered road accidents and on the participants therein, including information on the insurance policies based on documents provided by the drivers of the motor vehicles.

(4) Executive Agency "Automobile Administration" shall submit to the Information Centre data on:

1. the registered public carriers of passengers and cargo with information on:

a) UIC and name of the carrier;

b) registered office and other address for contacting the carrier;

c) date of registration of the carrier;

d) date of termination of the registration of the carrier;

2. the date of the regular check-up as to the good technical repair of the motor vehicles.

(5) The Information Centre shall provide the Ministry of Interior with work data under the conditions and the procedure of the ordinance under Article 125a (2) of the Road Traffic Act on the road accidents caused and on the participants therein, which are documented by mean of bi-lateral records and of which the Information Centre has been notified as of the end of the previous work day.

(6) The Information Centre shall provide the Ministry of Interior with work data on the existing and terminated insurance contracts under compulsory third party liability insurance of the motorists.

(7) The Information Centre shall provide the Executive Agency "Automobile Administration" with data on the existing and terminated insurance contracts under compulsory accident insurance of the passengers and on the existing and terminated insurance contracts under compulsory third party liability insurance of the motorists.

(8) (Effective 1.07.2016 - SG No. 102/2015) The exchange of the data under Paragraph 3 - 7 shall be performed by electronic means in real time through automated interfaces between the information systems of the authorities under Paragraph 1 in strict compliance with the rules for operational compatibility and information security.

(9) The conditions, procedure and methods of exchange of information, the formats of the data and the classifiers used, as well as the interaction between the Information Centre, the state authorities and the other entities having a legal interest shall be stipulated in the ordinance under Article 571 (4).

(10) The Information Centre shall notify the owners of vehicles for which no contract for obligatory third party liability insurance has been concluded or the insurance contract has been terminated and has not been renewed and shall give them a 14-day time limit as of the date of sending the notification to provide e evidence of the existence of a concluded and valid insurance contract for this type of insurance.

(11) The competent authorities under Paragraph 1 shall take measures for decommissioning from movement of the motor vehicles or the vehicles for public transportation of passengers and for imposing the respective administrative sanctions when no obligatory insurance has been concluded. When no evidence has been provided within the time limit under Paragraph 10 of a concluded contract for compulsory third party liability insurance for the motorists, the Guarantee Fund shall notify the authority under Paragraph 1, Item 1 to terminate the registration of the motor vehicle.

(12) The data from the Information Centre, unless the opposite has been proven, shall certify the insurer, the number the contract for the compulsory third party liability insurance for the motorists or accident insurance for the passengers, the starting and ending date of the cover, the registration and the chassis numbers of the vehicle.

Information system

Article 575. (1) The Guarantee Fund shall set up and maintain an electronic information system for the purposes of Article 571, as well as for assessment, management and control of the risk, including for the issuing of policies and for the provision of electronic administrative services.

(2) The setting up and maintenance of the information system referred to in Paragraph 1 shall be based on the following principles:

1. guaranteeing that the data submitted and stored is up-to-date and accurate;

2. ensuring an adequate data exchange environment;

3. guaranteeing regulated and controlled access to the data in the electronic information system, subject to the statutory requirements of the law;

4. ensuring operational compatibility and information security.

(3) The collection and storage of the information referred to in Paragraph 1, as well as the insurers' access thereto shall be regulated by the ordinance under Article 571 (4) and by the Rules of the Guarantee Fund.

(4) The Information System under Paragraph 1 shall also include data on possible correction of the insurance premium depending on the conduct of the driver when driving on the road and/or the inflicted damages (bonus-malus system).

(5) The Information System shall maintain an automated interface for provision of information for a second-time use in a machine-readable format conformant with an official open standard according to a procedure envisaged by a law.

PART SIX
INSURANCE SUPERVISION

Chapter Fifty Four
ONGOING SUPERVISION

Scope of the ongoing supervision

Article 576. (1) The Commission and the Deputy-Chairperson shall exercise ongoing supervision over the insurers and reinsurers seated in the Republic of Bulgaria regarding their overall operations performed on the territory of the Republic of Bulgaria. The supervision over the financial status under Article 578 shall be exercised by the Commission and by the Deputy Chairperson also regarding their operations performed on the territory of the member states under the conditions of the right of

establishment or of the freedom to provide services.

(2) The ongoing supervision over the insurers from Member States performing operations in the Republic of Bulgaria under the conditions of the right of establishment and of the freedom to provide services shall be exercised by the Commission and by the Deputy Chairperson regarding their operations on the territory of the Republic of Bulgaria, except for the supervision over their financial condition within the meaning of Article 578, which shall be exercised by the competent authorities of the Member State at their seat.

(3) The ongoing supervision over insurers from a third country performing operations in the Republic of Bulgaria through a branch office, shall be exercised by the Commission and by the Deputy Chairperson regarding the overall operations of the branch in the country. In case the competent supervision authorities hereunder have been selected in accordance with Article 62, Paragraph 3 of this Code, ongoing supervision shall be exercised pursuant to Paragraph 1, and in case the authorities of another Member State were selected, ongoing supervision shall be exercised pursuant to Paragraph 2.

(4) The Deputy Chairperson shall exercise ongoing supervision over the entire operations of the insurance intermediaries with permanent residence or seat in the Republic of Bulgaria, shall monitor the continuous compliance with the conditions for their operations and shall undertake the measures hereunder for removal of established violations.

General principles of supervision

Article 577. (1) The supervision over the insurers under Article 576, Paragraphs 1 and 3 shall be based on ongoing assessment of the risks that they are exposed to and shall be forward looking. The Commission and the Deputy Chairperson shall exercise continuous supervision over the operations of the insurers and the reinsurers and, where applicable, over the operations of the insurance holdings and mixed insurance holdings in order to ascertain whether their operations are performed in a reliable and secure manner and whether the requirement of this Code, the regulations for its implementation, as well as the acts of the European Commission for implementation of Directive 2009/138/EC are being complied with.

(2) The insurance supervision shall include an appropriate combination of remote activities and on-the-spot inspections.

(3) The legislative framework under Paragraph 1 shall be applied in a manner corresponding to the nature, scale and complexity of the risk typical for the operations of the respective insurer or reinsurer.

(4) The Commission and the Deputy Chairperson shall exercise supervision over the distribution of the insurance products and over the insurance claim settlement for compliance with the requirements of this Code and of the other applicable acts of the competent authorities of the European Union in this field.

Supervision over the financial status

Article 578. (1) The supervision over the financial status shall include control as regards the overall operations of the insurer or reinsurer, over its solvency, the technical reserves formed, the assets used for their coverage and the eligible own funds in accordance with the provisions of Part Two, Title Three and Title Four.

(2) Supervision under Paragraph 1 shall also cover the technical resources for immediate provision of travel assistance by insurers which have been issued a licence under Item 18, Section II, Letter "A" of Annex No. 1 During an inspection of the technical resources under sentence one, the Minister of Transport, Information Technologies and Communications, the Minister of Health and other competent authorities shall be obligated to provide assistance to the Commission and the Deputy Chairperson.

(3) For the purpose of supervision under Paragraph 1, the Commission, advising in advance the competent authority of the home Member State of the branch office, may conduct on-site inspections, severally or jointly with said authority.

(4) A competent authority of a Member State may, in exercising its powers under the national legislation and upon advising the Commission in advance, conduct on-site inspections at the branch offices registered on the territory of the Republic of Bulgaria of insurers or reinsurers with a seat of business in such member state. The Commission may delegate a representative to participate in said inspection.

(5) When the Commission is practically obstructed in performing the inspection under Paragraph 3, it may turn for assistance to the European Authority according to the procedure of Article 19, Paragraphs 1 - 3 and Paragraph 6 of Regulation (EU) No. 1094/2010.

(6) The European Authority shall have the right to participate in inspections performed jointly by the Commission and by competent authorities from another member state.

Powers of the competent authorities

Article 579. (1) Article 18 and 19 from the Financial Supervision Commission Act shall apply to the ongoing supervision.

(2) The insurers and reinsurers seated in a Member State shall present to the Commission and the Deputy Chairperson the documents and information needed with regard to supervision under Article 576 (2).

(3) The Commission and the Deputy Chairperson shall publish the insurers' and reinsurers' annual and regular financial reports and the applied coercive administrative measures when this is envisaged in this Code or in the directly applicable law of the European Union, as well as the imposed administrative sanctions under the conditions and pursuant to the procedure set out in the ordinance under Article 30 (2) of the Financial Supervision Commission Act.

(4) The Deputy Chairperson may not prohibit the conclusion of a reinsurance contract or of a retrocession contract with a reinsurer licensed under this Code or with a reinsurer from another member state, or with an insurer licensed under this Code or with an insurer from another member state on grounds immediately related to the financial stability of the reinsurer or of the insurer respectively.

Notification

Article 580. In case the Commission decides that an insurer or a reinsurer, having a seat of business in another Member State, covering risks within the territory of the Republic of Bulgaria in accordance with the terms and conditions of the right of establishment and the freedom to provide services, in performing its operations jeopardises its financial stability, the Commission shall notify thereof the competent authority of the insurer's Member State of origin.

Disclosure of information in connection with the insurance supervision and provision of information to the European Authority

Article 581. (1) The Commission shall disclose the following information in connection with the insurance supervision:

1. the primary legislation, secondary legislation and administrative acts in the field of insurance;

2. the general criteria and methods, including the instruments developed in accordance with Article 583 and used within the process of supervisory review;

3. aggregate statistical data on the key aspects of the application of the supervisory legislative framework stipulated by an act of the European Commission;

4. the method of applications of the options envisaged in Directive 2009/138/EC;

5. the objectives of the supervision and main functions and activities of the supervision.

(2) The disclosure of information under Paragraph 1 shall be in such a volume as to afford an opportunity for comparison of the supervision approaches adopted by the supervision authorities of the various member states.

(3) The disclosure of information shall be made in a format stipulated by an act of the European Commission, where the information shall be updated on timely basis. The information specified in Paragraph 1 shall be published on the internet page of the Commission.

(4) The Commission shall provide the European Authority with the information under Article 52, Paragraph 1 of Directive

2009/138/EC.

(5) The Commission shall inform the European Commission and the European Authority of the number and type of cases:

1. of refusal to send notification to local insurers for performance of operations under the conditions of the right of establishment or of the freedom to provide services in another member state;

2. coercive measures or administrative penalties imposed on insurers from other member states, performing operations in the country under the conditions of the right of establishment or of the freedom to provide services.

Supervisory review process

Article 582. (1) The Deputy Chairperson shall perform a review and assessment of the strategies, processes and reporting procedures introduced by the insurer or by the insurer for the purpose of ensuring compliance with this Code, with the regulations for its implementation, as well as with the acts of the European Commission for implementation of Directive 2009/138/EC (supervisory review process).

(2) The supervisory review process shall comprise:

1. the assessment of the qualitative requirements as regards the management system of the insurer or reinsurer, and

2. the assessment of the risks that confront or may confront the respective person, and

3. the assessment of the capabilities of the insurer or reinsurer to assess the risks under Item 2, while taking into account the circumstances under which the insurer or reinsurer is performing its operations.

(3) The Deputy Chairperson shall perform a supervisory review of the compliance with the requirements to:

1. the management system, including the proprietary risk and solvency assessment;

2. the technical reserves;

3. the capital solvency requirements or the solvency margin and the minimum capital requirement or the minimum guarantee capital respectively;

4. rules for making investments;

5. quality and quantity of the own funds;

6. the comprehensive or partial internal model, including whether these requirements are continuously being complied with, when the insurer or reinsurer uses such a model.

(4) The Commission and the Deputy Chairperson shall develop and apply appropriate means and methods for monitoring, which enable them to discern the deteriorating financial condition of an insurer or a reinsurer and to keep track of how such a deterioration has been overcome.

(5) The Deputy Chairperson shall assess the adequacy of the methods and practices of the insurer or of the reinsurer respectively, intended for ascertaining possible future events or future changes in the economic conditions which could have an adverse effect on the overall financial conditions of the respective entity.

(6) The Deputy Chairperson shall assess the capabilities of the insurer or reinsurer to withstand such possible future events or future changes in the economic conditions.

(7) When the supervisory review process finds weaknesses or shortcomings, the Deputy Chairperson shall order to the respective insurer or reinsurer to remedy those within the time limit stipulated by this Code or by the competent authority and shall undertake all measures envisaged in this Code and necessary for achieving such result.

(8) The supervisory review process under Paragraphs 1 - 4 and 6 shall be performed on a regular basis.

(9) The Deputy Chairperson shall stipulate the minimum frequency and scope of the supervisory review process by taking into

account the nature, volume and complexity of the operations of the respective insurer or reinsurer.

Supplementary tools for quantitative assessment

Article 583. (1) Within the bounds of the supervisory review process, in addition to the calculation of the capital solvency requirement, the Deputy Chairperson may develop, if appropriate, the necessary quantitative tools for assessment of the capabilities of the insurers or reinsurers to cope with possible events or future changes in the economic conditions that could have an adverse effect on their overall financial condition.

(2) The Commission may, on a proposal by the Deputy Chairperson, order that stress tests be performed on a regular basis by the insurers and reinsurers.

Adding capital

Article 584. (1) As a consequence of the supervisory review process, the Commission may, on a proposal by the Deputy Chairperson and under extraordinary circumstances, order by a reasoned decision that extra capital be added to the capital of an insurer or a reinsurer in the following cases:

1. when the Commission makes an assessment that the risk profile of the insurer or reinsurer significantly deviates from the assumptions underlying the capital solvency requirements calculated by using the standard formula, and:

a) the requirement to use an internal model pursuant to Article 190 is inappropriate or proved to be ineffective, or

b) for the time period of development of a comprehensive or partial internal model by virtue of Article 190;

2. when the Commission makes an assessment that the risk profile of the insurer or reinsurer significantly deviates from the assumptions underlying the capital solvency requirements calculated by using a comprehensive or partial internal model since certain quantitatively measurable risks are encompassed to an unsatisfactory degree and the adaptation of the model to better reflect the actual risk profile was unsuccessful within a reasonable time period;

3. when the Commission makes an assessment that the management system of the insurer or reinsurer significantly deviates from the standards under Article 76 - 79 and Article 86 - 100 and these deviations impede the undertaking in its efforts to appropriately determine, measure, monitor, manage and report the risks that it is or it may be exposed to, whereas the application of other measures in itself is unlikely to bring about the necessary remedying of the shortcomings within an appropriate time period;

4. when the insurer or reinsurer applies an equalising correction, a volatility correction or the transitional measures and Commission makes an assessment that its risk profile significantly deviates from the assumptions underlying these corrections or transitional measures.

(2) In the cases under Paragraph 1, Items 1 and 2, the extra capital added shall be calculated in such a manner as to enable the person to comply with the requirements under Article 170 (3). In the cases under Paragraph 1, Item 3, the extra capital added must be proportionate to the material risks stemming from the shortcomings that warrant the decision for adding this extra capital. In the cases under Paragraph 1, Item 4, the extra capital added must be proportionate to the material risks stemming from the deviations found.

(3) In the cases under Paragraph 1, Items 2 and 3, the Commission and the Deputy Chairperson shall take all measures in respect of the insurer or reinsurer to guarantee the remedy of the premises that lead to the need to add extra capital.

(4) The Commission shall review the extra capital added at least once a year and shall revoke the addition, when the insurer or the reinsurer has remedied the premises that lead to the need to add extra capital.

(5) The capital solvency requirement, including the imposed added capital, shall replace the inadequate capital solvency requirement. For the purposes of calculation of the addition for risk, when it is separately calculated, the capital solvency requirement shall be taken into account without the capital addition imposed under Paragraph 1, Item 3.

(6) The supplementary conditions and procedure for imposing and revoking the addition of capital, as well as the methodology for calculation of the capital to be added, shall be stipulated by an act of the European Commission.

Exchange of information with the competent authorities

Article 585. (1) The Commission and the Deputy Chairperson shall take the opinion of the competent authorities carrying out insurance supervision in another Member States before issuing a licence to an insurer or to a reinsurer:

1. whose parent undertaking is an insurer or a reinsurer licensed in this member state;

2. whose parent undertaking has a subsidiary undertaking which is an insurer or a reinsurer licensed in this member state;

3. which is controlled by another natural person or legal entity, which exercises control over an insurer or a reinsurer licensed in this member state.

(2) The Commission and the Deputy Chairperson shall take the opinion of the Bulgarian Central Bank and of the authorities carrying out insurance supervision in another Member State before issuing a licence to an insurer or to a reinsurer:

1. whose parent undertaking is a credit institution licensed in the Republic of Bulgaria or in the other member state;

2. whose parent undertaking has a subsidiary undertaking which is a credit institution licensed in the Republic of Bulgaria or in the other member state; or

3. which is controlled by another natural person or legal entity which exercises control over a credit institution licensed in the Republic of Bulgaria or in the other member state.

(3) The Commission and the Deputy Chairperson shall take the opinion of the competent authorities carrying out supervision over the investment intermediaries in the Member States before issuing a licence to an insurer or to a reinsurer:

1. whose parent undertaking is an investment intermediary licensed in the other member state;

2. whose parent undertaking has a subsidiary undertaking which is an investment intermediary licensed in the other member state; or

3. which is controlled by another natural person or legal entity, which exercises control over an investment intermediary licensed in the other member state.

(4) The Commission and the Deputy Chairperson shall provide upon request by the competent authorities under Paragraphs 1 - 3 an opinion in case an insurer or a reinsurer seated in the Republic of Bulgaria, a natural or legal person controlling an insurer or a reinsurer seated in the Republic of Bulgaria exercises control over an insurer or a reinsurer, a bank or an investment intermediary subject to the supervision of these authorities.

(5) Exchange of information according to the procedure of Paragraphs 1 - 3 shall be performed upon an assessment of the fitness of the shareholders, as well as of the qualification and good reputation of the members of the management and control bodies, the other persons who manage or represent the insurer or the reinsurer or who perform key functions and are related to the management of another undertaking within the group. This information shall also be provided with regard to the proceedings for issuance of licence or for acquisition of qualified participating interest, and with regard to the ongoing supervision exercised over the operations of these companies.

(6) Should an insurer or a reinsurer seated in the Republic of Bulgaria be directly or indirectly related to an insurer or a reinsurer seated in a Member State or these insurers or reinsurers have a common participating undertaking, the Commission and the Deputy Chairperson shall exchange with the competent authorities in such state any information of relevance to the supervision over the insurers or reinsurers which are part of a group. The information shall be provided upon request of the interested party, or ex officio, should it be considered important for the respective supervision authority.

(7) The Commission and the Deputy Chairperson shall exchange with the competent authorities exercising insurance supervision in the Member States other documents and information for the purposes of supervision over insurers and reinsurers.

(8) The Commission and the Deputy Chairperson shall exchange with the competent authorities of the other member states any

necessary information for exercising supervision over the operations of the insurance intermediaries.

Supervision over the general terms and conditions

Article 586. The insurers with a seat of business in the Republic of Bulgaria, the branch offices of insurers from third states registered in the Republic of Bulgaria and the insurers from other member states performing operations on the territory of the Republic of Bulgaria under the conditions of the right of establishment or of the freedom to provide services shall be obligated, on an order by the Deputy Chairperson, to submit their general terms and conditions of the insurance policies. The Deputy Chairperson shall give instructions for their amendment should incompliance with a legal instrument be established.

Chapter Fifty Five
COERCIVE ADMINISTRATIVE MEASURES

Section I
Types of coercive administrative measures. Proceedings.

Types of measures

Article 587. (1) The Commission or the Deputy Chairperson may apply the measures under Paragraphs 2 and 3 when they ascertains that an insurer or a reinsurer, its employees, any of the persons under Articles 80 concluding transactions on behalf of an insurer or a reinsurer, the shareholders or members in a cooperative, holding directly, together with or through related parties 10 or more than 10 per cent of the votes in the General Meeting or of the capital of the insurer or the reinsurer, have committed actions or omission to act that may result or that resulted in:

1. a violation of the provisions of this Code, the secondary legislation concerning its implementation, the directly applicable law of the European Union, the acts of the Commission or of the Deputy Chairperson or the policies of the insurer or reinsurer under Article 77;

2. impeding the exercise of insurance supervision;

3. jeopardising the financial or organisational stability of an insurer or a reinsurer;

4. jeopardising the interests of the insurance service consumers.

(2) In cases under Paragraph 1, the Deputy Chairperson may apply the following coercive administrative measures:

1. order in writing the undertaking of specific measures for the prevention or termination of committed violations and the repair of their harmful consequences;

2. order the undertaking of actions for compliance with the "prudent investor" principle;

3. convene the general meeting of shareholders or of the members of a cooperative or schedule a meeting of the management or control bodies for adopting a decision on the measures to be undertaken according to the agenda stipulated by him or her;

4. send representative of the Commission to the sessions of the general meeting of the shareholders or of the members of a cooperative and of the management and control bodies;

5. obligate an insurer offering compulsory insurance to conclude a contract with a person that has been refused such conclusion;

6. impose additional reporting requirements to the insurer or reinsurer;

7. obligate the insurer or reinsurer to dismiss the head of one or more key functional departments, individuals holding management positions, and/or terminate the powers of persons concluding transactions on behalf of the insurer or reinsurer;

8. order the insurer or reinsurer to terminate a contract under Article 111 (5).

(3) In cases under Paragraph 1, the Commission upon proposal of the Deputy Chairperson may:

1. (amended, SG No. 95/2016) order in writing the insurer or reinsurer to undertake the necessary actions for the dismissal of one or more persons authorised to manage or represent the insurer or the reinsurer or for the dismissal of one or more persons under Article 80, as well as for the dismissal of the auditors under Article 101 (1);

2. order in writing a shareholder to transfer its shares within a specified term;

3. restrict or prohibit the discretionary disposal of assets in the cases of violation of Article 123 and of other provisions related to the formation of technical reserves in the event of established non-compliance with the minimum capital requirement or the minimum guarantee capital, as well as with the capital solvency requirement and the solvency margin respectively, as well as in the event of revoking the licence of the insurer or the reinsurer;

4. for a term of up to 12 months suspend a shareholder from exercising the right of voting;

5. assign a questor for up to one year;

6. prohibit the conclusion of new insurance or reinsurance contracts for all or some types of insurances, the extension of concluded insurance contracts, and the extension of coverage thereunder for a period of up to 6 months;

7. impose measures for rehabilitation of the insurer's or reinsurer’s financial condition;

8. obligate the insurer or reinsurer to increase its own funds within a prescribed time limit;

9. temporarily suspend the payment of dividends;

10. (amended, SG No. 95/2016) appoint registered auditors according to the Independent Financial Audit Act, actuary, appraiser or another independent expert who shall perform a financial, actuarial or other audit at the expense of the insurer or of the reinsurer;

11. apply the measures under Article 145 (1), Article 174, Article 189 (2), Article 190, Article 199 (2), Article 211 (5), Article 212 (3), Article 213 (3), Article 215 (3), Article 217, Article 237 (6), Article 253, Article 254 (2), Article 255 (7) and Article 261 (5).

(4) Revocation of a license under Articles 40 or 63 shall also be a coercive administrative measure, unless the person has explicitly made a waiver of the issued license. In the cases under Articles 40 or 63, the Commission shall prohibit the discretionary disposal of assets of the insurer pending the commencement of liquidation or bankruptcy proceedings.

(5) The Commission may inform the public of the measures applied under Paragraphs 2 - 4 or of operations that threaten the interests of the insured persons.

(6) The provisions of the Administrative Procedure Code shall not apply to the application of coercive administrative measures under Paragraph 2, Item 2 - 4, Paragraph 3, Items 3, 5 and 6 and Paragraph 4 as regards the explanations and objections of interested parties.

(7) Coercive administrative measures under Paragraph 2, Items 1 and 6 and Paragraph 3, Items 1 and 8 can also be imposed on insurance brokers.

(8) Depending on the nature of the transferred operations, the Deputy Chairperson may also apply the coercive measures under Paragraph 2 to third persons, to which an insurer or a reinsurer has transferred operations.

(9) At the request of the Deputy Chairperson or of the Commission respectively, the circumstances and the acts referred to in Paragraph 2, Item 3 and in Paragraphs 3 - 5 shall be entered in the Commercial Register.

Proceedings for implementation of coercive administrative measures

Article 588. (1) The proceedings for implementation of coercive administrative measures shall be initiated upon initiative of the Deputy Chairperson.

(2) The notifications and communications in the proceedings for implementation of coercive administrative measures shall be made according to the procedure of Article 61 of the Administrative Procedure Code.

(3) In case the notifications and communications are not accepted at the address, telephone, fax or e-mail address specified by the persons or recorded in the register under Article 30 (1) of the Financial Supervision Commission Act, these shall be considered validly made if placed at the specifically designated areas of the building of the Commission. The notice of notification shall also be published on the web page of the Commission in the cases under sentence one. The latter circumstance shall be certified by a protocol prepared by officials designated by an order of the Deputy Chairperson.

(4) The coercive administrative measures under Article 587 (2) shall be imposed by a written reasoned resolution of the Deputy Chairperson, and the coercive administrative measures under Article 587 (3) - by a written reasoned resolution of the Commission. Resolutions shall be notified to the interested person within 7 days from their issuance.

(5) The resolution for implementation of coercive administrative measures shall be subject to immediate execution, irrespective of being appealed. The appeal of a resolution for implementation of a coercive administrative measure shall not suspend its execution.

Applicability of the Administrative Procedure Code

Article 589. The Administrative Procedure Code shall apply to the proceedings for implementation of coercive administrative measures, unless otherwise herein provided for.

Measures for rehabilitation and applicable law

Article 590. (1) When exercising supervision over the insurers under Article 576 (1), the Commission and the Deputy Chairperson shall apply the rehabilitation measures to the insurer and to its branch offices in other member states.

(2) The rehabilitation measures shall be stipulated by the Bulgarian legislation, unless otherwise stipulated in this Code.

(3) The rehabilitation measures as per the Bulgarian legislation shall be applied in the member states without any additional formalities, including against third persons even when such measures are not envisaged or are applied under different conditions in the respective states.

(4) The rehabilitation measures as per the Bulgarian legislation shall enter into force in all member states from the moment of their entry into force according to the Bulgarian legislation.

(5) When exercising the supervision under Article 576 (3), the Commission and the Deputy Chairperson shall apply the rehabilitation measures to the branch office of the insurer from a third state in the Republic of Bulgaria and, where relevant, shall coordinate their actions with the supervision authorities in other member states where the same insurer has other branch offices.

Section II
Specific rules in the proceedings for implementation of coercive administrative measures

Notifying Member States of coercive administrative measures taken

Article 591. (1) The Deputy Chairperson shall notify the competent authorities of the Member States where an insurer or a reinsurer seated in the Republic of Bulgaria carries out operations under the conditions of right of establishment or of freedom to provide services of the imposed coercive administrative measures under Article 587, Paragraph 3, Items 3 and 7 and shall advise whether they should undertake the same measures.

(2) In case the Commission has imposed a coercive administrative measures under Article 587, Paragraph 3, Item 3 with regard to the revocation of licence of an insurer or a reinsurer seated in the Republic of Bulgaria and carrying out operations under the conditions of the right of establishment or the freedom to provide services, the Commission shall suggests to the competent authorities of the respective Member States to impose the same measure.

Acts of the Commission upon its notification of the implementation of a coercive administrative measure to an insurer or a reinsurer seated in another Member State

Article 592. (1) In case the Commission is notified by the respective competent authority of a Member State of origin of an imposed restriction or prohibition for disposal of assets, and of measures undertaken with regard to the application of a short-term plan to an insurer or a reinsurer carrying out operations in the Republic of Bulgaria under the conditions of the right of establishment and of the freedom to provide services, it shall undertake the same measures against the insurer or reinsurer should there be a request to this effect.

(2) In case the Commission is notified by the respective competent authority of a Member State of origin of the revocation of licence of an insurer or reinsurer carrying out operations in the Republic of Bulgaria under the conditions of the right of establishment and of the freedom to provide services, the Commission shall undertake actions to prevent the conclusion by the insurer or by the reinsurer of new insurance or reinsurance contracts, the extension of existing contracts, the increase of the insurance amounts and the extension of coverage. In cooperation with the competent authorities of the Member State of origin, the Commission shall take all necessary measures for protection of the interests of the insured persons, including the restriction of the insurer's or reinsurer’s right to dispose of its assets.

Coercive administrative measures against an insurer or a reinsurer from another Member State

Article 593. (1) In case the Deputy Chairperson ascertains that an insurer from another Member State carrying out operations in the Republic of Bulgaria under the conditions of the right of establishment and of the freedom to provide services violates this Code or the regulations concerning its implementation, the Deputy Chairperson shall order in writing that the violations be discontinued and the harmful consequences thereof be eliminated.

(2) In case the violations are not discontinued within the specified time limit, the Deputy Chairperson shall notify the competent authority in the Member State at the origin of the insurer and advise on the need to undertake measures.

(3) If in spite of the measures undertaken by the competent authorities of the Member State of origin or if these turned out to be inappropriate or insufficient, or if such measures have not been undertaken and the insurer continue to violate this Code or the regulations concerning its implementation, the Deputy Chairperson may, after notifying the competent authorities of the Member State of origin of the insurer, undertake the necessary measures to discontinue the violations and to impose sanctions, and in very serious cases - prohibit the insurer from conclusion of new insurance contracts in the Republic of Bulgaria. The Commission may refer the matter to the European Authority as well and to request assistance according to the procedure of Article 19 of Regulation (EU) No. 1094/2010.

(4) In exceptional cases, the Deputy Chairperson may impose the measures under Paragraph 3 without prior notification to the competent authority of the Member State of origin of the insurer, as provided for in Paragraph 2 and 3.

(5) Paragraphs 1, 3 and 4 shall also apply to reinsurers seated in a Member State. The notification under Paragraph 2 shall be made simultaneously with the issuing of the order under Paragraph 1.

Actions of the Commission

Article 594. In case the Commission is notified by the respective competent authority of the Member State of the branch office or at the provision of services of an insurer or a reinsurer seated in the Republic of Bulgaria which violates the legislation of the state on the territory of which it carries out operations under the conditions of right of establishment or of the freedom to provide services, the Commission or the Deputy Chairperson respectively shall apply coercive administrative measures under Article 587 and shall notify the competent authority of the respective Member State of the applied measures.

Special rules for participation in administrative, administrative penal and legal proceedings. Delivery of documents

Article 595. (1) An insurer, a reinsurer, an insurance or a reinsurance intermediary from a Member State or from a third country which has opened a branch in the Republic of Bulgaria, shall participate in administrative, administrative penal and legal proceedings before Bulgarian administrative or judicial authorities through the authorised representative of the branch. The actions performed by or against the authorised representative shall be binding on the insurer, reinsurer or intermediary. The documents delivered in accordance with the established procedure at the registered address of the branch shall be considered delivered to the insurer, reinsurer or intermediary. This provision shall apply mutatis mutandis to insurers, reinsurers or insurance intermediaries seated in the Republic of Bulgaria carrying out operations in a Member State under the conditions of the right of establishment.

(2) In proceedings for imposing coercive administrative measures and for implementing administrative penalties for violations committed by an insurer, reinsurer, insurance or reinsurance intermediary from a Member State carrying out operations in the territory of the Republic of Bulgaria under the conditions of the freedom to provide services, the Commission, its Chairperson or Deputy Chairperson shall send documents and notifications in accordance with the procedure set out by the law of the Member State by the person's seat and may request cooperation from the competent authorities of the other Member States for the delivery or notification. Where such procedure is not stipulated and delivery of documents or notification cannot be effected with the cooperation of the competent authorities, the documents and notifications shall be sent by registered mail with advice of delivery to the registered address of the person in the Member State by its seat and shall be considered delivered on the date of receipt recorded in the advice of delivery.

(3) In proceedings for implementing coercive administrative measures and for imposing administrative sanctions for violations committed by an insurer, reinsurer, insurance or reinsurance intermediary seated in the Republic of Bulgaria and carrying out operations on the territory of a Member State under the conditions of the freedom to provide services, the competent authority of the country by place of providing the services shall send documents and notifications by registered mail with advice of delivery to the registered address of the person in the Republic of Bulgaria. The documents and notifications shall be considered delivered on the date of receipt recorded in the advice of delivery. Where the law of the country by place of providing the services does not provide for notification under sentence one and sentence two, the Deputy Chairman shall organise delivery of the documents and notifications on behalf of the competent authority of the Member State.

Rehabilitation measures imposed by competent authorities in other member states

Article 596. (1) When exercising supervision over an insurer seated in another Member State, the respective supervision authority shall apply the rehabilitation measures to it and to its branches in other Member States.

(2) The rehabilitation measures shall be stipulated by the legislation existing at the seat of the insurer, unless otherwise stipulated in this Code.

(3) The rehabilitation measures as per the legislation existing at the seat of the insurer shall be applied in the Republic of Bulgaria without any additional formalities, including against third persons even when such measures are not envisaged or are applied under different conditions in the Republic of Bulgaria.

(4) The rehabilitation measures as per the legislation existing at the seat of the insurer shall enter into force in the Republic of Bulgaria from the moment of their entry into force according to the applicable legislation.

Chapter Fifty Six

QUESTORS

Questors

Article 597. (1) The Commission may appoint one or more questors of the insurer or a reinsurer when:

1. there are serious omissions and deficiencies in the management or multiple or grave violations have been committed of this Code, the regulations for its implementation, the directly applicable law of the European Union, the statutes or the other acts of the insurer or of the reinsurer respectively, and/or

2. the person submits false information about the results of its operations or in any other way impedes insurance supervision, and/or

3. the persons is in a procedure for implementation of a plan for attaining solvency or of a short-term plan.

(2) A questor shall be appointed by a decision of the Commission, which shall be entered into the Commercial Register and shall be announced in another appropriate manner.

(3) A questor shall also be appointed when the licence of an insurer or a reinsurer is withdrawn until the appointment of a trustee-in- bankruptcy or until the entry of a liquidator into the Commercial Register.

(4) After serving the decision under Paragraph 2, the rights of the management board and supervisory board and the rights of the Board of Directors of the insurer or of the reinsurer shall be terminated, with the exception of their right to appeal the decision in court. The powers of the general meeting of the shareholders and of the members in a cooperative respectively shall also be terminated, with the exception of their right to make a decision for dissolution of the insurer or of the reinsurer. Such a decision may affect the powers of the questor. The questor may also convene the general meeting of shareholders or of cooperative members given an agenda which may not be amended by the meeting. The remaining bodies of the insurer or of the reinsurer respectively may keep on functioning under the control of the questor.

(5) The management by a questor under Paragraph 1 shall continue for one year from the date of the issuing of the decision, unless a shorter term of office is envisaged in the decision or unless the Commission allows for the management by a questor to be terminated prematurely. When, at the end of the term envisaged in the decision, the conditions for introducing management by a questor have not disappeared, the management by a questor may be extended by a new decision of the Commission by not more than 1 year.

Questors

Article 598. (1) The Commission may dismiss or replace a questor, when this is necessary for the good management of the insurer or of the reinsurer, as well as when the person no longer meets the requirements under Paragraph 3.

(2) The remuneration of the questor shall be determined by the Commission and shall be paid by the insurer or by the reinsurer.

(3) The questor:

1. must meet the requirements for qualification and good reputation, which are applicable to the members of the management board or of the board of directors of an insurer or of a reinsurer;

2. may not be a spouse, a relative by direct or collateral line up to the fourth degree inclusive and by marriage up to the third degree inclusive of a member of a management or control body or of another person who managed or represented the insurer or the reinsurer during the last few days before the date of appointment of the questor;

3. may not be in relations with the insurer or reinsurer or with its debtors or creditors such as to raise well-grounded suspicion as regards his or her impartiality.

(4) The absence of a conflict of interests under Paragraph 3, Items 2 and 3 shall be established by an affidavit before the

Commission.

(5) A questor of an insurer or reinsurer may also be an employee from the administration of the Commission.

Powers of the questors

Article 599. (1) The questor shall exercise all functions and powers for managing and representing the insurer or the reinsurer, including the functions of an employer. The questor shall determine the condition of the undertaking, shall eliminate the violations and shall manage the undertaking in the best interest of the insured persons and of the beneficiary persons. The powers of the questor shall not be restricted by the statutes of the insurer or of the reinsurer.

(2) The questor may undertake actions for transfer of a portfolio according to the procedure of this Code, for transfer of the commercial undertaking of the insurer or of the reinsurer respectively or of its assets and/or liabilities only after an approval by the Commission.

(3) (Amended, SG No. 95/2016) After an approval by the Commission, the questor may initiate lawsuits for engaging the liability of members of management or supervisory bodies of the insurer or reinsurer, as well as of other persons who have managed or represented the insurer, of the persons who have exercised key functions, as well as of the auditors under Article 101(1).

(4) (Amended, SG No. 95/2016) By an approval by the Deputy Chairperson, the questor may replace any person who has carried out a key function within the meaning of this Code. With the approval by the Commission, the questor may make replacements as regards the auditors under Article 101(1).

(5) With the approval by the Deputy Chairperson, the questor may convene the general meeting of the insurer or of the reinsurer, in the case of which Article 597, Paragraph 4, Sentence Four shall be applied accordingly.

(6) The Commission or the Deputy Chairperson respectively shall grant or refuse to grant approval under Paragraph 2 - 5 by virtue of a decision.

(7) The insurer shall be represented by the questor but - when there are more than one questors - only jointly by two questors. Actions performed on behalf of the insurer or reinsurer in violation of Sentence One shall be null and void.

(8) The questor shall have unlimited access and control over all premises, properties and documents of the insurer or of the reinsurer. All employees of the insurer or of the reinsurer shall be obligated to assist the questor in fulfilling his or her powers. Upon request by the questor or by the Commission, the police shall assist the questor in fulfilling his or her powers.

(9) The Commission and the Deputy Chairperson shall have the right to make obligatory prescriptions to the questor in connection with the fulfilment of his or her functions.

(10) Each month, as well as immediately upon request, the questor shall submit to the Commission reports with a content and form stipulated by the Deputy Chairperson.

Entering into office

Article 600. (1) The questor shall enter into office from the moment of the decision of the Commission for his or her appointment.

(2) Upon request by the Commission, the police authorities shall be obligated to provide assistance to ensuring access of the questor to all premises used by the insurer or by the reinsurer respectively, including those that are known to be used by the insurer. Whenever necessary and with the preliminary approval by the Deputy Chairperson, the questor shall order that the premises, property and/or archive of the insurer or of the reinsurer be sealed and inventory listed.

Termination of the activity of the questor

Article 601. (1) At the end of the term of office for which he or she has been appointed, the questor shall prepare a final reports on his or her activities and shall submit it to the Commission.

(2) The questor shall prepare financial statements as of the date of termination of his or her activity and shall submit them to the Commission.

(3) The questor shall perform his or her activity pending the entry into the register of the new management bodies, liquidator or trustee-in-bankruptcy of the insurer or of the reinsurer respectively.

PART SEVEN
LIQUIDATION AND BANKRUPTCY

Chapter Fifty Seven
LIQUIDATION AND BANKRUPTCY

Section I
Liquidation

Termination

Article 602. (1) The insurer or the reinsurer shall be dissolved:

1. Voluntarily - only by a resolution of the General Meeting and in compliance with the provisions of Article 603 and 604;

2. Coercively - upon withdrawal of the licence under Article 40, Paragraph 1, Items 1 - 4 and Paragraph 2, Items 1 - 8;

3. Upon declaration of bankruptcy.

(2) Upon liquidation and bankruptcy of an insurer or a reinsurer, the receivables of creditors from Member States or from third states shall be satisfied in the same way as the receivables of creditors from the Republic of Bulgaria.

(3) For the purposes of this Part, an "insurance receivable" shall be each receivable of a consumer of insurance services under an insurance contract, including a receivable of redemption value or of return of premium under an insurance contract, which has not been concluded or which has not entered into force or in the case of premature termination of an insurance contract. The amounts earmarked for a consumer of insurance services, when some elements of the liability are yet unknown, shall also be considered insurance receivables.

Voluntary dissolution of an insurer or a reinsurer

Article 603. (1) Voluntary dissolution of an insurer or a reinsurer shall be carried out under a resolution of the general meeting and after obtaining authorisation from the Commission. For the purpose of the issuance of an authorisation for dissolution, the insurer or the reinsurer respectively shall submit an application, to which the following shall be attached:

1. Minutes of proceedings from the general meeting, at which the resolution for voluntary dissolution has been adopted, and a proposal for appointment of a liquidator;

2. A liquidation plan adopted by the general meeting which shall contain:

a) a time limit for completion of the liquidation;

b) remuneration of the liquidator or liquidators;

c) a proposal for transfer of the portfolio of insurance or reinsurance contracts;

d) amount of the property – total and by type, cash in hand, fixed and current tangible and intangible assets, financial assets, receivables;

e) amount of the liabilities – total and by type, under the insurance or reinsurance portfolio and other liabilities;

f) a schedule for repayment of liabilities;

g) a plan for receivables collection;

h) liquidation costs;

i) projected amount of property after satisfying the creditors;

k) management, organisational, legal, financial, technical and other actions in implementing the plan;

3. a contract with another insurer or reinsurer for transfer of the insurance or reinsurance portfolio;

4. the documentation under Article 220 (1).

(2) The contract for transfer of a portfolio under Paragraph 1, Item 3 may be concluded with more than one insurer or reinsurer and shall provide for the transfer of all insurance and reinsurance contracts, including the contracts under which claims for payment have been filed, as well as for the transfer of the assets used to cover the technical reserves.

(3) Upon adoption of the resolution under Article 602, Paragraph 1, Item 1, the insurer or the reinsurer respectively shall be obligated to discontinue the conclusion of new contracts, as well as to extend the period and broaden the cover for insurance contracts in force.

Issuing an authorisation for voluntary dissolution of an insurer or a reinsurer

Article 604. (1) The Commission shall issue a decision within a two-month time limit following the receipt of the application form under Article 603 (1). In the case where irregularities are established or should additional information be needed, Article 34, Paragraphs 2, 4 and 5 shall apply and the time limit for the removal of the irregularities or the submission of additional information shall not be shorter than 15 days.

(2) Simultaneously with the resolution for dissolution, the Commission shall withdraw the insurer's or the reinsurer’s licence.

(3) The procedure for adoption of the liquidation plan shall also be applied when subsequent amendments are made therein, as well as when there are proposals for replacing the liquidator. Article 266 (4) of the Commerce Act shall not be applied.

(4) When the insurer-in-liquidation or the reinsurer-in-liquidation has submitted evidence of completion of the liquidation of the insurance or reinsurance portfolio and of the settlement of all insurance and reinsurance liabilities, the Commission shall, upon request by the liquidator, issue a resolution for completion of the liquidation of the insurance and reinsurance solutions.

(5) The Registry Agency shall enter a deletion of the insurer or of the reinsurer respectively after submission of the resolution under Paragraph 4 of the Commission, provided than the remaining property has been distributed.

(6) After the issuing of the resolution under Paragraph 4, the insurer-in-liquidation or the reinsurer-in-liquidation may continue its operations with a scope of activities other than insurance or reinsurance, provided that the remaining property has not been distributed. After entry into the Commercial Register of the continuation of the operations, the company or the cooperative society shall bear full liability for newly-initiated liabilities of the insurer or of the reinsurer respectively.

(7) Subsequent amendments to the liquidation plan shall be effected in accordance with the procedure for its adoption and

subsequent approval.

Registration of the dissolution

Article 605. (1) An insurer or a reinsurer shall submit the requisite documentation to the Registry Agency for registration of the dissolution and for institution of liquidation proceedings within a time limit of three business days following receipt of the authorisation under Article 604 (2), also enclosing a certified copy of the resolution of the Commission.

(2) The insurer or the reinsurer shall be obligated to present before the Commission a certificate of registration referred to in Paragraph 1 within three business days following the recordation.

Coercive dissolution

Article 606. (1) In the cases referred to in Article 602, Paragraph 1, Item 2, the procedure on liquidation shall be launched by a decision of the Commission. The decision shall include the grounds for withdrawal of the licence and for dissolution of the insurer or of the reinsurer, shall appoint a liquidator, the remuneration thereof and the time limit for effecting the liquidation. The decision shall be sent to the Registry Agency for entry into the Commercial Register.

(2) The Registry Agency shall enter the dissolution of the insurer or of the reinsurer and the name of the liquidator.

(3) Within a three-month time limit of his or her appointment, the liquidator shall prepare and submit to the Deputy Chairperson a liquidation plan under Article 603, Paragraph 1, Item 2. The plan may envisage transfer of the insurance or reinsurance portfolio.

(4) Within a 1-month time limit from receipt of the liquidation plan, the Commission shall, on a proposal by the Deputy Chairperson, pass a resolution, either approving the plan or specifying other terms under it.

(5) The procedure for adoption of the liquidation plan shall also be applied when subsequent amendments are made therein, as well as when there are proposals for replacing the liquidator.

(6) When the insurer-in-liquidation or the reinsurer-in-liquidation has submitted evidence of completion of the liquidation of the insurance or reinsurance portfolio and of the settlement of all insurance and reinsurance liabilities, the Commission shall, upon request by the liquidator, issue a resolution for completion of the liquidation of the insurance and reinsurance liabilities.

(7) The Registry Agency shall enter a deletion of the insurer or of the reinsurer respectively after submission of the resolution under Paragraph 6 of the Commission, provided than the remaining property has been distributed.

Liquidator

Article 607. (1) The trustee-in-bankruptcy shall be a natural person who meets the requirements under Article 80 (1). The liquidator under Article 606 (1) may also be the Guarantee Fund after obtaining the consent of its Management Board.

(2) In case where, by his/her actions, a liquidator violates the provisions of the present Code, the regulations concerning its implementation and the endorsed liquidation plan or puts at risk the rights of the insured persons or the fulfilment of the obligation under reinsurance contracts, the Deputy Chairperson shall issue mandatory instructions to the liquidator in relation to his/her activities, which shall be subject to immediate execution.

(3) In the cases referred to in Paragraph 2, the Commission may dismiss the liquidator, whereupon it shall send its decision thereof to the Registry Agency for entry.

Reports submitted by the liquidator

Article 608. The liquidator shall notify the Commission of the course of proceedings and shall submit a balance sheet and a report to the Commission for each quarter not later than the end of the month following the respective quarter. Upon a request submitted by the Deputy Chairperson, the liquidator shall be obligated to submit information about his or her operations and the status of the insurer-in-liquidation or of the reinsurer-in-liquidation in a manner and within a time limit specified by the Deputy Chairperson.

Presentation of receivables belonging to the creditors

Article 609. The receivables of the insured persons, registered into the business books of an insurer, shall be considered presented.

Powers of the liquidator in other Member States

Article 610. (1) The liquidator may exercise the powers available to him or her according to the Bulgarian legislation on the territory of the other member states, while adhering to their legislation including to the rules for disposal of assets and for notification of employees.

(2) When envisaged in the liquidation plan, the liquidator may appoint persons in another Member State to assist the liquidation proceedings in the respective Member State and to collaborate for overcoming difficulties experienced by creditors in this Member State.

Applicability of the Commerce Act and the Cooperatives Act

Article 611. Insofar as the present Section does not stipulate otherwise, the liquidation regulations in accordance with the Commerce Act or in accordance with the Cooperatives Act shall apply.

Section II
Bankruptcy

Grounds for initiation of bankruptcy proceedings

Article 612. (1) Bankruptcy proceedings shall be initiated because of insolvency of an insurer. An insurer shall be considered insolvent when the circumstances under Article 40, Paragraph 1, Item 2 or Paragraph 2, Item 9 or 10 are present for such insurer and when the Commission has withdrawn its licence on any of these grounds.

(2) Bankruptcy proceedings shall also be initiated when in the course of the liquidation proceedings it is established that the total amount of the liabilities of the insurer, including its technical reserves calculated according to this Code, the regulations for its implementation and the directly applicable law of the European Union, exceeds the total amount of the assets of the insurer.

(3) An insurer who becomes insolvent shall be obligated to notify the Commission within a 15-day time limit.

(4) The notification under Paragraph 3 shall be submitted by the management body, the insurer's questor or liquidator respectively.

Initiation of bankruptcy proceedings

Article 613. (1) Bankruptcy proceedings against an insurer shall be initiated only upon request of the Commission.

(2) The request shall only specify the grounds for licence withdrawal and a certified copy of the effective resolution for withdrawal of the licence for insurance operations shall be attached thereto.

(3) The court shall institute proceedings on the day of receipt of the request under Paragraph 1 and shall schedule a hearing no later than fourteen (14) days of so doing.

(4) The request under Paragraph 1 shall be heard by the court behind closed doors with the participation of a prosecutor, where the insurer, the Commission and the Guarantee Fund shall be summoned.

(5) The insurer for which there is a request to initiate bankruptcy proceedings shall be represented in the lawsuit by the questor appointed by the Commission or by persons authorised by said questor.

(6) The shareholders, who as of the date of withdrawal of the licence for insurance operations held more than 5 percent of the capital of the insurer, may participate in the proceedings for hearing the request of the Commission.

(7) If the act of the Commission under Article 40 has entered into force, the court shall initiated the proceedings for bankruptcy of the insurer.

(8) In the cases when the act of the Commission under Article 40 has not entered into force because of being appealed against before the court, the court shall suspend the proceedings until the administrative legal dispute is resolved.

(9) The Commission, the insurer and the Guarantee Fund shall be summoned for the lawsuit according to the procedure of the Civil Procedures Code not later than three days before the date for which the hearing is scheduled.

(10) The court shall make its ruling within a 7-day time limit after the hearing, in which the consideration of the case has been completed.

Ruling of the court for the institution of bankruptcy proceedings

Article 614. (1) In case the Commission's request meets the requirements set under Article 613 (2), in its ruling the Court shall:

1. Declare insolvency and set its initial date;

2. Initiate bankruptcy proceedings;

3. Declare the insurer bankrupt;

4. Withdraw the powers of the insurer's bodies;

5. Impose a general interdiction and distraint over the insurer's property;

6. Divest the insurer of the right to manage and dispose of the property in the bankruptcy estate;

7. Rule on the initiation of encashment of the property in the bankruptcy estate and proceed with the distribution of the property turned into cash;

8. shall designate the Guarantee Fund to be trustee-in-bankruptcy.

(2) All insurance contracts shall be considered terminated from the date of publishing of the ruling under Paragraph 1. Where the contract does not stipulate the right to a buy-off value, the insurer shall owe repayment of the premium share corresponding to the remaining period of validity, following deduction of the acquisition costs. Where a right to a buy-off value has arisen under the contract, the insurer shall owe repayment of such buy-off value.

(3) On the date of pronouncement of the ruling for initiation of bankruptcy proceedings or on the following business day at the latest, the court shall send a copy of the ruling to the Commission.

(4) The ruling under Paragraph 1 shall be entered into the Commercial Register and shall be subject to an appellate or cassation appeal according to the general procedure. The time limit for appellate appeal shall be 7 days.

Trustee-in-bankruptcy

Article 615. (1) The Guarantee Fund shall be trustee-in-bankruptcy of an insurer in bankruptcy proceedings. The requirements of Articles 655, 655a, 656, 657 and 661 of the Commerce Act shall not apply.

(2) The powers under Article 658, Paragraph 1, Items 1, 2, 4 - 7, 9, 10 and 13 - 15 of the Commerce Act shall be exercised by the Executive Director of the Guarantee Fund designated under Article 535, Item 1.

(3) When performing his or her function, the Executive Director of the Guarantee Fund under Paragraph 2 shall be assisted by the administration of the Guarantee Fund.

(4) The bankruptcy costs shall be financed by the Security Fund, in connection with which the Security Fund shall be entitled to a receivable from the bankruptcy estate.

(5) The Guarantee Fund shall collect the monetary receivables of the insurer-in-bankruptcy into an account of the Security Fund.

Reports submitted by the trustee-in-bankruptcy

Article 616. The trustee-in-bankruptcy shall notify the court and the Commission of the course of proceedings and shall submit a written report for each quarter no later than the 15th day of the month following the quarter to which the report refers. Upon request by the Commission, the trustee-in-bankruptcy shall be obligated to immediately provide information about his/her activities and the course of bankruptcy proceedings.

Presentation of receivables

Article 617. (1) Creditors shall present their receivables in writing before the trustee-in-bankruptcy within a 2-month time limit of the publication of the ruling under Article 614.

(2) Creditors under Paragraph 1 shall specify in their application the grounds, the receivable amount, the preferences and securities, a mailing address and shall enclose written evidence thereto.

(3) The insurance receivables claimed under Article 106 (2) shall be considered presented. The aforesaid shall not revoke the right of the consumers of insurance services to present their claims before the trustee-in-bankruptcy within the time limit under Paragraph 1.

(4) The insurance receivables that have been presented after expiration of the time limit under Paragraph 1 shall be satisfied according to the order in which they were presented after satisfying the receivables under Article 620, Item 6.

Encashment of the insurer's property

Article 618. (1) The Commission or the trustee-in-bankruptcy may request from the court to give permission for the sale of the insurer as a whole undertaking only to an insurer holding a licence for the types of insurances being transferred.

(2) In case the request under Paragraph 1 has been made by the trustee-in-bankruptcy, the court shall approve the sale upon receipt of a written opinion of the Commission. The said opinion shall be presented no later than thirty (30) days of a request to this effect.

(3) No transfer of property prior to final payment of the price shall be permitted.

Register of assets for covering the reserves

Article 619. (1) Each insurer shall maintain in its head office and before the Commission a special register of the assets for cover of its gross technical reserves invested according to the requirements of this Code.

(2) A mixed-operations insurer shall maintain a separate register of its operations under Sections I and II of Annex No. 1.

(3) The total value of the assets included in the register under Paragraph 1 must at all times be at least equal to the amount of the gross technical reserves of the insurer.

(4) The following may not be used as an asset for cover of reserves:

1. property rights encumbered with pledge, mortgage or other burdens;

2. investments in a subsidiary;

3. receivables that have remained outstanding for more than three months after maturity.

(5) In case of a prohibition of the discretionary disposal of assets of the insurer, any disposal transactions made with assets included in the register under Paragraph 1, as well as transactions and action in violations of Paragraph 4, Item 1, shall be null and void.

(6) The receivables under reinsurance contracts may be used as an asset for cover of the reserves, when these are concluded with a reinsurer from a member state or with a reinsurer from a third state under the conditions of Article 66 and if it is explicitly agreed therein that the insurer shall cover its liabilities under the contract and to the Guarantee Fund, when the reinsurance contract has been transferred as an asset for cover of the reserves to the Guarantee Fund.

Sequential order of the creditors

Article 620. During distribution of the property encashed, liabilities shall be paid out in the following sequential order:

1. Receivables secured by pledge or mortgage – from the amount received from the realisation of the collateral;

2. Receivables in respect of which a lien is exercised – from the value of the retained property;

3. Bankruptcy expenses;

4. Receivables under obligatory insurance contracts;

5. Receivables under life insurance;

6. Receivables under other types of insurance;

7. Receivables of the Guarantee Fund under Article 569;

8. Receivables under employment relations which have arisen before the date of the decision on initiation of bankruptcy proceedings;

9. Public private receivables of the state and municipalities such as taxes, custom duties, fees, compulsory social security contributions, etc., which have arisen before the date of the decision on initiation of bankruptcy proceedings;

10. The remaining unsecured receivables which have arisen before the date of the decision on initiation of bankruptcy proceedings;

11. Receivables under Article 616, Paragraph 2, Item 1 of the Commerce Act;

12. Receivables under Article 616, Paragraph 2, Item 2 of the Commerce Act;

13. Receivables under Article 616, Paragraph 2, Item 3 of the Commerce Act;

14. Receivables under Article 616, Paragraph 2, Item 4 of the Commerce Act.

Powers of the trustee-in-bankruptcy in the other Member States

Article 621. (1) The trustee-in-bankruptcy may exercise the powers available to him or her according to the Bulgarian legislation on the territory of the other member states, while adhering to their legislation including to the rules for disposal of assets and for notification of employees.

(2) With the approval of the bankruptcy court, the trustee-in-bankruptcy may appoint persons in another Member State to assist the liquidation proceedings in the respective Member State and to collaborate for overcoming difficulties experienced by creditors from this Member State.

Applicability

Article 622. (1) This Section and Section III shall also be applied mutatis mutandis to the reinsurers.

(2) Insofar as the present Section and Section III do not stipulate otherwise, the provisions of the Commerce Act shall apply, with the exception of Article 607, 608, 610, 611, Article 614, Paragraphs 2 - 4, Article 615, 625, Article 629, Paragraph 1, Article 631, 631a, 635, 656, Article 658, Paragraph 1, Items 3, 11 and 12, Article 666 - 684, 696 - 709, 734, 740, 741 and 743.

Section III
Special regulations for liquidation and bankruptcy proceedings

Effect of the decision for initiation of liquidation or bankruptcy proceedings

Article 623. (1) The entry of the initiation of a procedure on liquidation, as well as the ruling of the court to initiate a procedure on bankruptcy proceedings against an insurer with a seat of business in the Republic of Bulgaria shall have effect for all its branch offices within the territory of the other Member States and third countries.

(2) Simultaneously with entry in the Commercial Register of the initiation of the procedure on liquidation and with the disclosure in the Commercial Register of the ruling of the court for initiating a procedure on bankruptcy, the Registry Agency shall send the court ruling for publication in the Official Journal of the European Union, as well as information about the applicable law, the competent court and the entered liquidator or trustee-in-bankruptcy respectively.

(3) The Commission shall immediately notify the relevant competent authorities in the other Member States of the entry of the initiation of a procedure on liquidation or the decision for initiation of the procedure on bankruptcy proceedings against an insurer and of its legal effects.

Effect of the ruling for initiation of liquidation or bankruptcy proceedings against an insurer that has obtained a licence in another Member State

Article 624. (1) The ruling for initiation of liquidation or bankruptcy proceedings against an insurer that has obtained a licence in another Member State, shall become effective in the Republic of Bulgaria from the moment it has become effective in the respective Member State.

(2) In case the Commission has been notified of initiation of liquidation or bankruptcy proceedings by the competent authority of another Member State, it shall take measures to inform the public.

(3) The notification under Paragraph 2 shall include information on the administrative or judicial authority which is competent for the liquidation or the bankruptcy in the respective member state, on the applicable legislation and on the appointed liquidator or trustee-in-bankruptcy.

Powers of the liquidator or trustee-in-bankruptcy

Article 625. (1) The appointment of a liquidator or a trustee-in-bankruptcy with an insurer who has obtained a licence in another Member State, shall be evidenced through the submission of a certified copy of the decision of the relevant competent authority for his/her appointment, accompanied by a translation in the Bulgarian language, which shall not be legalised.

(2) A liquidator or a trustee-in-bankruptcy under Paragraph 1 may exercise, within the territory of the Republic of Bulgaria, all the powers he/she has, pursuant to the legislation of the Member State where the insurer has obtained a licence, except those relating to the use of force and to the pronouncement on legal disputes.

(3) When exercising his or her powers, the liquidator or the trustee-in-bankruptcy under Paragraph 1 shall comply with the legislation of the Republic of Bulgaria, including with the regulations for disposal of assets and for notification of employees.

(4) In strict compliance with the legislation of the member state of the seat of business of the insurer, the liquidator or the trustee-in-bankruptcy may appoint persons in the Republic of Bulgaria to assist the liquidation or bankruptcy proceedings in such member state and to collaborate for overcoming the difficulties experienced by creditors from this member state.

Entry into a public register

Article 626. (1) A liquidator or trustee-in-bankruptcy under Article 625 (1) may request entry of the ruling for initiation of liquidation or bankruptcy proceedings in the relevant public registers kept in the Republic of Bulgaria. The person under sentence one shall be obligated to request an entry in case it is obligatory.

(2) A liquidator or trustee-in-bankruptcy of a local insurer may request entry of the ruling for initiation of liquidation or bankruptcy proceedings in the relevant public registries kept in other member states. The person under sentence one shall be obligated to request an entry in case it is obligatory. The expenses on making the entry into the register shall constitute liquidation or bankruptcy expenses.

Notifying known creditors from Member States

Article 627. (1) A liquidator or trustee-in-bankruptcy shall forward a written notification, based on a sample endorsed by the Deputy Chairperson, to the known creditors with a permanent residence or a seat of business in another Member State, of the liquidation or bankruptcy proceedings initiated. The notice shall specify their right to present claims, the authority to which these shall be presented, the time limit for the presentation of claims and the consequences if the time limit is not observed, as well as whether the creditors with privileged or secured receivables need to present their claims.

(2) The notification under Paragraph 1 shall be drawn up in the Bulgarian language and shall be entitled: "Invitation for the Presentation of Claims. Please Observe the Deadline!", or "Invitation for the Presentation of Explanations with Regard to a Claim. Please Observe the Deadline!" respectively, in all official languages of the European Union.

(3) The notification under Paragraph 1 addressed to the creditors, whose claims arise from an insurance contract, shall specify their right to present explanations, as well as the consequences of the liquidation or of the bankruptcy for their rights and obligations, and shall be drawn up in the official language of the Member State, where their permanent residence or seat of business is located.

Presentation of claims by creditors from the Member States

Article 628. (1) Creditors who have a permanent residence or a seat of business in another Member State shall have the same rights as the creditors with a permanent address or seat of business in the Republic of Bulgaria, and shall be entitled to present their claims, or to submit explanations with regard to them, respectively.

(2) Creditors under Paragraph 1 shall present their claims specifying the type of receivable, its amount, date of occurrence, as well as any reference to a pledge, mortgage, right of lien of the ownership title under a contract for sale or a different privilege, and shall submit evidence thereof.

(3) Receivables or explanations related to them shall be presented in the official language of the Member State at their permanent residence or seat of business, and shall be entitled: "Presentation of a Claim", "Explanations with Regard to a Claim" respectively, in the Bulgarian language.

Provision of information on the progress of proceedings

Article 629. (1) A liquidator or trustee-in-bankruptcy shall publish regular reports on his/her activities in an appropriate manner.

(2) Upon request submitted by the relevant competent authorities of the other Member States, the Commission shall provide information about the progress of liquidation or bankruptcy proceedings.

Applicable law

Article 630. (1) In the case of liquidation or bankruptcy proceedings against an insurer, the Bulgarian Law shall apply, unless otherwise provided for in accordance with the present Section.

(2) With respect to employment contracts and labour legal relations, the legal provisions of the Member State applicable to such contracts or legal relations shall apply.

(3) With respect to contracts, whereby right to utilise is granted or the ownership title over real estate whose location is within the territory of a Member State is transferred, the law of that Member State shall apply.

(4) With respect to an insurer's rights over a real estate, a ship or an air plane, entered into the public registers of a Member State, the law of that Member State shall apply.

Consequences of instituting liquidation or bankruptcy proceedings

Article 631. (1) The institution of liquidation and bankruptcy proceedings shall not affect real and security rights of creditors or of third persons in respect to the insurer's property, including any tangible or intangible assets, real estate or chattels, separately or in aggregate, which as of the date of institution of the proceedings are located within the territory of another Member State.

(2) The rights under Paragraph 1 shall include:

1. The right to dispose of such property and obtain satisfaction from the price or revenues from it by virtue of a pledge or mortgage;

2. The right to preferential satisfaction by virtue of a pledge on claims or by virtue of the claim's transfer as security;

3. The right to request a return and/or recovery of the property from any third person, possessing or utilising it without lawful grounds;

4. The right to use the property;

5. Any rights entered in a public register and opposable to third persons, by virtue of which real or security rights under Items 1 - 4 may be acquired.

(3) The institution of liquidation or bankruptcy proceedings against an insurer shall not affect:

1. The rights of a seller under a contract concluded with the insurer for a sale with retention of the ownership title pending the payment of the price, where on the date of initiation of proceedings the object is located within the territory of another Member

State;

2. The right of a buyer to acquire ownership title to the object sold by the insurer and shall not be a reason for the termination or rescission of the contract for sale, should the object be delivered to the buyer, where on the date of initiation of the proceeding the object is located on the territory of another Member State;

3. The right of offsetting of the insurer's creditors, where offsetting is admissible by the law applicable to the claim of the insurer.

(4) Outside the cases under Paragraphs 1 and 2, the consequences of the institution of liquidation and bankruptcy proceedings for the rights and obligations in transactions concluded on a regulated market shall be provided for in the law applicable to that regulated market.

(5) Where following the initiation of liquidation or bankruptcy proceedings, the insurer has disposed of, against consideration, a real estate, a ship or an air plane, which are subject to entry in a public register, as well as of transferable or other securities, whose existence or transfer requires entry in a register or an account kept on legitimate grounds, or which have been included in a central depository system, regulated by the law of another Member State, the validity of the transaction or the action shall be provided for by the law of the Member State on whose territory the real estate is located or in which the register, the account or the depository system are kept.

(6) The effect of the initiated liquidation or bankruptcy proceedings on a pending trial in relation to an object or a right taken away from the insurer shall be settled as provided for in the national law of the Member State of the court which will hear the case.

Rights of the liquidator, the trustee-in-bankruptcy and the creditors to retain the insurer's property

Article 632. (1) The provisions of Article 631, Paragraphs 1, 3 and 4 shall not limit the rights of the liquidator, the trustee-in-bankruptcy or the creditors in accordance with the Commerce Act and the Obligations and Contracts Act to invoke voidance or to request declaration of voidability or of invalidation with respect to actions and transactions with regard to the creditors.

(2) The liquidator, the trustee-in-bankruptcy or the creditors may not invoke voidance or request declaration of voidability or of invalidation with respect to the creditors, of actions and transactions pursuant to the Commerce Act and the Obligations and Contracts Act, if a third party, who has acquired rights over these, proves that the action or the transaction are regulated by the law of another Member State, and that according therewith they are effective.

Application of liquidation and bankruptcy rules in implementing coercive administrative measures

Article 633. (1) Article 623, Paragraphs 1 and 3, Article 624, 630 and 631 shall apply mutatis mutandis to the implementation of coercive administrative measures under Article 587, Paragraph 3, Items 3 and 7.

(2) The decision for the implementation of a measure under Paragraph 1 shall be promulgated in the State Gazette and in the Official Journal of the European Union, along with information about the applicable law, the authority competent to carry out supervision over the implementation of the rehabilitation measure and about the questor appointed, if any.

Treatment of branch offices of insurers from third states in the case of implementation of coercive administrative measures, liquidation or bankruptcy

Article 634. (1) When grounds for implementation of coercive administrative measures under Article 587, liquidation or bankruptcy are present as regards a branch of an insurer from the third state licensed in the Republic of Bulgaria, the Commission and the Deputy Chairperson shall exercise their powers regardless of the actions of the competent authorities in another member state in regard to that same insurer from a third state licensed in that third state.

(2) In the cases under Paragraph 1, the Commission and the Deputy Chairperson shall coordinate their actions with the

competent authorities from the other member state for the purposes of the respective proceedings when necessary and possible.

(3) A questor, a liquidator or a trustee-in-bankruptcy of an insurer from a third state, licensed in the Republic of Bulgaria, shall interact with other similar bodies appointed in other branch offices of the insurer, licensed in another member state for the purposes of the respective proceedings, when necessary and possible.

(4) For the purpose of application of this Part to the rehabilitation measures and to the liquidation procedure against a branch office of an insurer from a third state, which is located in a member state, the following definitions shall apply:

1. "member state of origin" shall be the member state, in which the branch office has been licensed;

2. "supervision authorities" shall be the supervision authorities of the member state of origin;

3. "competent authorities" shall be the competent authorities of the member state of origin.

PART EIGHT
ADMINISTRATIVE PENAL PROVISIONS

Liability for performing operations in violation of the conditions and procedure of this Code

Article 635. (1) Any person that performs or allows the performance of insurance without a license obtained in pursuance of the procedure herein provided for or in violation of the conditions of the right of establishment or the freedom to provide services, shall be sanctioned by:

1. a fine amounting from BGN 2000 to BGN 10,000 - for natural persons;

2. a pecuniary sanction of BGN 50,000 to BGN 200,000 - for legal persons and sole traders.

(2) The pecuniary sanction under Paragraph 1, Item 2 shall also be imposed on an insurer who has carried out insurance operations under the types of insurance for which it is not licensed.

(3) Upon repeated violation, the sanction under Paragraph 1, Item 1 shall amount from BGN 4,000 to BGN 20,000, and under Paragraph 1, Item 2 and Paragraph 2 - from BGN 100,000 to BGN 400,000.

(4) Any person that performs or allows the performance of operations as insurance broker or insurance agent without being registered in pursuance of the procedure provided for in this Code in the register under Article 30, Paragraph 1, Item 11 of the Financial Supervision Commission Act or in violation of the conditions for the right of establishment or the freedom to provide services, shall be sanctioned by:

1. a fine amounting from BGN 2,000 to BGN 10,000 - for natural persons;

2. a pecuniary sanction of BGN 5,000 to BGN 50,000 - for legal persons and sole traders.

(5) Upon repeated violation, the sanction under Paragraph 4, Item 1 shall amount to BGN 4,000 to BGN 20,000, and under Paragraph 4, Item 2 - from BGN 10,000 to BGN 100,000.

(6) Paragraphs 4 and 5 shall not apply to persons carrying out insurance intermediation under Article 294 (3).

(7) The sanctions under Paragraph 4, Item 2 and Paragraph 5 shall also be imposed on the insurer or reinsurer using for their operations on the territory of the Republic of Bulgaria the intermediary services of persons under Paragraph 4, provided that these persons do not perform insurance intermediation under Article 294 (3).

(8) The following sanctions shall be imposed on an insurance intermediary who is a legal entity or a sole trader who provides rights to a person who is not his or her employee, as well on an insurance agent who is a natural person who provides rights to another person to perform operations for sale of insurance products or collection of insurance premiums or instalments,

including by providing him or her with access to the information system of an insurer or by providing him or her with a form for issuing of a policy or for collection of a premium or instalment:

1. a fine amounting from BGN 2000 to BGN 10,000 - for natural persons;

2. a pecuniary sanction of BGN 5,000 to BGN 50,000 - for legal persons and sole traders.

(9) Upon repeated violation, the sanction under Paragraph 8, Item 1 shall amount from BGN 4,000 to BGN 20,000, and under Paragraph 8, Item 2 - from BGN 10,000 to BGN 100,000.

Liability for violation of the requirements for technical reserves

Article 636. (1) An insurer or a reinsurer which commits or allows a violation of Article 118 (1), Article 121 (1), Article 119, Paragraph 199 (1) and Article 205 shall be imposed a pecuniary sanction amounting from BGN 10,000 to BGN 40,000, and upon repeated violation - from BGN 20,000 to BGN 80,000.

(2) A person who participates in the management of an insurer or of a reinsurer, as well as a person carrying out key or management functions in an insurer or in a reinsurer, who commits, allows or participates in a violation of Article 118 (1), Article 121 (1), Article 119, Article 199 (1) and Article 205, shall be punished by a fine from BGN 2,000 to BGN 10,000, and upon repeated violation - from BGN 5,000 to BGN 20,000.

Liability for Non-Fulfilment of a Coercive Administrative Measure

Article 637. (1) The non-fulfilment of a coercive administrative measure imposed by the Commission or by the Deputy Chairperson shall be sanctioned by:

1. a fine amounting from BGN 1,000 to BGN 2,000 - for natural persons;

2. a pecuniary sanction amounting from BGN 4,000 to BGN 40,000 - for legal persons and sole traders.

(2) Upon repeated violation, the sanction under Paragraph 1, Item 1 shall amount from BGN 2,000 to BGN 4000, and under Paragraph 1, Item 2 - from BGN 8,000 to BGN 80,000.

Liability for failure to conclude compulsory insurance

Article 638. (1) A person under Article 483, Paragraph 1, Item 1, who fails to comply with his or her obligation to conclude compulsory third party liability insurance for the motorists, shall be sanctioned by:

1. a fine amounting to BGN 250 - for natural persons;

2. a pecuniary sanction amounting to BGN 2,000 - for legal persons and sole traders.

(2) Upon repeated violation, the sanction under Paragraph 1, Item 1 shall amount to BGN 800, and under Paragraph 1, Item 2 - BGN 4,000.

(3) Any person who is not an owner or who is driving a vehicle whose ownership and use is not covered by a concluded and valid contract for compulsory third party liability insurance of the motorists shall be sanctioned by a fine of BGN 400.

(4) When an automated technical device or system has established that a motor vehicle is being driven without having a concluded and valid insurance contract for compulsory third party liability insurance of the motorists, the fine or the pecuniary sanction under Paragraph 1 shall be imposed on the owner of the said motor vehicle.

(5) Upon repeated violation, the sanction under Paragraph 3 shall amount to BGN 800.

(6) Upon repeated violation, the sanction under Paragraph 4 shall be BGN 800 for natural persons and BGN 4,000 for legal

entities or sole traders.

(7) An insurer which has violated Article 462 shall be sanctioned by a pecuniary sanction amounting from BGN 5,000 to BGN 20,000, and upon repeated violation - from BGN 10,000 to BGN 40,000.

Liability as to placing signs, marks or other indications

Article 639. A person who drives a motor vehicle with signs, marks or other indications placed in breach of the prohibition under Article 288 (4), excluding those under Article 288 (6) or those that represent micro engraving which does not directly or indirectly point to the existence of a concluded insurance contract, shall be sanctioned by a fine of BGN 50.

Liability for violation of the procedure for acquisition and disposal of qualified participating interest in an insurance company

Article 640. (1) Any person that acquires or transfers shares in an insurance company in violation of Article 68 Paragraphs 1 and 2 or in violation of the prohibition under Article 71 (4) shall be sanctioned by:

1. a fine amounting from BGN 2,000 to BGN 10,000 - for natural persons, regardless of whether this person acquires or transfers the shares on his/her own behalf or for another person;

2. a pecuniary sanction of BGN 5,000 to BGN 15,000 - for legal persons.

(2) Any person that acquires or transfers shares in an insurance joint stock company in violation of Article 73 shall be sanctioned by:

1. a fine amounting from BGN 2,000 to BGN 5,000 - for natural persons, regardless of whether this person acquires or transfers the shares on his/her own behalf or for another person;

2. a pecuniary sanction of BGN 5,000 to BGN 10,000 - for legal persons.

Liability for the provision of untrue information

Article 641. (1) A member of a management or control body of an insurer, a reinsurer, an insurance intermediary, an insurance holding, a mixed insurance holding or another person that manages or represents such body, that provides or allows the provision of untrue information with regard to insurance supervision shall be sanctioned by a fine from BGN 10,000 to BGN 50,000, in case the violation does not qualify as a crime.

(2) The Deputy Chairperson may also impose temporary suspension of the right to exercise operations as a person under Paragraph 1.

(3) For a violation under Paragraph 1, an insurer shall be imposed a pecuniary sanction amounting from BGN 20,000 to BGN 100,000.

Liability as to introducing requirements for the placement of signs, marks or other indications

Article 642. An insurer that commits or allows a violation of Article 288 (5) shall be liable to a pecuniary sanction from BGN 30,000 to BGN 60,000. In case of repeated violation, the pecuniary sanction shall amount from BGN 60,000 to BGN 120,000.

Liability of the questor, the liquidator and the trustee-in-bankruptcy

Article 643. A questor, liquidator or trustee-in-bankruptcy who fails to implement or breaches an instruction or order of the

Commission, its Chairperson or the Deputy Chairperson shall be sanctioned by a fine amounting from BGN 1,000 to BGN 10,000.

Liability for violations of the legal framework

Article 644. (1) Any person who violates or allows violation of this Code, the regulations concerning its implementation or the directly applicable law of the European Union, except for the cases under Article 635 – 643, a direction or an order of the Commission, its Chairperson or Deputy Chairperson, shall be sanctioned by:

1. a fine amounting from BGN 500 to BGN 3,000 - for natural persons;

2. a pecuniary sanction amounting from BGN 1,000 to BGN 20,000 - for legal persons and sole traders.

(2) Upon repeated violation, the sanction under Paragraph 1, Item 1 shall amount from BGN 1,000 to BGN 6,000, and under Paragraph 1, Item 2 - from BGN 2,000 to BGN 40,000.

Liability for non-payment of pecuniary sanctions under penal decrees

Article 645. A person, who, within a 1-month time limit from the entry into force of a penal decree, fails to pay the pecuniary sanction imposed on him or her, shall owe interest at the legitimate interest rate for the time period from the date following the date of expiry of the 1-month time limit to the date of payment.

Liability of the lessor in case of non-compliance with the requirements as regards insurances of leasehold property

Article 646. (1) A lessor, who fails to fulfil his or her obligations under Article 384, Paragraphs 1 or 2, shall be punished by a pecuniary sanction from BGN 5,000 to BGN 10,000.

(2) Upon repeated violation, the sanction under Paragraph 1 shall amount from BGN 10,000 to BGN 20,000.

Procedure for imposition of administrative sanctions

Article 647. (1) The acts for establishment of an administrative violation shall be drawn up by officials authorised by the Deputy Chairperson and in the cases under Article 638, Paragraphs 1 - 3 and 5 and Article 639 - by the officials from the controlling services under the Road Traffic Act.

(2) The penalty decree shall be issued by the Deputy Chairperson, and for violations under Article 638, Paragraphs 1 - 3 and 5 and Article 639 - by the Director of the Regional Directorate of the Ministry of Interior in the region of which the violations was established, or by an official authorised by the said Director.

(3) When an automated technical device or system has established and photographed that a motor vehicle is being driven without having a concluded and valid insurance contract for compulsory third party liability insurance of the motorists, an electronic slip shall be issued in the absence of a control authority and of the offender under the conditions and the procedure envisaged in the Road Traffic Act. The electronic slip shall be sent to the owner of the motor vehicle by registered mail with return advice of receipt. The owner shall be obligated, within a 14-day time limit of receiving the slip, to pay the fine or the pecuniary sanction under Article 638, Paragraphs 4 and 6. Article 189 (5) of the Road Traffic Act shall not apply.

(4) The establishment of violations, the issuing, the appeal and the implementation of penalty decrees shall be carried out in accordance with the Administrative Violations and Sanctions Act.

SUPPLEMENTARY PROVISIONS

§ 1. Within the meaning of this Code:

1. "Insured person" is the one whose material and/or immaterial goods make the object of insurance protection under an insurance contract.

2. "Insuring person" is be the person who is party to the insurance contract. Depending on the terms and conditions of the insurance contract, the insuring person may also be insured person or third beneficiary person.

3. "Insured risk" is a objectively existing probability of occurrence of a harmful event, the realisation of such probability being uncertain, unknown and independent of the will of the insuring person, the insured person or the third beneficiary person.

4. "Insured event" is the occurrence of a risk covered under insurance within the term of insurance cover.

5. "Damage" is an adverse change through affecting, infringing upon or destroying something valuable to a person - property, rights, corporal integrity, health and mental health.

6. A "Member State" is a country member of the European Union or another country that is a party to the European Economic Area Agreement.

7. "Third country" is a country, which is not a Member State within the meaning of Item 6.

8. "Insurer from a third state" shall be a person with a seat of business in a third state, which, if it has a seat of business in the Republic of Bulgaria, must receive a license for insurance under this Code.

9. "Reinsurer from a third state" shall be a person with a seat of business in a third state, which, if it has a seat of business in the Republic of Bulgaria, must receive a license for reinsurance under this Code.

10. "Member State of origin" is the Member State:

a) where the insurer covering the risk is seated or where the seat of the reinsurer is located respectively;

b) where the permanent residence of an insurance broker or insurance agent is located or where an insurance broker or insurance agent who is a natural person carries out operations; the Member State where the insurance broker or the insurance agent who is a legal person is seated;

11. "Host Member State" is a Member State:

a) other than the Member State of origin, in which the insurer or the reinsurer has a branch office or provides services; for the purposes of the insurance, the Member State of provision of the services shall be the Member State in which the risk is situated, when the risk is covered by an insurer or by a branch office located in another Member State;

b) where the insurance broker or insurance agent has a branch office or provides services.

12. "Member State where the risk is located" shall be:

a) a Member State where the real estate is located, should the insurance contract cover risks related to real estate including buildings and chattels inside them, provided they are insured under the same contract;

b) a Member State where a motor vehicle is registered, should the insurance refer to risks related to a motor vehicle under Items 3 - 6, Section II of Annex No. 1; in case the motor vehicle is delivered from one Member State to another it is considered that the risk is located in the country of destination from the moment of acceptance of the delivery by the transferee for a period of 30 days, even if the motor vehicle has not been formally registered;

c) a Member State where the insurer has concluded an insurance contract, regardless of its class, for travelling or tourism risks, provided that the maximum term of the contract does not exceed 4 months;

d) in all other cases the risk shall be located in:

aa) the Member State where the insuring person is a permanent resident, if the insured person is a natural person; or

bb) the Member State where the legal person is established, to which the insurance contract is related, if the insuring person is a

legal entity.

13. "Branch office" is a legal form through which an insurer or a reinsurer is present on a permanent basis on the territory of a Member State, having established an office therein managed by its employees or by other persons explicitly and continuously authorised by the insurer to act on its behalf.

14. "Branch office of an insurer or a reinsurer from a third country" shall be a branch office registered under the Commerce Act by an insurer or a reinsurer seated in a third country.

15. "Establishment" of a legal person is the seat or branch office of a legal person.

16. "Financial undertaking" shall be one or more of the following persons performing operations in a Member State or in a third country:

a) a credit institution, a financial institution under Article 3 (1) of the Credit Institutions Act or an ancillary company under Article 2 (4) of the same Act;

b) an insurer, a reinsurer or an insurance holding;

c) an investment intermediary;

d) a mixed financial holding.

17. "Control" shall exist where a particular entity (the controlling entity):

a) holds more than half of the votes in the general meeting of another legal person (subsidiary undertaking), or

b) has the right to determine more than half of the members of the management or supervisory bodies of another legal person (subsidiary undertaking) and is a shareholder or partner in that person, or

c) has the right to exercise dominant influence over a legal person (subsidiary undertaking) by virtue of contract concluded with such person or by virtue of its constituent act or articles of association, if this is admissible by the legislation applicable to the subsidiary undertaking, or

d) is a shareholder or a partner in an undertaking and:

aa) more than half of the members of the management or supervisory bodies of that legal person (subsidiary undertaking) performing such functions in the previous and current financial years and until the preparation of the consolidated financial statements have been determined only as a result of the exercise of its voting right, or

bb) controls on a stand-alone basis by virtue of contract with other shareholders or partners in this legal person (subsidiary undertaking) more than half of the votes in the general meeting of that legal person, or

e) may otherwise, in the opinion of the competent authorities, exercise a dominant influence over the decision-making on the activity of another legal person (subsidiary undertaking).

In the cases referred to in (a), (b) and (d), the votes of the controlling entity shall be increased by the votes of the subsidiary undertakings over which it exercises control, as well as by the votes of the entities acting on their own behalf but for its account or for the account of its subsidiary undertaking.

In the cases referred to in letters (a), (b) and (d) the votes of the controlling entity shall be reduced by the votes attaching to the shares held for the account which is an entity other than the controlling entity or its subsidiary undertaking, as well as by the votes attaching to the shares subject to pledge if the rights therein are exercised on the order and in the interest of the pledger.

In the cases referred to in letters (a) and (d), the votes of the controlling entity shall be reduced by the votes attaching to the shares held by the subsidiary undertaking itself through an entity controlled thereby or through an entity acting on its own behalf but for the account of the controlling entity and the subsidiary undertaking.

18. "Participating interest" is the possession, directly or indirectly, of 20 or more than 20 percent of the capital or of the voting rights of another undertaking;

19. "Parent undertaking" shall mean a legal person which exercises control over one or more undertakings (subsidiary undertakings).

20. "Subsidiary undertaking" shall mean a legal person controlled by another legal person (parent undertaking). The legal persons which are subsidiary undertakings of the subsidiary undertaking shall also be regarded as subsidiary undertakings of the parent undertaking.

21. "Close links" are present when two or more natural persons or legal entities are related through control or participation or when two or more natural persons or legal entities are permanently related to the same person through a control relationship.

22. "Related persons" shall mean a situation in which two or more natural or legal entities are linked in one of the following ways:

a) by control relationships;

b) permanently with one and the same person by a control relationship;

c) one of them holds, directly or through a person controlled thereby, 20 or more than 20 per cent of the votes in the general meeting or the capital of the other person;

d) through holding, directly or by way of control, 20 or more than 20 per cent of the votes in the general meeting or the capital of a third person;

e) a third person holding directly or by way of control 20 or more than 20 per cent of the votes in the general meeting or the capital of these persons.

Related persons shall furthermore be spouses, lineal relatives up to any degree, collateral relatives up to the third degree of consanguinity inclusive and relatives by marriage up to the third degree of affinity inclusive.

23. "Household" are the persons, irrespective of their family relation, who live together in a common home and have a common budget.

24. "Family members" shall be the husband, wife, children up to 18 years of age, and should they pursue their education - up to 26 years of age, and if they are disabled or permanently unable to work - irrespective of age.

25. "Acquisition costs" are expenses resulting from the conclusion or renewal of insurance contracts which may be:

a) direct - acquisition commissions (encashment commission upon payment of regular premiums under long-term insurances under Section I of Annex No. 1 shall not be included), costs for the preparation of insurance contracts and their inclusion in the insurance portfolio;

b) indirect costs - for advertisement and overheads related to the preparation of offers, the conclusion of contracts and the renewal of existent contracts.

26. "Deferred acquisition costs" shall be acquisition expenses referring to the remaining unexpired period of insurance coverage under insurance contracts which are valid as at the end of a reporting period and which have entered into force during the same period, which are carried forward to subsequent reporting periods.

27. "Administrative expenses" are the expenses for the service of insurance and reinsurance contracts and the management of the insurance portfolio.

28. "Assignor" is an insurer or a reinsurer that transfers all or part of the risks under concluded insurance contracts and pays reinsurance premiums to a reinsurer or to an insurer carrying out inward reinsurance.

29. "Retrocession" shall mean transfer of risks assumed under a reinsurance contract to another reinsurer or insurer who performs inward reinsurance.

30. "Regulated market" shall be:

a) a market within the meaning of Article 73 of the Markets in Financial Instruments Act, when this pertains to a regulated market in a Member State;

b) a market which pertains to a third state and which meets the following criteria:

aa) it has been recognised by the Member State of origin and meets requirements corresponding to the requirements of Directive 2004/39/EC, and

bb) the quality of the financial instruments traded on such market is conformant with the quality of the instruments traded on the regulated market in the Member State of origin.

31. "High risks" shall be the risks under the type of insurances within the meaning of Section II of Annex No. 1, as follows:

a) under Items 4 - 7, 11 and 12 - in all cases;

b) under Items 14 and 15 - in case the insuring person/the insured person carries out commercial operations or practices a liberal profession and the risks are associated with these operations or profession;

c) under Items 3, 8 - 10, 13 and 16 - provided that the insurer meets at least two of the following three criteria:

aa) balance sheet value - more than the BGN equivalent of EUR 6,200,000;

bb) net turnover - more than the BGN equivalent of EUR 12,800,000;

cc) average number of the employees employed by the insured person during the financial year - 250.

In case the insured person belongs to a group for which consolidated financial statements in accordance with Article 31 of the Accountancy Act are prepared, the criteria under letter "c" shall apply on the basis of the consolidated financial statements.

32. "Permanent carrier" is a hard copy and any other carrier that allows the user to preserve information in a way ensuring future access to this information about a period corresponding to the purposes for which it is created and which allows this information to be reproduced unchanged.

33. "Motorist" is the owner, user, holder or driver of a motor vehicle who can cause damages to third parts by holding or using it.

34. "Green Card Certificate" shall be an international certificate of insurance issued on behalf of a national bureau under Item 35 in accordance with Recommendation No. 5 adopted on 25 January 1949 by the Road Transport Sub-Committee of the Inland Transport Commission of the United Nations Economic Commission for Europe.

35. "National Bureau" shall be a professional organisation of insurers established pursuant to Recommendation No. 5 adopted on 25th of January 1949 by the Road Transport Subcommittee of the Committee on Inland Transport of the Economic Commission of the Organisation of the United Nations for Europe and bringing together the insurers licensed for insurance operations on the territory of a country where they are entitled to carry out third party liability insurance of motor vehicles.

36. "Multilateral Agreement" shall be the Agreement between the national insurers' bureaux of the Members States of the European Economic Area and other Associate States, concluded in Rethymno, Crete, on 30 May 2002, as amended and supplemented, as well as any other agreement concluded between the national insurers' bureaux of member states between themselves and/or with the national insurers' bureaux of other states in compliance with Article 2, Letter "a" and/or Article 8, Indent 1, Paragraph 2 of Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to third party liability insurance in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (OJ, L 263/11 of 7 October 2009).

37. "Prudence" is an objective criterion of careful behaviour applied by a conscientious, cautious and competent person in a critical and comprehensive assessment of available information about the circumstances relating to decision-making.

38. "Specialised care" is medical care provided by a nurse, physical therapist or another qualified person for the purpose of facilitating the recuperation process.

39. "Palliative care" is medical care aimed at relieving the condition of terminally ill patients which is not intended to or cannot heal them.

40. "Underwriting risk" is the risk of loss or adverse change in the amount of insurance liabilities as a result of inappropriate assumptions as regards the formation of price and reserves.

41. "Market risk" is the risk of loss or adverse change in the financial condition as a result, directly or indirectly, of fluctuations in the levels and volatility of the market prices of the assets, liabilities or financial instruments.

42. "Credit risk" is the risk of loss or adverse change in the financial condition as result of fluctuations in the credit position of issuers of securities, counter parties and debtors, from which the insurance and reinsurance undertakings have outstanding receivables, in the form of a risk of default by the counter party, a risk related to an interest spread or a risk related to market concentration.

43. "Operating risk" is the risk of loss as a result of inappropriate or poorly functioning internal processes, human capital or systems or external events.

44. "Liquidity risk" is a risk as a result of the impossibility for the insurance or reinsurance undertakings to realise investments or other assets in order to cover their financial liabilities when they become due and payable.

45. "Concentration risk" are all risk exposures containing a potential probability of a loss which is sufficiently big to jeopardise the solvency and financial condition of the insurance or reinsurance undertakings.

46. "Risk mitigation techniques" are all techniques enabling the insurance or reinsurance undertakings to transfer part or all of their risks to another person.

47. "Diversification effect" is the reduction of the risk exposure of the insurance and reinsurance undertakings and groups, which is associated with the diversification of their business resulting from the fact that the unfavourable outcome from one risk may be neutralised by a favourable outcome from another risk, in case there is no full correlation between these risks.

48. "Forecasted probability distribution" is a mathematical function which determines the probability of occurrence of an exhaustive multitude of mutually excluding future events.

49. "Risk measurement method" is a mathematical function, which assigns a cash equivalent to a given forecasted probability distribution and which increases monotonously with the level of the risk exposure on the basis of which this forecasted probability distribution is premised.

50. "Qualified central counter party" is a central counter party which has obtained authorisation pursuant to Article 14 of Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 concerning Over-the-Counter Derivatives, Central Counter Parties and Transaction Registers (OJ, L 201/1 of 27 July 2012) or which has been recognised pursuant to Article 25 of that same Regulation.

51. "Repeated violation" shall be a violation committed within one year of the effective date of a penalty decree, whereby penalty for the same type of violation has been imposed.

52. "Systematic violations" shall be three or more administrative violations under this Code or under the regulations concerning its implementation committed within one year or three and more administrative violations committed within three consecutive years.

53. (New, SG No. 8/2017) "Camping vehicle" shall be a vehicle with a special purpose, category M, the characteristics of which are specified in Annex No. 1, Part A, item 5, sub-paragraph 5.1 of Ordinance No. 60 of 24 April 2009 on the approval of the type of new motor vehicles and their trailers (promulgated, SG No. 40/2009; amended, No. 75/2012, No. 77/2013, No. 17/2015, No. 69/2016, and No. 1/2017).

54. (New, SG No. 8/2017) "Camping trailer" shall be a vehicle with a special purpose, category O, the characteristics of which are specified in Annex No. 1, Part A, item 5, sub-paragraph 5.6 of Ordinance No. 60 of 24 April 2009 on the approval of the type of new motor vehicles and their trailers.

§ 2. Advertisement materials and other signs indicating the presence of relations between an insurer and an insured person cannot be placed on insured movable or immovable property, unless otherwise provided for in a law.

§ 3. The documents required under this Code and issued in a language other than Bulgarian should be accompanied by a translation into the Bulgarian language and legalised in compliance with the requirements of the effective legislation. In case of discrepancy between the versions, the Bulgarian one shall be deemed accurate.

§ 4. (1) Pursuant to Article 300 of Directive 2009/138/EC, the amounts under such directive shall be updated every 5 years starting from 31 December 2015 and their amount in EUR shall be increased with the percentage increase of the European index of consumer prices published by Eurostat provided that this percentage exceeds by 5 per cent the last update. The result shall be rounded up to any complete EUR 100,000.

(2) The minimum amounts of the insurance amount for compulsory insurance and of the own funds of the insurance intermediary shall be updated every 5 years and their amount in EUR shall be increased with the percentage increase of the European index of the consumers' prices published by Eurostat over the period from the last update. The first update must be performed as of 15 January 2008. The result shall be rounded to a complete euro.

(3) In connection with the expiration of the postponement period under § 28, Item 3 in connection with § 27 of the Transitional and Final Provisions of the repealed Insurance Code, the minimum amounts of the insurance amount under Article 492 shall be updated every 5 years starting from 11 June 2012 by the European index of consumers' prices where the said minimum amounts shall be increased by the percentage indicated by this index and the result shall be round upwards to a complete EUR 10,000.

(4) The Commission shall in due course make proposals for amendment to the provisions of this Code in accordance with Paragraphs 1 - 3.

§ 5. (1) According to Council Directive 91/371/EEC of 20 June 1991 concerning the Implementation of the Agreement between the European Economic Community and the Confederation of Switzerland regarding Direct Insurance Other Than Life Insurance, regarding opening a branch office and carrying out insurance operations of the type as laid down in section II of Annex No. 1 by an insurer with a seat in the Republic of Bulgaria in the Swiss Confederation, respectively by an insurer with a seat in the Swiss Confederation in the Republic of Bulgaria, as well as regarding the supervision of such operations, the Agreement between the European Economic Community and the Swiss Confederation concerning direct insurance other than life assurance shall apply.

(2) The Financial Supervision Commission shall disclose the practice for the implementation of the Agreement under the terms of Article 9 (1) of the Financial Supervision Commission Act.

§ 6. (1) Upon a request by an insurer or by a reinsurer, the Commission shall issue a certificate containing up-to-date information about the insurer's license and the types of insurance that the insurer is entitled to conclude.

(2) When , for the purposes of assessment of the qualification and reliability pursuant to Directive 2009/138/EC, evidence is required in another Member State from a Bulgarian citizen or from a permanent resident of the Republic of Bulgaria of the non-existence of previous bankruptcies, such absence shall be proven by an affidavit under Article 313 of the Criminal Code with a notary certification of the signature.

§ 7. This Code introduces the requirements of:

1. Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance intermediation.

2. Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 concerning the Third Party Liability Insurance in Respect of the Use of Motor Vehicles and of the Enforcement of the Obligation to Insure against Such Liability.

3. Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 concerning the Commencement and Performing of Insurance and Reinsurance Operations (Solvency II).

4. Articles 4 and 6 of Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 for Amendment of Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as Regards the Supplementary Supervision over the Financial Undertakings in a Financial Conglomerate (OJ, L 326/113 of 8 December 2011).

5. Directive 2012/23/EU of the European Parliament and of the Council of 12 September 2012 for Amendment of Directive 2009/138/EC (Solvency II) as Regards the Time Limit for its Transposition, the Time Limit for its Implementation and the Date

of Repealing Certain Directives (OJ, L 249/1 of 14 September 2012).

6. Directive 2013/58/EU of the European Parliament and of the Council of 11 December 2013 for Amendment of Directive 2009/138/EC (Solvency II) as Regards the Time Limit for its Transposition, the Time Limit for its Implementation and the Date of Repealing Certain Directives (Solvency I) (OJ, L 341/1 of 18 December 2013).

7. Articles 2 and 7 of Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 for Amendment of Directive 2003/71/EC, Directive 2009/138/EC, Regulation (EC) No. 1060/2009, Regulation (EC) No. 1094/2010 and Regulation (EC) No. 1095/2010 in Connection with the Powers of the European Supervision Authority (the European Authority for Insurance and Professional Pension Insurance) and of the European Supervision Authority (the European Authority for Securities and Markets) (OJ, L 153/1 of 22 May 2014).

8. Article 91, 92 and 93 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 concerning the Markets in Financial Instruments and for Amendment of Directive 2002/92/EC and of Directive 2011/61/EU (OJ, L 173/349 of 12 June 2014).

TRANSITIONAL AND FINAL PROVISIONS

§ 8. (1) Part Two shall not be applied till the dates specified in Paragraph 2, to an insurer or to a reinsurer respectively, who prior to 1 January 2016 has discontinued the conclusion of new insurance and reinsurance contracts and who merely administers his/her existing portfolio, provided that:

1. the insurer or reinsurer respectively has notified the Commission that it shall terminate its activity prior to 1 January 2019, or

2. restructuring measures are applied and questors are appointed in regard to the insurer or reinsurer respectively.

(2) Part Two shall be applied:

1. from 1 January 2019 or prior to this date to an insurer or a reinsurer under Paragraph 1, Item 1, when the Deputy Chairperson makes an assessment that the progress towards the completion of the existing operations of the persons is not satisfactory;

2. from 1 January 2021 or prior to this date to an insurer or a reinsurer under Paragraph 1, Item 2, when the Deputy Chairperson makes an assessment that the progress towards the completion of the existing operations of the persons is not satisfactory.

(3) Paragraphs 1 and 2 shall be applied, if the following conditions are simultaneously met:

1. the insurer or the reinsurer respectively is not a part of a group or, if part of a group, all the insurers or reinsurers respectively which are part of the group discontinue the conclusion of new insurance and reinsurance contracts;

2. the insurer or the reinsurer respectively presents before the Commission an annual report on the progress achieved in connection with the termination of its operations;

3. the insurer or the reinsurer respectively has notified the Commission that it wants to apply transitional measures under Paragraph 1.

(4) In the cases under Paragraph 2, the Deputy Chairperson shall stipulate by a resolution the date from which the requirements of Part Two shall be applied in regard to the insurer or to the reinsurer respectively.

(5) Regardless of Paragraphs 1 and 2, the insurer under Paragraph 1 or 2 or the reinsurer respectively can perform its operations in accordance with Part Two.

(6) The Commission shall prepare a list of the insurers and reinsurers which shall take advantage of the transitional measures under Paragraph 1 and shall submit the said list to the supervisory authorities of the other member states.

§ 9. (1) Each insurer and each reinsurer respectively shall submit the annual information under Article 126, Paragraph 1, Item 2 within the time limits as follows:

1. the information regarding the financial year 2015 - not later than 31 March after the end of the financial year;

2. the information regarding the financial year 2016 - not later than 20 weeks after the end of the financial year;

3. the information regarding the financial year 2017 - not later than 18 weeks after the end of the financial year;

4. the information regarding the financial year 2018 - not later than 16 weeks after the end of the financial year;

5. the information regarding financial year 2019 and regarding each subsequent year - within the time limits under Regulation 2015/35.

(2) Within the time limits under Paragraph 1, each insurer and each reinsurer respectively shall disclose also its solvency report and its financial status report.

(3) Each insurer and each reinsurer respectively shall submit the quarterly information under Article 126, Paragraph 1, Item 3 within the time limits as follows:

1. the information regarding financial year 2016 - not later than 8 weeks after the end of the quarter;

2. the information regarding financial year 2017 - not later than 7 weeks after the end of the quarter;

3. the information regarding financial year 2018 - not later than 6 weeks after the end of the quarter;

4. the information regarding financial year 2019 and thereafter - not later than the end of the month following the quarter.

(4) Paragraphs 1 - 3 shall be applied respectively for the regular information which is submitted by an insurer or a reinsurer, participating undertaking, insurance holding or mixed activities insurance holding, which is the head of a group, as well as for the solvency and financial status report of the group, where each of the time limits under Paragraph 1 - 3 shall be extended by 6 weeks.

§ 10. (1) As regards insurers and reinsurers, which invest in marketable securities or in other financial instruments based on "re-packaged" loans, issued prior to 1 January 2011, the requirements stipulated by an act of the European Commission, pursuant to Article 135 (2) of Directive 2009/138/EC, shall be applied only provided that new exposures related thereto have been added or replaced after 31 December 2014.

(2) Paragraph 1 shall be applied at the group level respectively.

§ 11. (1) An insurer or a reinsurer respectively, which as of 31 December 2015 covers the solvency margin with funds of its own but lacks sufficient eligible core own funds for covering the minimum capital requirement, shall be obligated to procure a sufficient amount of such funds by 31 December 2016. The license of an insurer or of a reinsurer respectively, which fails to procure sufficient eligible core own funds for covering the minimum capital requirement within the time limit stipulated in sentence one, shall be revoked.

(2) Regardless of Article 216 (1) and without prejudice to the provisions of Paragraphs 2 - 4 of that same article, when as of 31 December 2015 an insurer or a reinsurer has available the necessary own funds for covering the solvency margin under Article 81 of the repealed Insurance Code but fails to adhere to the capital solvency requirement within the year 2016, the Commission shall, on a proposal by the Deputy Chairperson, order the respective insurer or reinsurer to undertake the necessary measures to achieve the level of the eligible own funds for covering the capital solvency requirement or for reducing its risk profile for guaranteeing compliance with the capital solvency requirement by 31 December 2017.

(3) The insurer or the reinsurer under Paragraph 2 respectively shall present at 3-month intervals before the Commission a progress report, indicating the measures undertaken and progress made for establishing the level of the eligible own funds for covering the capital solvency requirement or for reducing the risk profile for guaranteeing compliance with the capital solvency requirement.

(4) The extension under Paragraph 2 shall be repealed, when the progress report shows that there is no significant progress

towards achieving a recovery of the level of eligible own funds for covering the capital solvency requirement or for reducing the risk profile for guaranteeing compliance with the capital solvency requirement, between the date of establishing the non-compliance with the capital solvency requirement and the date of submission of the progress report.

(5) Regardless of Article 239, Paragraphs 2, 3 and 4, Paragraphs 2 - 4 shall be applied at the group level respectively and when the participating insurer or reinsurer respectively or the insurers and reinsurers in a single group of companies comply with the corrected solvency margin under Article 84 of the repealed Insurance Code but do not comply with the group capital solvency requirement.

(6) Within a time limit until 31 December 2017, the percentages under Article 192 (4) shall be applied only for the capital solvency requirement calculated according to the standard formula.

§ 12. (1) An insurer or a reinsurer respectively may, after a preliminary approval by the Deputy Chairperson, apply the transitional correction to the respective term structure of the risk-free interest rate as regards eligible insurance and reinsurance liabilities.

(2) The correction for each specific currency shall be calculated as part of the difference between:

1. the interest rate, as stipulated by the insurer or by the reinsurer respectively, in accordance with Article 13 (10) of Ordinance No. 27 on the Procedure and Methodology of Forming Technical Reserves by Insurers and Reinsurers (Promulgated, SG No. 36/2006; amended and supplemented, SG No. 65/2007, No. 3/2008, No. 49 and 89/2010 and No. 66/2013);

2. the effective annual interest rate, calculated as a discount rate, which, when applied to the cash flows of the portfolio of eligible insurance and reinsurance liabilities, results in a value which is equal to the value of the best possible forecast valuation of the portfolio of eligible insurance and reinsurance liabilities, when taking into account the time value of money and when using the respective term structure of the risk-free interest rate under Article 154 (2).

(3) The part specified in Paragraph 2 shall decrease in a linear fashion at the end of each year from 100% during the year as from 1 January 2016 to 0% as of 1 January 2032.

(4) When the insurer or the reinsurer respectively applies the volatility correction under Article 158, the respective term structure of the risk-free interest rate under Paragraph 2, Item 2 shall essentially be the corrected term structure of the risk-free interest rate under Article 158.

(5) The eligible insurance and reinsurance liabilities shall encompass only insurance and reinsurance liabilities which meet the following requirements:

1. the contracts which give rise to insurance and reinsurance liabilities must have been concluded before 1 January 2016, with the exception of renewal of contracts on or after this date;

2. by 31 December 2015, the technical reserves for insurance and reinsurance liabilities must have been determined in accordance with Ordinance No. 27 on the Procedure and Methodology for Forming of Technical Reserves by Insurers and Reinsurers as of 31 December 2015;

3. Article 156 is not applied to insurance and reinsurance liabilities.

(6) An insurer or a reinsurer respectively, which applies Paragraph 1:

1. shall not include the eligible insurance and reinsurance liabilities when calculating the volatility correction under Article 158;

2. shall not apply § 13;

3. shall disclose to the public, as part of its solvency and financial status report under Article 129, that it applies the transitional term structure of the risk-free interest rate and the quantitative measurement of the impact of not applying the present transitional measure on its financial status.

(7) The equalising correction under Article 156 shall not be applied to an insurer or to a reinsurer, which applies the transitional measures under Paragraph 1.

§ 13. (1) An insurer or a reinsurer respectively may, after preliminary approval by the Deputy Chairperson, apply transitional deduction of the technical reserves. This deduction may be applied at the level of homogeneous risk groups under Article 153.

(2) The transitional deduction corresponds to part of the difference between the following two amounts:

1. the technical reserves after the deduction of the amounts recoverable from reinsurance contracts and from special purpose vehicles for alternative insurance risk transfer, calculated in accordance with Article 120 and Article 153 - 162 on 1 January 2016;

2. the technical reserves after the deduction of the amounts recoverable from reinsurance contracts, calculated in accordance with Ordinance No. 27 on the Procedure and Methodology for Forming of Technical Reserves by Insurers and Reinsurers on 31 December 2015.

(3) The maximum share of deduction shall be reduced at the end of each year from 100% during the year from 1 January 2016 to 0 % on 1 January 2032.

(4) When the insurer or the reinsurer respectively applies on 1 January 2016 the volatility correction under Article 158, the amount referred to in Paragraph 2, Item 1 shall be calculated with the volatility correction as of this date.

(5) After preliminary approval by the Deputy Chairperson or on his/her initiative, the amounts of the technical reserves, including, where applicable, the amount of the volatility correction used for calculation of the transitional deduction, under Paragraph 2 Items 1 and 2 can be recalculated at 24-month intervals or more frequently, when the risk profile of the insurer or of the reinsurer has changed significantly.

(6) The deduction under Paragraph 2 may be limited by the Deputy Chairperson, if its application could result in reduction of the requirements for financial resources, which are applied in regard to the undertaking, in comparison with those calculated in accordance with the repealed Insurance Code as of 31 December 2015.

(7) An insurer or a reinsurer respectively, which applies Paragraph 1:

1. may not apply § 12;

2. shall present on an annual basis a report to the Commission, wherein the measures undertaken and the progress made for recovery at the end of the transitional period under Paragraph 3 of the level of the eligible own funds for covering the capital solvency requirement or for reduction of their risk profile for restoring the compliance with the capital solvency requirement shall be indicated, when the insurer or reinsurer respectively would be in violation of the capital solvency requirements, if the transitional deduction were not applied;

3. shall disclose to the public, as part of its solvency and financial status report under Article 129, that it applies the transitional deduction for the technical reserves, as well as the quantitative measurement of the impact from not applying this transitional deduction on its financial status.

§ 14. (1) An insurer or a reinsurer respectively, which applies the transitional measures under § 12 and 13, shall make an assessment of the compliance with the capital requirements under Article 90, Paragraph 2, Item 2.

(2) An insurer or a reinsurer respectively, which applies the transitional measures under § 12 and 13, shall notify the Deputy Chairperson immediately after it finds that it would not comply with the capital solvency requirements, were it not to apply these transitional measures. On a proposal by the Deputy Chairperson, the Commission shall require from the respective insurer or reinsurer to undertake the necessary measures in order to guarantee the compliance with the capital solvency requirements at the end of the transitional period.

(3) Within two months of establishing non-compliance with the capital solvency requirement without application of these transitional measures, the respective insurer or reinsurer shall present to the Commission a gradual introduction plan, stipulating the measures planned for ensuring an eligible own funds level sufficient for covering the capital solvency requirement or for reducing its risk profile for guaranteeing compliance with the capital solvency requirement at the end of the transitional period. The insurer or the reinsurer may update the gradual introduction plan during the transitional period.

(4) The insurer or the reinsurer shall present on an annual basis to the Commission a report, wherein the measures undertaken and the progress made in guaranteeing compliance with the capital requirement at the end of the transitional period shall be

indicated. On a proposal by the Deputy Chairman, the Commission shall revoke the approval for the application of the transitional measure, when the said progress report shows that compliance with the capital solvency requirement at the end of the transitional period is unrealistic.

(5) On a proposal by the Deputy Chairperson, the Commission may, by a reasoned decision and in the presence of extraordinary circumstances, order that additional capital be added to the capital of an insurer or of a reinsurer respectively, applying the transitional measures under § 12 and 13, when the Commission makes an assessment that its risk profile deviates considerably from the assumptions that are at the basis of these transitional measures.

§ 15. Paragraphs 12, 13 and 14 shall be applied at the group level respectively.

§ 16. The ordinance under Article 490 (5) shall be adopted within a time limit of 1 (one) year from the entry into force of this Code. The Guarantee Fund shall hire a consultant with the necessary international experience in risk assessment and actuarial science for preparing the unified requirements for correcting the insurance premium.

§ 17. (1) The procedures for issuance of licenses to an insurer or to a reinsurer, as well as those for acquiring a qualified participating stake or for increasing a participating stake, that are still pending at the time of entry into force of this Code, shall be completed according to the procedure laid down in this Code. Within a 3-month time limit from the entry into force of this Code, the applicants under the first sentence shall submit to the Commission the missing documents under Articles 31 - 33 and Article 69. The time limits under Article 34, Paragraphs 1 - 3 and Article 71 shall stop elapsing until all the documents under the second sentence are submitted or until the expiration of the 3-month time limit respectively.

(2) The procedures under Articles 13 and 22, Article 25 (2), Articles 26, 27, 109, 118, 120 and 158 from the repealed Insurance Code, that are still pending as of the time of entry into force of this Code, shall be completed according to the pre-existing procedure, unless the person requests that the procedure be completed according to the procedure laid down in this Code.

(3) The procedures under Article 62, 103 and 132 of the repealed Insurance Code, that are still pending as of the time of entry into force of this Code, shall be terminated.

(4) The approvals issued under Articles 13, 22, 26 and 27 of the repealed Insurance Code shall preserve their validity and effect.

(5) The procedures for application of compulsory administrative measures, for withdrawal of licenses and permits issued to insurers, reinsurers and insurance brokers, that are still pending as of the time of entry into force of this Code, shall be completed according to the pre-existing procedure.

§ 18. Article 70 (5) shall be applied also to applicants for acquiring a qualified participating stake, who have submitted the documents under Article 16a(1) of the repealed Insurance Code.

§ 19. Article 80 (12) shall be applied also to the persons who have been approved under Article 13 (6) of the repealed Insurance Code.

§ 20. The experience as an actuary in a health insurance company shall also be recognised for the purposes of Article 97, Paragraph 2, Item 6.

§ 21. (1) The already existing insurers and reinsurers, which have received a licence prior to the entry into force of this Code, shall continue their operations as insurers or reinsurers respectively under Part Two, Section Three, unless they submit a request under Article 38 (6).

(2) The licences of the local insurers by classes of insurance policies under Annex No. 1 of the repealed Insurance Code shall be deemed to correspond to the licences for the types of insurance policies under Annex No. 1 of this Code in the manner

provided for by Annex No. 2.

§ 22. For the insurance contracts concluded prior to the entry into force of this Code, Part Four of the repealed Insurance Code shall be applied, unless the parties agree upon otherwise after the entry into force of this Code.

§ 23. Article 480 (1) shall be applied to all the contracts for compulsory Third Party Liability insurance of the motorists, concluded after the date of entry into force of this Code.

§ 24. As to the cases pending at the time of entry into force of Article 484 in connection with more than one valid or expired Third Party Liability insurance policy of the motorist, under which insured events have occurred, the insurers that are parties to the respective contracts shall be jointly and equally liable for paying the indemnity, where the said insurers shall be jointly and severally liable for payment of the indemnity to the persons who have sustained damages and to the insured person in the case when the latter has paid monetary amounts to the persons who have sustained damages.

§ 25. As to the cases pending at the time of entry into force of Article 480, in which there is a validly concluded insurance policy for compulsory Third Party Liability insurance of the motorists in regard to the same motor vehicle with one insurer and a Green Card certificate issued by another insurer, as well as if the above have expired (and insured events have occurred under the above) and when the insured event has occurred outside of the territory of the Republic of Bulgaria and if the event has occurred on the territory of:

1. a third country covered by the Green Card certificate issued, the insurer which has issued the Green Card Certificate shall be liable to pay the indemnity;

2. a member state, the insurer which has issued the insurance policy for compulsory Third Party Liability insurance of motorists shall be liable to pay the indemnity.

§ 26. As regards the contracts for compulsory Third Party Liability insurance of motorists, that are in effect as of the time of entry into force of Article 492, as well as regards the expired contracts, under which insured events have occurred, the limits under Article 266 of the repealed Insurance Code that have been valid as of the date of the insured event shall apply.

§ 27. As regards the contracts for compulsory Accident insurance of the passengers in the public transport, that are in effect as of the time of entry into force of Article 476, as well as regards the expired contracts, under which insured events have occurred, the limits under Article 281 of the repealed Insurance Code that have been valid as of the date of the insured event shall apply.

§ 28. The Guarantee Fund under Article 518 is essentially the Guarantee Fund under Article 287 of the repealed Insurance Code.

§ 29. The statutory acts of secondary legislation for application of the repealed Insurance Code and the general administrative acts issued on the grounds of the repealed Insurance Code shall preserve their validity and effect to the extent to which they do not contradict this Code.

§ 30. (1) The existing insurers within the meaning of § 1, Item 11 of the supplementary provisions of the repealed Insurance Act shall complete the liquidation or bankruptcy proceedings according to the procedure of the repealed act.

(2) Upon request of the Deputy Chairperson, the court shall, by means of the bankruptcy ruling, decree the deletion of company, in the case of persons under Paragraph 1, without sufficient funds to cover the liquidation or bankruptcy expenses. No trustee-in-bankruptcy shall be appointed.

(3) The court, upon request of the Deputy Chairperson, shall decree deletion of the company in the case of persons under

Paragraph 1 which as shown by the evidence collected have no funds or liabilities.

(4) The Deputy Chairperson shall issue a resolution for termination of the liquidation in the case of persons under Paragraph 1 whose liquidation or bankruptcy have ended with a settlement of the liabilities to third parties. Relations between the shareholders shall be regulated in accordance with the Commerce Act.

(5) The bankruptcy procedures which are still pending under the repealed Insurance Act and under the repealed Insurance Code shall be completed according to the pre-existing procedure. By virtue of a decision of the Commission, at a request by the trustee-in-bankruptcy and after the consent of the Management Board of the Guarantee Fund, the bankruptcy procedure under the first sentence may be completed according to the procedure laid down in this Code.

§ 31. Article 378, Paragraphs 1 - 6, Article 8 and Article 379 shall be applied to the term of limitation which has started to elapse while the repealed Insurance Code was still in effect.

§ 32. The Guarantee Fund shall return to the state budget, within a 6-month time limit from the entry into force of this Code, the introductory contribution made by the Minister of Finance to the benefit of the Security Fund in the amount of BGN 2,000,000 for the account of the republican budget.

§ 33. The Guarantee Fund shall bring its operations in conformity with the requirements of this Code within a 6-month time limit from its entry into force.

§ 34. This Code repeals the Insurance Code (promulgated, SG No. 103/2005; amended, No. 105/2005, No. No. 30, 33, 34, 54, 59, 80, 82 and 105/2006, No. No. 48, 53, 97, 100 and 109/2007, No. 67 and 69/2008, No. 24 and 41/2009, No. No. 19, 41, 43, 86 and 100/2010, No. No. 51, 60 and 77/2011, No. No. 21, 60 and 77/2012, No.No. 20, 70 and 109/2013 and No. 94 and 95/2015).

§ 35. In the Criminal Code (promulgated, SG No. 26/1968, amended, No. 29/1968; amended, No. 92/1969, No. 26 and 27/1973, No. 89/1974, No. 95/1975, No. 3/1977, No. 54/1978, No. 89/1979, No. 28/1982; amended, No. 31/1982; amended, No. 44/1984, No. 41 and 79/1985; amended, No. 80/1985; amended, No. 89/1986; amended, No. 90/1986; amended, No. No. 37, 91 and 99/1989, No. No. 10, 31 and 81/1990, No. 1 and 86/1991; amended, No. 90/1991; amended, No. 105/1991, No. 54/1992, No. 10/1993, No. 50/1995; Ruling No. 19 of the Constitutional Court of 1995 – No. 97/1995; amended, No. 102/1995, No. 107/1996, No. 62 and 85/1997; Ruling No. 19 of the Constitutional Court of 1997 – No. 120/1997; amended, No. No. 83, 85, 132, 133 and 153/1998, No. No. 7, 51 and 81/1999, No. 21 and 51/2000; Ruling No. 14 of the Constitutional Court of 2000 – No. 98/2000; amended, No. 41 and 101/2001, No. 45 and 92/2002, No. 26 and 103/2004, No. No. 24, 43, 76, 86 and 88/2005, No. No. 59, 75 and 102/2006, No. No. 38, 57, 64, 85, 89 and 94/2007, No. 19, 67 and 102/2008, No.No. 12, 23, 27, 32, 47, 80, 93 and 102/2009, No. 26 and 32/2010, No. 33 and 60/2011, No. No. 19, 20 and 60/2012, No. 17, 61 and 84/2013, No. No. 19, 53 and 107/2014 and No. No. 14, 24, 41 and 74/2015) in Article 227b (4), a comma shall be placed after the words "Credit Institutions Act" and the words "as well as the persons who were under an obligation to notify the Financial Supervision Commission of the insolvency of an insurer or a reinsurer according to the Insurance Code" shall be added.

§ 36. In the Bank Deposit Guarantee Act (promulgated, SG No. 62/2015), in Article 11 (1), the following amendment shall be made:

1. In Item 3, the words "Article 8" shall be replaced by the words "Article 12".

2. In Item 8, the words "Article 287" shall be replaced by the words "Article 518".

§ 37. In the Tax on Insurance Premiums Act (promulgated, SG No. 86/2010; amended, No. 105/2014) the following amendments shall be made:

1. In Article 3 (2), the words "Article 8, Paragraph 1, Item 2" shall be replaced with the words "Article 12, Paragraph 1, Item

2".

2. In Article 6, the words "Article 8, Paragraph 1, Item 2" shall be replaced with the words "Article 12, Paragraph 1, Item 2".

3. In Article 8, Paragraph 4:

a) In Item 1, the words "Article 287" shall be replaced with the words "Article 518";

b) In Item 2, the words "Article 311e" shall be replaced with the words "Article 521, Paragraph 1, Item 2";

4. In Article 19 (1), the words "Article 8, Paragraph 1, Item 2" shall be replaced with the words "Article 12, Paragraph 1, Item 2".

5. In § 1 of the Supplementary Provision:

a) In Item 1, the words "Article 8 (1)" shall be replaced by the words "Article 12 (1)";

b) In Item 3, the words "Article 8 (2)" shall be replaced with the words "Article 12 (2)", whereas the words "Article 9, Paragraph 2, first sentence" shall be replaced with the words "Article 25 (1)";

c) in Item 5, the words "§ 1, Item 22" shall be replaced with the words "§ 1, Item 12".

§ 38. In the Road Traffic Act (promulgated, SG No. 20/1999; amended, No. 1/2000, No. 43 and 76/2002, No. 16 and 22/2003, No.No. 6, 70, 85 and 115/2004, No.No. 79, 92, 99, 102, 103 and 105/2005, No. No. 30, 34, 61, 64, 80, 82, 85 and 102/2006, No. No. 22, 51, 53, 97 and 109/2007, No.No. 36, 43, 69, 88 and 102/2008, No. No. 74, 75, 82 and 93/2009, No. 54, 98 and 100/2010, No. No. 10, 19, 39 and 48/2011; Ruling No. 1 of the Constitutional Court of 2012 – No. 20/2012; amended, No. No. 47, 53, 54, 60 and 75/2012, No. 15 and 68/2013, No. 53 and 107/2014 and No.No. 14, 19, 37, 79, 92 and 95/2015) the following amendments shall be made:

1. In Article 125a (1), the words "Article 287" shall be replaced with the words "Article 518".

2. In Article 143, a new Paragraph 10 shall be created:

"(10) The authorities shall terminate ex officio the registration of motor vehicles, regarding which a notification has been received from the Guarantee Fund under Article 574 (11) of the Insurance Code, whereby the owner of the motor vehicle is notified thereof. Registration of a motor vehicle which has been terminated ex officio shall be restored ex officio upon the submission of information as to a concluded insurance policy from the Guarantee Fund according to the procedure of Article 574 (6) or at the request of the owner after submission of a valid Third Party Liability insurance policy of the motorist."

3. In Article 179 (5), the words "Article 261 (1)" shall be replaced with the words "Article 487 (1)".

§ 39. In the Financial Collateral Arrangements Act (promulgated, SG No. 68/2006; amended, No. 24/2009, No. 101/2010, No. 77/2011 and No. 70 and 109/2013 and No. 62/2015), in Article 3, Paragraph 1, Item 6, the words "Article 1, Letter "a" of Directive 92/49/EEC of the Council of 18 June 1992 concerning the Coordination of the Legislative, Secondary Legislative and Administrative Provisions Related to Direct Insurance Other than Life Insurance and for Amendment of Directives 73/239/EEC and 88/357/EEC (Third Directive on the Insurance Other Than Life Insurance) and pursuant to Article 1, Paragraph 1, Letter "a" of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning Life Insurance" shall be replaced with the words "Article 13, Paragraph 1 of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 concerning the Commencement and Performance of Insurance and Reinsurance Activity (Solvency II) (OJ, L 335/1 of 17 December 2009)".

§ 40. In the Supplementary Supervision of Financial Conglomerates Act (promulgated, SG No. 59/2006; amended, No. 52/2007, No. 77 and 105/2011, No. 70/2013 and No. 27/2014), the following amendments shall be made:

1. In Article 13 (8), the words "Chapter Twenty Seven" shall be replaced with the words "Article 267 and 268".

2. In Article 15:

a) in Paragraph 3, the words "under the eleventh paragraph of Item 2.2 of the Protocol for Cooperation between the Supervision Authorities of the Member States of the European Union as regards the Application of Directive 98/78/EC concerning the Supplementary Supervision over the Insurance Undertakings in an Insurance Group of 11 May 2000 in connection with Article 9b (3) of the Insurance Code (The Protocol from Helsinki)" shall be replaced with the words "in the coordination agreements under Article 268 (4) of the Insurance Code";

b) in Paragraph 4, the words "the Coordination Committee within the meaning of the third paragraph of Item 2.2 of the Helsinki Protocol" shall be replaced with the words "the supervisory collegium under Article 268 of the Insurance Code".

3. In Article 16 (14), the words "the Coordination Committee within the meaning of the third paragraph of Item 2.2 of the Helsinki Protocol" shall be replaced with the words "the supervisory collegial under Article 268 of the Insurance Code".

4. In § 1 of the Supplementary Provisions:

a) In Item 2, the words "Article 8 (1)" shall be replaced with the words "Article 12, Paragraph 1, Item 1";

b) in Item 5b, the words "Article 8 (2)" shall be replaced with the words "Article 12, Paragraph 2, Item 1", whereas the words "§ 1, Item 44 of the Supplementary Provisions" shall be replaced with the words "Article 22 from";

c) In Item 6, Letter "b", the words "Article 27 (1)" shall be replaced with the words "Article 233 (8)";

d) in Item 19, Letter "b" shall be amended to read as follows:

"b) for the persons from the insurance sector - the capital solvency requirement or the solvency margin respectively, calculated under the Insurance Code for each of the persons in this sector;"

e) in Item 20, Letter "b", the text after the word "the insurance" shall be deleted.

§ 41. In the Health Act (promulgated, SG No. 70/2004; amended, No. No. 46, 76, 85, 88, 94 and 103/2005, No. No. 18, 30, 34, 59, 71, 75, 81, 95 and 102/2006, No. 31, 41, 46, 53, 59, 82 and 95/2007, No. No. 13, 102 and 110/2008, No. No. 36, 41, 74, 82, 93, 99 and 101/2009, No. No. 41, 42, 50, 59, 62, 98 and 100/2010, No. No. 8, 9, 45 and 60/2011, No. No. 38, 40, 54, 60, 82, 101 and 102/2012, No. No. 15, 30, 66, 68, 99, 104 and 106/2013, No. No. 1, 98 and 107/2014 and No. No. 9, 72 and 80/2015), in Article 28, Paragraph 1, Item 8, after the words "insurer licensed under" the words "Section I of Annex No. 1 or" shall be added.

§ 42. In the Health Insurance Act (promulgated, SG No. 70/1998; amended, No. 93 and 153/1998, No. No. 62, 65, 67, 69, 110 and 113/1999, No. 1 and 64/2000, No. 41/2001, No. No. 1, 54, 74, 107, 112, 119 and 120/2002, No. No. 8, 50, 107 and 114/2003, No. No. 28, 38, 49, 70, 85 and 111/2004, No. No. 39, 45, 76, 99, 102, 103 and 105/2005, No. No. 17, 18, 30, 33, 34, 59, 80, 95 and 105/2006, No. 11/2007; Ruling No. 3 of the Constitutional Court of 2007 – No. 26/2007; amended, No. No. 31, 46, 53, 59, 97, 100 and 113/2007, No. No. 37, 71 and 110/2008, No. No. 35, 41, 42, 93, 99 and 101/2009, No. No. 19, 26, 43, 49, 58, 59, 62, 96, 97, 98 and 100/2010, No. No. 9, 60, 99 and 100/2011, No. No. 38, 60, 94, 101 and 102/2012, No. No. 4, 15, 20, 23 and 106/2013, No. No. 1, 18, 35, 53, 54 and 107/2014 and No. No. 12, 48, 54, 61, 72 and 79/2015), the following amendments shall be made:

1. In Article 82 (1), the words "Article 222a" shall be replaced with the words "Chapter Forty, Section IV".

2. In Article 101, Item 4, the words "Article 222a, Paragraph 2" shall be replaced with the words "Chapter Forty, Section IV".

§ 43. In the Act on Economic and Financial Relations with Companies Registered in Preferential Tax Treatment Jurisdictions, Such Companies' Related Parties and Their Beneficial Owners (promulgated, SG No. 1/2014; amended, No. 22/2015), in Article 6 (3), the words "Article 16a" shall be replaced with the words "Article 69".

§ 44. In the Financial Supervision Commission Act (promulgated, SG No. 8/2003; amended, No. No. 31, 67 and 112/2003, No. 85/2004, No. No. 39, 103 and 105/2005, No. No. 30, 56, 59 and 84/2006, No. No. 52, 97 and 109/2007, No. 67/2008, No. 24 and 42/2009, No. 43 and 97/2010, No. 77/2011, No. No. 21, 38, 60, 102 and 103/2012, No. 15 and 109/2013 and No. 34 and 62/2015), the following amendments and supplementations shall be made:

1. In Article 1, Paragraph 2, Item 2 shall be amended as follows:

"2. the activity of the insurers pursuant to the Insurance Code and the Health Insurance Act, the activity of the reinsurers, insurance brokers and insurance agents pursuant to the Insurance Code and the activity of the Guarantee Fund under Article 518 of the Insurance Code;".

2. In Article 16, Paragraph 1:

a) in Item 3, the words "Article 16" shall be replaced with the words "Chapter Six".

b) in Item 6, the words "Articles 13, 22 and 26" shall be replaced with the words "Article 80, Paragraphs 1 and 2, Article 82, Article 93 (4) and Article 95 (3)";

c) in Item 13, the words "Article 68" shall be replaced with the words "Article 119".

3. In Article 18, Paragraph 2 shall be amended to read as follows:

"(2) For the purposes of the supervision exercised and provided that the expenses shall be at the expense of the person subject to supervision, the Commission or the Deputy Chairperson in Charge respectively may appoint an external auditor or external independent experts to make the valuation of assets or liabilities of the person subject to supervision and may require from the person subject to supervision to record the results from such valuation in the financial statements."

4. In Article 27, Paragraph 1, Item 5 shall be amended to read as follows:

"5. issuing of:

a) licences for expanding the scope of the licence under Article 32 of the Insurance Code;

b) permits for voluntary change of status of the insurer under Article 36 of the Insurance Code;

c) approval of a comprehensive or a partial internal model, as well as of significant changes to the approved internal model and to the policy for changing the internal model of an insurer or a reinsurer, as well as for approval of the internal model of a group, where the Commission is a supervisory authority as regards the group."

5. In Article 30, Paragraph 1:

a) A new Item 10 shall be created:

"10. special purpose vehicles for alternative insurance risk transfer;"

b) the former Items 10, 11, 12, 13, 14 and 15 shall become Items 11, 12, 13, 14, 15 and 16 respectively.

§ 45. In the Employment Promotion Act (promulgated, SG No. 112/2001; amended, No. 54 and 120/2002, No. 26, 86 and 114/2003, No. 52 and 81/2004, No. 27 and 38/2005, No.No 18, 30, 33 and 48/2006, No. 46/2007, No.No. 26, 89 and 109/2008, No. No. 10, 32, 41 and 74/2009, No. No. 49, 59, 85 and 100/2010, No. 9 and 43/2011, No. 7/2012, No. No. 15, 68 and 70/2013, No. 54 and 61/2014 and No. 54 and 79/2015), in Article 30a, Paragraph 2, Item 14, the words "insurance institutions" shall be replaced with the words "insurers".

§ 46. In the Public Offering of Securities Act (promulgated, SG No. 114/1999; amended, No. 63 and 92/2000, No. No. 28, 61, 93 and 101/2002, No. No. 8, 31, 67 and 71/2003, No. 37/2004, No. No. 19, 31, 39, 103 and 105/2005, No. No. 30, 33, 34, 59, 63, 80, 84, 86 and 105/2006, No. No. 25, 52, 53 and 109/2007, No. 67 and 69/2008, No. No. 23, 24, 42 and 93/2009, No. 43 and 101/2010, No. 57 and 77/2011, No. No. 21, 94 and 103/2012, No. 109/2013 and No. No. 34, 61, 62 and 95/2015), the following amendments shall be made:

1. Article 77d, Paragraph 2, Item 12, the words "Article 287" shall be replaced with the words "Article 518".

2. In Article 85 (5), the words "7 days" shall be replaced with the words "one business day"

3. In Article 86, Paragraph 3 shall be amended to read as follows:

"(3) In case the base prospectus and the supplementations thereto do not include information on the final terms and conditions of the offering, the issuer, the proposing party or the person, who demands that the securities be admitted to trade on a regulated market, shall make this information available to the public pursuant to Article 92a (5), shall present it to the Commission and the Commission shall make it known to the competent authorities of the accepting countries in the case of each separate offering as quickly as possible and, if possible, not later than the start date of the offering or admission of the securities to trade on a regulated market. The Commission shall notify the European Securities and Markets Authorities of these final terms and conditions. The final terms and conditions shall contain information in connection with the securities document and may not supplement the base prospectus. In the cases referred to in the first sentence, Article 87a, Paragraph 1, Sentence One shall be applied."

§ 47. In the Social Insurance Code (promulgated, SG No. 110/1999; Ruling No. 5 of the Constitutional Court of 2000 – No. 55/2000; amended, No. 64/2000, No. No. 1, 35 and 41/2001, No. No. 1, 10, 45, 74, 112, 119 and 120/2002, No. No. 8, 42, 67, 95, 112 and 114/2003, No.No. 12, 21, 38, 52, 53, 69, 70, 112 and 115/2004, No. No. 38, 39, 76, 102, 103, 104 and 105/2005, No. No. 17, 30, 34, 56, 57, 59 and 68/2006; corrected, No. 76/2006; amended, No. 80, 82, 95, 102 and 105/2006, No. No. 41, 52, 53, 64, 77, 97, 100, 109 and 113/2007, No. No. 33, 43, 67, 69, 89, 102 and 109/2008, No.No. 23, 25, 35, 41, 42, 93, 95, 99 and 103/2009, No. No. 16, 19, 43, 49, 58, 59, 88, 97, 98 and 100/2010; Ruling No. 7 of the Constitutional Court of 2011 – No. 45/2011; amended, No. No. 60, 77 and 100/2011, No.No. 7, 21, 38, 40, 44, 58, 81, 89, 94 and 99/2012, No. No. 15, 20, 70, 98, 104, 106, 109 and 111/2013, No. No. 1, 18, 27, 35, 53 and 107/2014 and No. No. 12, 14, 22, 54, 61, 79 and 95/2015), in Article 343c, Paragraph 1, Item 3, the words "Section I, Item 1, Letter "b" - "Retirement or Annuity Insurance" from Annex No. 1" shall be replaced with the words "Item 1, Section I, Letter "b" - "Annuities" from Annex No. 1".

§ 48. In the Payment Services and Payment Systems Act (promulgated, SG No. 23/2009; amended, No. 24 and 87/2009, No. 101/2010, No. 105/2011, No. 103/2012 and No. 57/2015), the following amendments and supplementations shall be made in Article 78g:

1. A new Paragraph 2 shall be created as follows:

"(2) When, within the boundaries of an operationally compatible system, a system operator has provided collateral to another system operator, the rights of the system operator who provided the collateral to the provided collateral cannot be affected by recovery measures or termination procedures in regard to the system operator to whom the collateral was provided."

2. The former Paragraph 2 shall become Paragraph 3 and after the words "Paragraph 1" therein the words "and 2" shall be added.

3. The former Paragraph 3 shall become Paragraph 4.

§ 49. The financial lease contracts concluded prior to the entry into force of this Code under Article 384 (1) shall be brought in conformity within a 6-month time limit from the entry into force of the Code.

§ 50. (1) This Code shall enter into force from 1 January 2016, with the exception of Article 574 (8) which shall enter into force from 1 July 2016.

(2) Up to and including on 1 July 2016, the exchange of data under Article 574, Paragraphs 3 - 7 shall be performed once a month, where on every first business day of the week:

1. the Ministry of Interior and the Automobile Administration Executive Agency shall provide to the Information Centre the up-to-date data under Article 574, Paragraph 3 and 4;

2. the Information Centre shall provide to the Minister of Interior and to the Automobile Administration Executive Agency the up-to-date data under Article 574, Paragraphs 5 - 7.

This Code was adopted by the 43rd National Assembly on the 15th of December 2015 and the official seal of the National Assembly was affixed hereunder.

Annex No. 1

TYPES OF INSURANCES

Section I
Classes of Life Insurance

1. Life Insurance:
a) Life Insurance, which includes insurance for reaching a certain age only, insurance for death only, insurance for reaching a certain age or for an earlier death, Life Insurance with return of premiums;
b) annuities;
c) supplementary insurance policies, concluded as supplementation to the life insurance and, in particular, insurance against bodily harm, including incapacitation for employment, insurance against death caused by an accident and insurance against incapacitation caused by accident or sickness.
2. Marriage and Birth Insurance.
3. Life Insurance linked to investment funds:
a) Life Insurance, which includes insurance for reaching a certain age only, insurance for death only, insurance for reaching a certain age or for an earlier death, Life Insurance with return of premiums, Marriage and Birth Insurance;
b) annuities;
c) supplementary insurance policies, concluded as supplementation to the life insurance and, in particular, insurance against bodily harm, including incapacitation for employment, insurance against death caused by an accident and insurance against incapacitation caused by accident or sickness.
4. Capitalisation operations based on actuarial estimates, in the case of which liabilities with an accurately stipulated term and amount are assumed in exchange for lump-sum or regular payments, agreed-upon in advance, to the extent that these operations are subject to supervision.

Section II
Classes of General Insurance

(A) Classification of the risks by class of insurance:
1. Accident (including industrial injury and occupational diseases):
- fixed pecuniary benefits;
- indemnities;
- a combination of the two above;
- bodily harm to passengers.
2. Sickness:
- fixed pecuniary benefits;
- indemnities;
- a combination of the two above.
3. Land vehicles (other than railway rolling stock):
All damage to or loss caused to:
- land motor vehicles;
- land vehicles other than motor vehicles.
4. Railway rolling stock:
All damage to or loss of railway rolling stock.
5. Aircraft:
All damage to or loss of aircraft.
6. Vessels (sea, lake, river and canal vessels):
All damage to or loss caused to:
- river and canal vessels;
- lake vessels;
- sea vessels.
7. Cargo in transit (including merchandise, baggage, and others):
All damage to or loss of cargo in transit, irrespective of the form of transport.
8. Fire and natural calamities:
All damage to or loss of property (other than those referred to Classes 3, 4, 5, 6 and 7) as a result of:
- fire;
- explosion;
- storm;
- natural disasters other than storm;
- nuclear power;

- landslides.
9. Other damages to property:
All damages to or loss of property (other than those referred to in Classes 3, 4, 5, 6 and 7) as a result of hail or frost, and any other event such as theft, other than those mentioned in Class 8.
10. Third party liability for the possession and use of a motor vehicle:
10.1. Any liability for damages caused in the use of land motor vehicles.
10.2. Third party liability of the motorist.
11. Third party liability for the possession and use of aircraft:
11.1. Any liability for damages arising in the use of aircrafts.
11.2. Third party liability of the aircraft carrier.
12. Third party liability for possession and use of vessels (sea, lake, river and canal vessels):
12.1. Any liability for damages arising in the use of ships, boats or other vessels by sea, river, canal or lake.
12.2. Third party liability of the ships carrier.
13. General third party liability:
All liability for damages other than those mentioned under Items 10, 11 and 12.
14. Credits:
- bankruptcy (general);
- export credit;
- credit in instalments;
- mortgages;
- agricultural credit.
15. Guarantees:
- direct guarantees;
- indirect guarantees.
16. Miscellaneous financial losses:
- employment risks;
- income insufficiency (general);
- poor weather conditions;
- benefits foregone;
- prolonged general expenses;
- unforeseen trade costs;
- loss of market value;
- loss of rent or income;
- other indirect trade losses;
- other non-commercial financial losses;
- other types of financial losses.
17. Legal expenses:
Legal expenses and expenses related to litigation.
18. Tourist assistance (assistance):
Assistance provided for persons in a difficult situation while travelling, away from home or away from their usual residence.
B. Description of the license issued for more than one type of insurance:
The following titles shall be used for permits which simultaneously encompass:
a) Class 1 and 2: "Accident and Health Insurance";
b) Classes 1 (fourth hyphen), 3, 7 and 10: "Motor Insurance";
c) Classes 1 (fourth hyphen), 4, 6, 7 and 12: "Marine and Transport Insurance";
d) Classes 1 (fourth hyphen), 5, 7 and 11: "Aviation Insurance";
e) Classes 8 and 9: "Fire and Other Damages to Property Insurance";
f) Classes 10, 11, 12 and 13: "Third Party Liability Insurance";
g) Classes 14 and 15: "Credits and Warranties Insurance";
h) all classes "General Insurance".

Annex No. 2
to § 21, Paragraph 2 of
the Transitional and Final Provisions

Conversion Table of correspondence of the licences by classes of insurance policies from Appendix No. 1 of the Insurance Code of 2005 to the licenses by classes of insurance policies from Appendix No. 1 in the sense of this present Code

License by type of insurance policy under Appendix No.1 of the Insurance Code of 2005	Corresponding license by class of insurance policy under Appendix No.1 of this present Code
Section I	Section I
Item 1	Item 1
letter “a”	letter “a”

letter “b”
Item 2
Item 3
Item 4
Item5
Item 6
Section II, letter “A”
Item 1:
-
first hyphen
-
second hyphen
-
third hyphen
-
fourth hyphen
Item 2:
-
first hyphen
-
second hyphen
-
third hyphen
Item 3:
-
first hyphen
-
second hyphen
Item 4
Item5
Item 6:
-
first hyphen
-
second hyphen
-
third hyphen
Item 7
Item 8:
-
first hyphen

letter “b”
Item 2
Item 3, letters “a” and “b”
without correspondence
Item 4
Item 1, letter “c”
Section II, letter “A”
Item 1:
-
first hyphen
-
second hyphen
-
third hyphen
-
fourth hyphen
Item 2:
-
first hyphen
-
second hyphen
-
third hyphen
Item 3:
-
first hyphen
-
second hyphen
Item 4
Item5
Item 6:
-
first hyphen
-
second hyphen
-
third hyphen
Item 7
Item 8:
-
first hyphen

-	-
second hyphen	second hyphen
-	-
third hyphen	without correspondence, included in second hyphen
-	-
fourth hyphen	third hyphen
-	-
fifth hyphen	fourth hyphen
-	-
sixth hyphen	fifth hyphen
-	-
seventh hyphen	sixth hyphen
Item 9	Item 9
Item 10	Item 10
Item 10.1	Item 10.1
Item 10.2	Item 10.2
Item 11	Item 11
Item 11.1	Item 11.1
Item 11.2	Item 11.2
Item 12	Item 12
Item 12.1	Item 12.1
Item 12.2	Item 12.2
Item 13	Item 13
Item 14:	Item 14:
-	-
first hyphen	first hyphen
-	-
second hyphen	second hyphen
-	-
third hyphen	third hyphen
-	-
fourth hyphen	fourth hyphen
-	-
fifth hyphen	fifth hyphen
Item 15:	Item 15:
-	-
first hyphen	first hyphen
-	-
second hyphen	second hyphen
Item 16:	Item 16:
-	-

first hyphen

-

second hyphen

-

third hyphen

-

fourth hyphen

-

fifth hyphen

-

sixth hyphen

-

seventh hyphen

-

eighth hyphen

-

ninth hyphen

-

tenth hyphen

-

eleventh hyphen

Item 17

Item 18

Section II, letter “B”

letter “a”

letter “b”

letter “c”

letter “d”

letter “e”

letter “f”

letter “g”

letter “h”

first hyphen

-

second hyphen

-

third hyphen

-

fourth hyphen

-

fifth hyphen

-

sixth hyphen

-

seventh hyphen

-

eighth hyphen

-

ninth hyphen

-

tenth hyphen

-

eleventh hyphen

Item 17

Item 18

Section II, letter “B”

letter “a”

letter “b”

letter “c”

letter “d”

letter “e”

letter “f”

letter “g”

letter “h”