CODE on insurance

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PART I
GENERAL PROVISIONS

Chapter I
SUBJECT MATTER. OBJECTIVES. GENERAL PRINCIPLES

Subject matter and scope

Article 1. (1) This Code regulates:

1. the business of insurance and reinsurance;

2. the business of insurance and reinsurance mediation;

3. the terms and conditions for taking up, pursuit and discontinuance of the activities under points 1 and 2;

4. the rules on distribution of insurance products and settlement of insurance claims;

5. insurance contracts;

6. compulsory insurance;

7. the reorganisation, winding-up and bankruptcy of insurers or reinsurers;

8. insurance supervision.

(2) The provisions of this Code shall not apply to the business of supplementary social security, unless otherwise provided for by law.

(3) The provisions of this Code, with the exception of Part IV, shall not apply to export credit insurance operations which are performed by the Bulgarian Export Insurance Agency, where they are pursued for the account of or guaranteed by the State, or where the State is the insurer.

(4) The provisions of this Code shall not apply to an assistance activity which fulfils simultaneously the following conditions:

1. the assistance is provided by a legal person or a sole trader with a head office in the Republic of Bulgaria that is not an insurer;

2. the assistance is provided in the event of an accident or breakdown involving a vehicle when the accident or breakdown occurs in the territory of the Republic of Bulgaria;

3. the assistance is provided by means of performance of the following activities:

a) an on-the-spot breakdown service for which an undertaking under point 1 uses mostly its own staff and equipment;

b) the conveyance of the vehicle to the nearest or the most appropriate location at which repairs may be carried out and if possible, transportation using the same vehicle of the driver and passengers to the nearest location from where they may continue their journey by other means;

c) the conveyance of the vehicle, if possible with the driver and passengers, to their home, point of departure or original destination in the Republic of Bulgaria.

(5) In the cases under Paragraph 4, point 3, letters "a" and "b", the condition that the accident or breakdown must have happened in the territory of the Republic of Bulgaria shall not apply where the driver of the vehicle is a member of the body of persons under Paragraph 4, point 1, and the breakdown service or conveyance of the vehicle is provided by a similar body in the other country on the basis of a reciprocal agreement, if breakdown service or conveyance of the vehicle is provided on presentation of a membership card and without any additional premium being paid.

(6) The provisions of this Code shall not apply to the activity of reinsurance conducted or fully guaranteed by the State in the capacity of a reinsurer of last resort for reasons of substantial public interest, including where such an activity is required by a situation in the market in which it is not feasible to receive adequate commercial cover.

Objectives

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

1. ensuring protection of the interests of the beneficiaries of insurance services, and

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

(2) For the purposes of this Code, "beneficiary of insurance services" shall mean the policy holder, the insured, the third party beneficiary, the third injured person, the other persons for whom rights have occurred under an insurance contract, as well as natural or legal persons interested in using the services provided by the insurer or insurance intermediary in relation to its scope of activity, regardless of whether they are beneficiaries within the meaning of the Consumer Protection Act.

(3) In exercising its functions, the Financial Supervision Commission, hereinafter referred to as the "Commission", and its Deputy Chairperson in charge of the Insurance Supervision Division, hereinafter referred to as "Deputy Chairperson", shall consider the potential impact of their decisions on the stability of the financial systems concerned in the European Union, in particular in emergency situations, taking into account the information available at the relevant time. In times of exceptional movements in 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 is the business of providing insurance cover for risks under a contract, resulting in the raising and spending of funds for claims payments and other monies upon the occurrence of events or conditions set out in a contract or law, and the 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 the damages;

5. management of the insurer's assets;

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

7. provision of services by the insurer for Assistance insurance under point 18, Section II, letter "A" of Annex 1 by its employees and with its own technical means.

(2) Pursuing the business of insurance in the Republic of Bulgaria shall mean covering risks situated in the Republic of Bulgaria.

Reinsurance

Article 4. Reinsurance is the business of accepting under a reinsurance contract all or part of the risks covered by an insurer or another reinsurer against ceding insurance premium (inward reinsurance) and the directly related activities.

Insurance and reinsurance mediation

Article 5. (1) Insurance and reinsurance mediation is the pursuit of the business of introducing, proposing or other preparatory work for the conclusion of insurance and reinsurance contracts, or of concluding such contracts, or of supporting the servicing and performance of such contracts, including upon occurrence of an insured event.

(2) Insurance or reinsurance mediation is not:

1. pursuing the activities under Paragraph 1 by an insurer, respectively reinsurer, or by its employees;

2. incidental provision of information in the course of another professional activity whose purpose is not assisting beneficiaries of insurance services in the preparation, execution or performance of insurance, respectively reinsurance, contracts;

3. pursuing professional activities related to insurance claims settlement on behalf of an insurer, and

4. pursuing the activity of preparing expert opinions relating to the settlement of insurance claims.

Voluntariness of insurance and insurance mediation

Article 6. (1) Insurance and insurance mediation shall be carried out following the principle of voluntariness.

(2) Compulsory insurance shall be established by law or international treaty, ratified, promulgated and entered into force for the Republic of Bulgaria.

Insurance supervision

Article 7. The regulation and supervision of the activities under Article 1, Paragraph 1 shall be carried out by the Commission and the Deputy Chairperson.

Language

Article 8. (1) The language in which insurance and insurance mediation is carried out in the Republic of Bulgaria shall be the Bulgarian language. General terms and conditions, consumer information and other documents which insurers and insurance intermediaries provide to the

beneficiaries of insurance services shall be drawn up in the Bulgarian language. At the request of a beneficiary of insurance services, another language may be used in the relations with the insurer.

(2) The language in which insurance supervision is carried out in the Republic of Bulgaria shall be the Bulgarian language. In specific cases, the Commission and the Deputy Chairperson may exchange information, including accounting information, with authorities of the European Union, authorities from other Member States, insurers, reinsurers and insurance intermediaries in another of the official languages of the European Union.

Application of the rules of international treaties and the practice of the European Insurance and Occupational Pensions Authority.

Article 9. (1) Where an international treaty, ratified, promulgated and entered into force for the Republic of Bulgaria, respectively for the European Union, in the exercise of its international legal contractual personality provides for different rules regarding the activities under Article 1, Paragraph 1, these rules shall apply.

(2) The Commission shall adopt decisions, guidelines or practices relating to the implementation of international treaties under Paragraph 1 when it is necessary for the purposes of good supervisory practice or for application of recommendations of the competent institutions of the European Union.

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

1. acts of the European Insurance and Occupational Pensions Authority (hereinafter referred to as the "European Authority") established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and 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 records and other documents adopted within the European Insurance and Occupational Pensions Committee.

(4) Where the European Authority has approved a guideline or recommendation within the meaning of Article 16 of Regulation (EU) No 1094/2010, the Commission may adopt decisions, guidelines or practices relating to the implementation of the guidelines or recommendations, where necessary for the good supervisory practice.

Advertising

Article 10. Insurers, reinsurers and insurance intermediaries entitled to operate in the Republic of Bulgaria may advertise their services through all mass media in the country, subject to the rules set out in the interest of the general good.

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

Article 11. (1) It shall not be permitted to require prior approval or systematic notification of general terms and conditions of insurance contracts, scales of premiums or standard forms and other printed documents which an insurer intends to use in its dealings with the beneficiaries of insurance services.

(2) The competent authorities in the Republic of Bulgaria may require non-systematic notification of those general terms and conditions of the insurance contract and other documents only for the purpose of verifying compliance with national provisions concerning insurance contracts. Those requirements shall not constitute a prior condition for an insurer to pursue its business.

(3) Regarding compulsory insurance, the Deputy Chairperson may require insurers to notify the Deputy Chairperson of the general terms and conditions of such insurance before circulating them.

(4) It shall not be permitted to retain or introduce an obligation of prior notification or approval of proposed increases in scales of premiums except as part of general price-control systems in the country.

(5) Regarding the types of insurance under Section I of Annex No 1, it is not permitted to require prior approval or systematic notification of the technical bases used for calculating scales of premiums and technical provisions. The Deputy Chairperson may only require systematic information on the technical bases only in order to verify compliance with the provisions concerning actuarial principles.

Chapter II
PERSONS THAT MAY PURSUE THE ACTIVITIES UNDER THIS CODE AND KEY REQUIREMENTS TO THEM

Section I
Insurers and reinsurers

Insurers and reinsurers

Article 12. (1) An insurer is:

1. a joint-stock company, a European company, a mutual association or a European Cooperative Society with a head office in the Republic of Bulgaria, authorised under the terms and provisions of this Code (local insurer);

2. a person that has received an insurance authorisation in another Member State and operates in the territory of the Republic of Bulgaria under the right of establishment or 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 received an authorisation under the terms and provisions of this Code.

(2) A reinsurer is:

1. a joint-stock company or a European company which has received an authorisation for inward reinsurance under this Code (local reinsurer);

2. a person that has received an authorisation for inward reinsurance at its head office in another Member State (reinsurer from another Member State);

3. a person that has received a permission for inward reinsurance at its head office in a third country (reinsurer from a third country) through a branch registered under the Commerce Act and that has received an authorisation under this Code.

(3) The business of reinsurance in the Republic of Bulgaria may also be pursued by a reinsurer with a head office in a third country.

European company. European Cooperative Society

Article 13. (1) An insurer – European company, respectively a reinsurer – European company shall be established, pursue business, transform and dissolve under Regulation (EC) No 2157/2001 of the Council of 8 October 2001 concerning the European Company Statute (SE) and under this Code. For an insurer – European company, the provisions for insurers – joint-stock companies under this Code shall apply.

(2) An insurer – European Cooperative Society shall be established, pursue business, transform and dissolve under Regulation (EC) No 1435/2003 of the Council of 22 July 2003 concerning the European Cooperative Society Statute (SCE) and under this Code. For an insurer – European Cooperative Society, the provisions for mutual associations under this Code shall apply.

Captive insurer. Captive reinsurer

Article 14. (1) A captive insurer is an insurance joint-stock company which is owned either by a financial undertaking other than an insurer or a reinsurer or a group of insurers and/or reinsurers, or is owned by a non-financial undertaking the purpose of which is to provide insurance cover exclusively for the risks of the person or persons that are its owners or the person or persons in the group of the captive insurer.

(2) A captive reinsurer is reinsurer which is owned either by a financial undertaking other than an insurer or a reinsurer or a group of insurers and/or reinsurers, or is owned by a non-financial undertaking the purpose of which is to provide reinsurance cover exclusively for the risks of the person or persons that are its owners or the person or persons in the group of the captive insurer.

(3) The fact that an insurance, respectively reinsurance, a joint stock company is captive shall be entered into its statutes.

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

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

Right of access of insurers and reinsurers

Article 15. (1) Insurers and reinsurers with a head office in the Republic of Bulgaria shall be entitled to access the market of the European Union and European Economic Area (single market) when authorised under this Code and applying the requirements of Part II, Title III.

(2) Insurers and reinsurers under Paragraph 1 shall observe this Code, with the exception of Part II, Title IV, and shall comply with the instruments of the European Commission on the implementation of Directive 2009/138/EC of the European Parliament and of the Council of 25

November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ, L 335/1 of 17 December 2009), hereinafter referred to as "Directive 2009/138/EC".

(3) An insurer which applies Part II, Title IV cannot operate in another Member State under the right of establishment or the freedom to provide services.

(4) The insurers under Paragraph 3 shall comply with this Code, with the exception of Part II, Title III, and shall comply with the instruments of the European Commission implementing Directive 2009/138/EC, where so provided in this Code.

(5) The application of Part II, Title IV shall be authorised by the Commission in the authorisation granting proceedings or under Article 38, Paragraphs 6 to 9 and shall be indicated in the granted authorisation.

Conditions for restricting access to the single market

Article 16. An insurer without a right of access to the single market may only be an insurer with a head office in the Republic of Bulgaria, for which the following requirements are fulfilled simultaneously:

1. the insurer's or reinsurer's annual gross written premium income does not exceed the BGN equivalent of EUR 5,000,000;

2. the gross amount of its technical provisions, without deducting the shares of reinsurers or special purpose vehicles, does not exceed the BGN equivalent of EUR 25,000,000;

3. where the insurer belongs to a group, the gross amount of the technical provisions of the group, without deducting the shares of reinsurers or special purpose vehicles, does not exceed the BGN equivalent of EUR 25,000,000 and if the following additional conditions are met:

a) the group does not have another insurer that has access to the single market, or a reinsurer;

b) all insurers in the group have their head offices in the Republic of Bulgaria;

4. the business of the insurer does not include insurance or inward reinsurance of risks under points 10 to 15, Section II, letter "A" of Annex No 1, unless they are covered as ancillary risks within the meaning of Article 30;

5. regarding the business of inward reinsurance of the insurer:

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

b) its technical provisions, without deducting the shares of reinsurers or special purpose vehicles, do not exceed the BGN equivalent of EUR 2,500,000 or 10 % of the gross technical provisions, without deducting the shares of reinsurers or special purpose vehicles.

Section III
Key requirements to insurers and reinsurers

General requirements to insurers and reinsurers

Article 17. (1) An insurance, respectively reinsurance, joint-stock company shall be established, pursue business, transform and dissolve under the Commerce Act, unless this Code provides for otherwise.

(2) A mutual association shall be established, pursue business, transform and dissolve under the Cooperatives Act, unless this Code provides for otherwise.

(3) The head office of a local insurer, respectively of a local reinsurance joint-stock company must be located at its registered office in the Republic of Bulgaria. An insurer may open more than one branch under the Commerce Act in one settlement, including in the settlement where its head office is located.

(4) An insurer is entitled to pursue the business of insurance only for the classes of insurance indicated in the authorisation, except for coverage of ancillary risks under the terms of Article 30.

(5) A mutual association is entitled to pursue the business of insurance only for the classes of insurance indicated in the authorisation, except for coverage of ancillary risks under the terms of Article 30. The scope of activity of a mutual association may cover one or more classes of insurance under Section I of Annex No 1, with or without accident insurance and/or sickness insurance.

(6) The statutes of a mutual association shall contain, in addition to the data set out in the Cooperatives Act, the following information:

1. the insurance classes;

2. the funds of the mutual association, the type, manner of transfer and amount of the contributions, the scope of the liability of the members for the obligations of the mutual association.

Company name

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

(2) A person that does not hold an authorisation to pursue the business of insurance may not use in its company name, in advertising or other activity the word "insurance" or its derivatives in the Bulgarian or foreign languages.

(3) Paragraphs 1 and 2 shall apply to mutual associations, respectively. The name of a mutual association may not contain the name of a member-associate.

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

(5) A person that does not hold an authorisation as a reinsurer shall not be entitled to use in its company name, respectively name, in its advertising or other activity, the word "reinsurance" or its derivatives in the Bulgarian or foreign languages.

Share capital and shares

Article 19. (1) Upon establishment of an insurance, respectively reinsurance, company, the amount of registered capital of:

1. an insurer or reinsurer under Article 15, Paragraph 1 may not be less than the amount of the Minimum Capital Requirement under Article 192, Paragraph 2;

2. an insurer under Article 15, Paragraph 3 may not be less than the amount of its capital guarantee under Article 210.

(2) The capital under Paragraph 1 must be fully subscribed and paid in as of the date of filing of the application for authorisation. In case of subsequent capital increases, it has to be fully paid in as of the date of filing of the application for registration in the trade register.

(3) The contributions to the capital of a joint-stock company under Paragraph 1 shall be cash only and may not be made with funds of unexplained origin or with funds resulting from illegal activity.

(4) A joint-stock company under Paragraph 1 shall issue only dematerialised registered shares, with one voting right each.

(5) In case of a capital increase, the insurer, respectively reinsurer, shall submit to the Commission:

1. a statement of the changes in shareholdings and of the changes in the composition of the shareholders, if such have occurred;

2. documents certifying that the capital increase has been paid in.

Founders and association members

Article 20. (1) A mutual association shall be established by at least 500 persons. A founder and association member may be any natural person over 18 years of age who is not under guardianship.

(2) The founders shall be ensured at the mutual association after it receives an authorisation to pursue the business of insurance and shall pay an insurance premium for an insurance of their choice under Section I of Annex No 1 for the first year.

(3) Membership in a mutual association arises or is terminated simultaneously with the conclusion or termination of an insurance contract, pursuant to its general terms and conditions.

Contributions and payment of association members

Article 21. (1) Each member of an association shall make an initial and share payment, the amount of which is determined in the statutes, and shall conclude with the mutual association an insurance contract for life insurance under Section I of Annex No 1 for a period of not less than three years. Share contributions shall supply the minimum capital guarantee.

(2) To reach the floor of the Minimum Capital Requirement and the Solvency Capital Requirement, respectively the minimum capital guarantee and the solvency margin, the general meeting, by a majority of two thirds of the association members represented at the meeting, may decide to collect additional and targeted contributions from the association members. All contributions to the capital of the association shall be cash contributions. Additional and targeted contributions may be reimbursed to the association members only when they do not diminish the own funds of the mutual association below the floor of the Minimum Capital Requirement and the Solvency Capital Requirement, respectively the solvency margin or the minimum capital guarantee. Reimbursement of additional and targeted contributions shall be made with one month's prior written notice to the Deputy Chairperson. For the period of the notice, the Deputy Chairperson shall prohibit the reimbursement, if as a result the own funds of the mutual association will decrease below the floor of the Minimum Capital Requirement and the Solvency Capital Requirement, respectively below the amount of the solvency margin and the minimum

capital guarantee. After the termination of the mutual association shares, the additional and targeted contributions shall be reimbursed after all other liabilities have been paid.

(3) Article 19, Paragraph 3 shall apply to mutual associations. Where the additional or targeted contribution exceeds 1 % of the minimum capital guarantee of the association, Article 73 shall apply.

(4) The premiums of the association members and the obligations of the mutual association under the insurance contracts shall be the same if the conditions of the insurance are the same.

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

Section IV
Special purpose vehicles. Insurance intermediaries

Pursuing business by means of a special purpose vehicle

Article 22. (1) A special purpose vehicle is a legal person or an unincorporated entity other than an insurer or a reinsurer, which on the basis of a contract accepts the risks of an insurer or a reinsurer, and which funds its risk exposure entirely through debt issuance or another funding mechanism, provided that the rights of the creditors, respectively the participants in the financing mechanism, are subordinated to the reinsurance obligations of the vehicle.

(2) The establishment of a special purpose vehicle in the Republic of Bulgaria is allowed after receiving an authorisation from the Commission under the terms and conditions of Delegated Regulation (EU) 2015/35 of the European Commission of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and the Council on the taking up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ, L 12/1 of 17 January 2015), hereinafter referred to as "Regulation (EU) 2015/35";

(3) The conditions for pursing business through a special purpose vehicle, its ongoing supervision, the measures to remedy established breaches, the terms and conditions for withdrawal of the granted authorisation shall be determined by Commission Implementing Regulation (EU) 2015/462 of 19 March 2015 laying down implementing technical standards with regard to the procedures for supervisory approval to establish special purpose vehicles, for the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles as well as to set out formats and templates for information to be reported by 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). In outstanding cases, the rules for reinsurance companies under this Code shall apply.

Insurance intermediaries

Article 23. An insurance or reinsurance intermediary is:

1. an insurance broker or insurance agent registered under the terms and conditions of this Code;

2. an insurance intermediary from a Member State which operates under the right of establishment or the freedom to provide services.

Section V
Restrictions on activities

Restrictions on the activities of insurers and reinsurers

Article 24. (1) It is not allowed that the same insurer pursues activities related to the insurance of classes of insurance under Section I and Section II of Annex No 1, with the exception of accident insurance and sickness insurance. An insurer authorised for the pursuit of activities under points 1 and/or 2 of Section II, letter "A" of Annex No 1 may also receive an authorisation under Section I, while an insurer authorised for the activity under Section I may also receive an authorisation for the activities under points 1 and/or 2 of Section II, letter "A" of Annex No 1 (mixed-activity insurers).

(2) The activities under Section I and Section II of Annex No 1 shall be managed separately in accordance with Chapter IX – Separate management of non-life and life business.

(3) A branch of an insurer from a third country authorised in the Republic of Bulgaria may not conduct simultaneous insurance activities under Section I and Section II of Annex No 1.

Insurance and inward reinsurance

Article 25. (1) An insurance joint-stock company may also pursue the business of inward reinsurance for the insurance classes and the respective risks for which it has received an insurance authorisation.

(2) A reinsurer may not pursue the business of insurance.

Ban on other activities

Article 26. (1) It is not permitted that an insurer, respectively a reinsurer, carry out any other business activities. The settlement of claims in the territory of the Republic of Bulgaria by an insurer with regard to insurance concluded by insurers with head offices outside of the Republic of Bulgaria shall not be regarded as another business activity. This activity shall be performed under contract, against payment and without accepting insurance risk.

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

(3) An insurer or reinsurer may not secure other obligations with its assets, unless this Code provides for otherwise.

Limit on the activities of insurance intermediaries

Article 27. It is prohibited that one person pursue the business of insurance mediation in the capacity of both an insurance broker and an insurance agent.

PART II
INSURANCE AND REINSURANCE
TITLE I
TAKING UP AND DISCONTINUATION OF ACTIVITIES
Chapter III
ISSUANCE AND WITHDRAWAL OF AUTHORISATIONS OF LOCAL INSURERS AND REINSURERS
Section I

Issuance of authorisations

Issuance of authorisations for insurance or reinsurance activities

Article 28. (1) A person with a head office in the Republic of Bulgaria shall be entitled to pursue the business of insurance or reinsurance in the territory of the Republic of Bulgaria after receiving an authorisation from the Commission under the provisions of this Code.

(2) A person that has not received an authorisation to pursue the business of insurance shall not be entitled to offer or conclude a contract to accept insurance risks.

Authorisations

Article 29. (1) An insurer authorisation is granted for insurance activities for:

1. one or more insurance classes under Section I of Annex No 1 (life insurance);

2. one or more classes in Section II of Annex No 1 (non-life insurance).

(2) The authorisation under Paragraph 1, point 2 may also be granted for the groups of insurance classes, as listed in Section II, letter "B" of Annex No 1.

(3) A reinsurer authorisation shall be granted for the business of reinsurance for:

1. life reinsurance, or

2. non-life reinsurance, or

3. life insurance and non-life insurance (reinsurance for all insurance classes).

(4) The scope of the authorisation of an insurer may be expanded with an additional authorisation for an insurance class or groups of insurance classes, as listed in Section II, letter "B" of Annex No 1. The authorisation of a reinsurer granted as part of the activities under Paragraph 2 may be expanded with an additional authorisation for a new activity.

(5) An insurer may carry out the activity specified in Article 3, Paragraph 1, point 7 related to the provision of assistance only if it has received an authorisation for insurance under point 18, Section II, letter "A" of Annex 1, except in the cases of ancillary risk.

(6) The authorisation shall be in writing and shall define exhaustively:

1. for an insurer – the type of activity and the insurance classes under Annex No 1 for which it is entitled to carry out insurance;

2. for a reinsurer – the activities under Paragraph 3 for which it is entitled to carry out reinsurance.

(7) An authorisation under Paragraphs 1 to 3 (authorisation), as well as an additional authorisation under Paragraph 4 (additional authorisation), shall be granted by the Commission at the proposal of the Deputy Chairperson.

(8) The Commission shall refuse to grant an authorisation if the applicant does not meet the requirements of this Code.

(9) An authorisation or an additional authorisation for a class of insurance shall be granted for the entire class, and it may also be granted for only a part of the risks under Annex No 1 pertaining to that class:

1. when the applicant has requested to cover only a part of the risks under Annex No 1 pertaining to that class of insurance, or

2. at the discretion of the Commission, when the documents submitted for the issuance of an authorisation demonstrate that not all risks are covered.

(10) A reinsurance authorisation may be granted for one or both activities under Paragraph 3, points 1 and 2, in accordance with the application filed.

Ancillary risks

Article 30. (1) An insurer which has received an authorisation for a main risk belonging to one insurance class or a group of classes as set out in Section II of Annex No 1 may also insure risks included in another class without the need to receive an authorisation in respect of such risks, provided that the risks fulfil all of the following conditions:

1. they are connected with the main risk;

2. they concern the object which is covered against the main risk;

3. they are covered by the contract insuring the main risk.

(2) The risks included in classes 14, 15 and 17, Section II, letter "A" of Annex No 1 shall not be considered ancillary risks within the meaning of Paragraph 1. However, legal expenses insurance as set out in class 17 may be regarded as a risk ancillary to class 18, where the conditions laid down in Paragraph 1 and either of the following conditions are fulfilled:

1. the main risk relates solely to the assistance provided for persons who fall into difficulties while travelling, while away from their home or their habitual residence;

2. the insurance concerns disputes or risks arising out of, or in connection with, the use of sea-going vessels.

Documents required for the issuance of authorisations

Article 31. (1) For the issuance of an authorisation for a joint-stock company to pursue the business of insurance or reinsurance, an application for an authorisation shall be filed, with which the following shall be enclosed:

1. the statutes and other constituent documents;

2. a list of the shareholders and the size of their shareholdings;

3. a document issued by a bank which carries out banking operations in the territory of the Republic of Bulgaria, certifying the cash contributions made in exchange for the subscribed shares;

4. the documents and information under Article 69 – for persons acquiring shareholdings under Article 68, Paragraph 1 and the documents and information under Article 73 – for persons acquiring more than one percent of the company's shares;

5. evidence that:

a) the insurer, respectively reinsurer, will be able to maintain eligible own funds in the future in order to fulfil the Solvency Capital Requirement under Chapter XIII;

b) the insurer without a right of access to the single market will be able to maintain eligible own funds in the future in order to meet the solvency margin under Article 209;

6. evidence that:

a) the insurer, respectively reinsurer, will be able to maintain eligible own funds in the future in order to fulfil the Minimum Capital Requirement under Chapter XIV;

b) the insurer without a right of access to the single market will be able to maintain eligible basic own funds in the future in order to cover the capital guarantee under Article 210;

7. evidence that the insurer, respectively reinsurer, will be able to comply with the requirements relating to the system of governance under Chapter VII, including the documents under Article 77, Paragraph 1, points 1, 3 and 4;

8. data on the persons under Article 79, Paragraph 1, together with evidence for compliance with the relevant qualifications and goodwill requirements;

9. a scheme of operations of the insurer, respectively reinsurer.

(2) For the issuance of an authorisation to pursue the business of insurance under point 10.1. of Section II, letter "A" of Annex No 1, the following documents shall be submitted together with 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 accordance with criteria determined with a decision of the Commission, and

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

(3) For the issuance of an authorisation for a mutual association to pursue the business of insurance, an application for authorisation shall be filed, with which the following shall be enclosed:

1. the statutes and other constituent documents;

2. a list of the association members and the amount of their share contribution;

3.a document issued by a bank which is authorised to carry out banking operations in the territory of the Republic of Bulgaria, certifying the cash contributions made in the capital of the association;

4. the documents and information under Article 69, Paragraph 2 , point 1, respectively Paragraph 3, points 1 and 6 – for persons who make an additional or targeted contribution exceeding 1 % of the minimum capital guarantee of the association;

5. the evidence and documents under Paragraph 1, points 5 to 9.

(4) Where the applicant under Paragraphs 1 and 2 has applied for an authorisation for insurance under point 18, Section II, letter "A" of Annex No 1, the Commission may require evidence about the direct and indirect funds, including funds for personnel and equipment, including for the qualifications of the medical team and the quality of the equipment available to the applicant in order to accept the obligations arising from assistance insurance.

(5) The application under Paragraphs 1, 2 or 3 shall be reviewed after payment of a fee for document processing.

Documents for extension of authorisation scope

Article 32. (1) For the issuance of an authorisation for a reinsurer to expand its scope of activity with a new activity, an application shall be submitted with the following attachments:

1. a copy of the minutes of the competent body of the reinsurer with the decisions made to supplement the subject of activity;

2. the amended and supplemented scheme of operations.

(2) For the issuance to an insurer of an authorisation for a new type of insurance activity, as well as an authorisation for a new class of insurance, for supplementing the authorisation for a class of insurance with new risks under Annex No 1 or for an authorisation for a group of classes of insurance, an application shall be submitted with the following attachments:

1. a copy of the minutes of the competent body of the insurer with the decisions made with regard to the authorisation application;

2. the amended and supplemented scheme of operations;

3. evidence that:

a) the insurer with a right of access to the single market has eligible own funds sufficient to fulfil the Solvency Capital Requirement, respectively eligible basic own funds sufficient to fulfil the Minimum Capital Requirement, or

b) the insurer without a right of access to the single market has eligible own funds sufficient to cover the solvency margin, respectively eligible basic own funds sufficient to cover the minimum capital guarantee.

(3) For the issuance of an authorisation for insurance under point 10.1., Section II, letter "A" of Annex No 1, the evidence under Article 31, Paragraph 2 shall be submitted as well.

(4) In the cases under Paragraph 2, when an application for authorisation for non-life insurance to a life insurer has been filed for classes of insurance under point 1 or 2, Section II, letter "A" of Annex No 1 or for authorisation for life insurance to an insurer that is authorised only under point 1 or 2, Section II, letter "A" of Annex No 1, evidence shall be provided that the insurer has the eligible basic own funds to cover the floor of the Minimum Capital Requirement – for life insurers, and the floor of the Minimum Capital Requirement – for non-life insurers according to Article 192, as well as evidence that they will be able to cover their minimum financial obligations under Article 142, Paragraph 2. When the insurer has no right of access to the single market, evidence shall be provided that it has the eligible basic own funds to cover the minimum capital guarantee under Article 210, point 3.

(5) The application under Paragraphs 1, 2, 3 or 4 shall be reviewed after payment of a fee for document processing.

Scheme of operations

Article 33. (1) The scheme of operations of the insurer, respectively reinsurer, shall include:

1. the classes of insurance which the insurer intends to conclude and nature of the risks it proposes to cover, respectively the activities that the reinsurer intends to perform and the nature of the risks it proposes to cover;

2. the reinsurance, respectively retrocession and scheme which sets out the guiding principles for the reinsurance, respectively retrocession;

3. the methods, assumptions and input data to be used for establishment of the technical provisions;

4. an estimate of the costs for organisation and taking up of the activity, the financial resources intended to meet those costs, and for the insurance under point 18, Section II, letter "A" of Annex No 1 – the financial and technical resources at the disposal of the applicant for the provision of assistance;

5. reasoned financial forecast for the activity for the first three years, containing:

a) a forecast balance sheet;

b) estimates of the future Solvency Capital Requirement on the basis of the forecast balance sheet, as well as the calculation method used to derive the estimate;

c) estimates of the future Minimum Capital Requirement on the basis of the forecast balance sheet, as well as the calculation method used to derive the estimate;

d) estimates of the financial resources intended to cover technical provisions, the Minimum Capital Requirement and the Solvency Capital Requirement;

e) estimates of income and cost, including the estimated premium income, the projected claims to insurance, respectively reinsurance, payments, as well as the projected costs for commissions to insurance or reinsurance intermediaries, acquisitions, administrative and other expenses – in respect of non-life insurance and reinsurance;

f) a plan setting out detailed estimates of the income and expenditure in respect of direct insurance, inward reinsurance and outward reinsurance – in respect of life insurance;

6. the source, amount and distribution of its own funds, including manners of funding in case of shortage of coverage for the Solvency Capital Requirement and the Minimum Capital Requirement;

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

(2) The scheme of operations of the reinsurer shall also contain the characteristics and key parameters of the reinsurance contracts that it intends to conclude with the cedents.

(3) The scheme of operations shall reflect realistically the peculiarities of the market and their impact on the activities of the person under Paragraph 1, the volume of the conducted operations, the financial, labour and other resources, as well as other factors relevant to its implementation within the set terms.

(4) In the cases under Article 32, the scheme of operations shall apply only to the new insurance class or group of classes with which the insurer proposes to extend its authorisation, respectively to new activity with which the reinsurer proposes to extend the scope of its authorisation.

(5) Where the applicant wishes to benefit from the limitation of the right of access to the single market under Article 16, the parameters under Paragraph 1, point 5, letters "b", to "d" and point 6 shall be submitted respectively for the solvency margin and the minimum capital guarantee. When in the course of a procedure for authorisation issuance the Commission establishes that within 5 years after the issuance of the authorisation the applicant may exceed at least one of the thresholds under Article 16, the procedure shall be suspended until the submission of an adjusted scheme of operations in accordance with the parameters of the Solvency Capital Requirement, respectively for the Minimum Capital Requirement.

Issuance and refusal of authorisation

Article 34. (1) At the proposal of the Deputy Chairperson, the Commission shall consider whether the requirements for the issuance of the applied for authorisation have been met and shall pass a resolution not later than 4 months from the receipt of the application.

(2) If the submitted documents are irregular or additional information is required, the Deputy Chairperson and/or the Commission shall notify the applicant of the irregularities and/or of the required additional information and shall set a sufficient time frame for the applicant to remedy them, which cannot be shorter than one month and longer than two months. The term under Paragraph 1 shall be suspended until the expiry of the term set for the remedy of the irregularities and/or for the provision of additional information.

(3) For the issuance of an authorisation to extend the scope of the insurer's authorisation with a new insurance class or group of classes, respectively for a reinsurer with new activity, the term under Paragraph 1 shall not be longer than two months, and under Paragraph 2 – shorter than 7 days. The term for the issuance of a resolution by the Commission shall be suspended until the expiry of the term set for the remedy of the irregularities and/or for the provision of additional information.

(4) If the notification under Paragraph 2 is not accepted at the mailing address indicated by the applicant, the term set for the applicant shall start from the placement of the notification in the designated place in the building of the Commission. The notice of the notification shall also be published on the Commission's website. These circumstances shall be certified by a certificate drawn up by officials appointed by an order of the Chairperson of the Commission.

(5) The Commission shall notify the applicant in writing of the decision made within 7 days of its pronouncement.

(6) The Commission shall inform the European Authority of all decisions to grant an authorisation to an insurer, respectively reinsurer.

Grounds for refusal

Article 35. (1) The Commission shall refuse to grant an authorisation for insurance or reinsurance when:

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

2. any member of the management and supervisory body of the applicant or persons authorised to manage and represent it does not meet the requirements of this Code or if with their actions or decision-making influence they may jeopardise the security of the applicant or its operations;

3. persons that hold, directly, together with or through related persons or acting in concert with others, 10 % or more than 10 % of the voting rights in the general meeting or the capital of the applicant or may control it:

a) do not meet the requirements of this Code;

b) with their actions or their qualifications or their decision-making influence they may jeopardise the business of the applicant;

c) their actual owner (beneficial owner) cannot be identified;

d) the amount of the property owned by them and/or the business pursued by them in its scale and financial results do not match the stated shareholding to be acquired in the applicant and cast doubt on the reliability and suitability of those persons in case of need to provide capital support to the applicant;

4. the funds with which the persons have subscribed one and over 1 % of the capital do not meet the requirements of Article 19, Paragraph 3;

5. the applicant has submitted misrepresentations or documents with untruthful content;

6. the applicant is a related person to a natural or legal person and this relationship creates obstacles to the effective exercise of the supervisory functions of the Commission or the Deputy Chairperson;

7. there are obstacles to the effective exercise of the supervisory functions of the Commission or the Deputy Chairperson, arising out of or in connection with the implementation of a legislative or administrative act of a third country governing the activity of one or more persons with whom the applicant is a related person;

8. no scheme of operations has been submitted or the scheme submitted does not comply with the requirements of Article 33, or does not sufficiently guarantee the interests of the beneficiaries of insurance services, or when the activity which the applicant proposes to carry out does not ensure the necessary reliability and financial stability;

9. other requirements of this Code and its implementing instruments have not been fulfilled.

(2) In the cases under Paragraph 1, points 1, 2, 4, 5, 8 and 9, the Commission may refuse to grant an authorisation only if the applicant has not remedied the irregularities or has not submitted additional information within the prescribed period.

(3) The grounds for the Commission's refusal to grant an authorisation shall be stated in writing. When a decision has not been announced within the term under Article 34, Paragraph 1, this shall constitute a tacit refusal.

(4) A new authorisation application may be filed not earlier than six months of the effective date of the refusal.

(5) The Commission shall refuse to grant an authorisation for a new class of insurance or to expand the scope of the activities of a reinsurer with a new activity on the grounds under Paragraph 1, points 1, 3 to 5, 8 and 9, with Paragraph 2 and 3 applying respectively. There is a tacit refusal if the Commission has not passed a decision within the term under Article 34, Paragraph 3. Paragraph 4 shall apply in case of refusal.

Registration in the trade register

Article 36. A business entity with subject of activity insurance or reinsurance shall be registered in the trade register only after the presentation of the authorisation granted by the Commission.

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

Status of the insurer

Article 37. The availability or lack of a right of access to the single market (the status of the insurer) shall be recorded in the authorisation of the insurer in the register under Article 30 Paragraph 1, point 9 of the Financial Supervision Commission Act.

Voluntary change of the status of the insurer

Article 38. (1) An insurer without the right of access to the single market shall be entitled to receive authorisation to carry out its activity according to the common rules for access to the single market, about which it shall file an application with the Commission.

(2) If the application is filed after an authorisation has been granted, the insurer shall provide evidence of compliance with the requirements of Part II, Title III and the other requirements under this Code and the applicable regulations of the European Union, with which insurers with a right of access to the single market must comply.

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

1. information and data related to the compliance with the requirements for valuation of assets and liabilities and the calculation of technical provisions under Part II, Title III and Regulation (EU) 2015/35;

2. information and data on the Minimum Capital Requirement and the Solvency Capital Requirement in accordance with the requirements of Part II, Title III and of Regulation (EU) 2015/35;

3. information and evidence of the availability of eligible own funds at least equal to the Solvency Capital Requirement and the Minimum Capital Requirement in accordance with the requirements of Part II, Title III and of Regulation (EU) 2015/35.

(4) At the proposal of the Deputy Chairperson, the Commission shall consider whether the requirements of Part II, Title III and Regulation (EU) 2015/35 have been fulfilled and shall pass a decision within three months of the date of receipt of all the evidence with the change of the insurer's status being recorded in the authorisation granted.

(5) If the submitted documents are irregular or additional information is required, the Commission shall notify the applicant of the irregularities and/or of the required additional information and shall set a sufficient time frame for them to be remedied, which cannot be shorter than one month and longer than two months. The term under Paragraph 4 shall be suspended until the expiry of the term set for the remedy of the irregularities and/or for the provision of additional information.

(6) An insurer which operates under the common rules for access to the single market may operate under the rules for insurers with no right of access to the single market after filing an application with the Commission, in case of both of the following circumstances:

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

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

3. as of the date of filing of the application, the insurer does not operate under the conditions of the right of establishment or freedom to provide services in another Member State;

4. the insurer is not part of a group to which Part II, Title III applies pursuant to Article 39, Paragraph 4.

(7) To prove the circumstances under Paragraph 6, point 2, the insurer shall submit the scheme of operations under Article 33.

(8) At the proposal of the Deputy Chairperson, the Commission shall pass a decision on the change of the status of the insurer within one month of the filing of the application and may provide for a transition period within which to apply additional requirements regarding the reporting of the insurer. The change of the status of the insurer shall be recorded in the authorisation granted.

(9) The Commission shall refuse to change the status of the insurer where the circumstances under Paragraph 6, points 1, 3 and 4 are not present, if the scheme of operations of the insurer under Article 33 leads to the conclusion that any of the thresholds under Article 16 is likely to be exceeded in the following 5 years, or if the assets to cover the provisions are not in accordance with the requirements of Title IV.

(10) The application under Paragraphs 1 or 6 shall be reviewed after payment of a fee for document processing.

Compulsory change of the status of the insurer

Article 39. (1) Where any of the thresholds under Article 16 is exceeded within a period of three consecutive years, the common rules for access to the single market shall begin to apply to the respective insurer without a right of access to the single market as of the fourth year. The Deputy Chairperson shall notify the respective insurer in writing 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, within three months of the notification, submit a plan for compliance with the requirements to be met by the activity of insurers with a right of access to the single market. The Deputy Chairperson shall exercise ongoing supervision of the adherence to the plan and shall apply appropriate enforcement measures in case of default.

(3) The status of the insurer under Paragraph 1 shall be changed automatically 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 and the change of the insurer's status shall be recorded in the insurer's authorisation and entered in the register under Article 30, Paragraph 1, point 9 of the Financial Supervision Commission Act.

(4) All insurers who are part of an insurance group must apply Part II, Title III, in the cases when one of them commences to apply Part II, Title III and when the group is joined by an insurer with a head office outside of the Republic of Bulgaria. In these cases, Paragraphs 1 and 2 shall apply accordingly.

(5) When an insurer without a right of access to the single market submits an application to receive an additional authorisation for one or more of the classes of insurance under Article 16, point 4 or for groups of classes of insurance, the compliance with the requirements to be met by the activity of the insurers with a right to access to the single market shall be verified in the course of the procedure for issuance of an additional authorisation.

Section III
Withdrawal of authorisations

Withdrawal of authorisation

Article 40. (1) The Commission shall withdraw the authorisation of an insurer or reinsurer if:

1. the person has submitted misrepresentations or documents with untruthful content which have served as grounds for issuance of the authorisation;

2. the person has not submitted a short-term plan under Article 215, Paragraph 2 or if the submitted plan is manifestly inadequate, or if despite the submission of the short-term plan, the person has not restored compliance with:

a) the Minimum Capital Requirement, within three months from the establishment of the non-compliance, when the person is an insurer with a right of access to the single market, respectively a reinsurer, or with

b) the capital guarantee requirement, within three months from the observation of the non-compliance, when the person is an insurer without a right of access to the single market;

3. the insurer violates the principle of voluntary insurance;

4. the person has filed an application and the requirements of this Code are met.

(2) The Commission may withdraw the authorisation of an insurer or reinsurer if:

1. the person does not take up operations within 12 months of the issuance of the authorisation;

2. the person ceases to pursue business for more than 6 months;

3. the number of the members of the mutual association falls below the established minimum and this number is not completed within 6 months or if Article 20, Paragraph 2 or Article 21, Paragraph 1 are violated;

4. the person ceases to fulfil the conditions for the issuance of an authorisation;

5. the person engages in activities other than the activity for which an authorisation is received;

6. the person or its shareholder or member of the management or supervisory body, or any other person authorised to manage or represent it has not complied with an imposed effective coercive administrative measure under this Code;

7. there are grounds for termination of the joint-stock company under Article 252, Paragraph 1, point 4 of the Commerce Act;

8. the insurer, reinsurer and/or persons under Article 80 have committed and/or have allowed the commitment of gross or systematic breaches of this Code or its implementing instruments;

9. the plan under Article 215, Paragraph 1 has not been submitted within the prescribed period, is not approved or despite his submission, within the prescribed period the person has not restored compliance with:

a) the Solvency Capital Requirement, where the person is an insurer with a right of access to the single market, respectively a reinsurer, or

b) the solvency margin, where the person is an insurer without a right of access to the single market;

10. the person unlawfully refuses to pay or pays only partially any due and payable monetary obligations.

(3) Where the grounds for withdrawal of an authorisation apply to part of the person's activities, the Commission may withdraw the authorisation for one or more separate classes of insurance, respectively for a separate part of the reinsurance activity.

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

(5) Together with the decision to withdraw the authorisation, except in the cases under Paragraph 3, the Commission shall appoint one or more conservators under Article 597, until the appointment of a liquidator or receiver in bankruptcy.

(6) In the cases under Paragraph 1, point 5, the Commission's decision concerns the approval of a voluntary surrender of authorisation.

Obligations of the insurer or reinsurer after withdrawal of the authorisation

Article 41. (1) After the entry into force of the decision to withdraw the authorisation, the person under Article 40, Paragraphs 1 or 2 may not conclude new insurance and/or reinsurance contracts and offer new terms under the contracts and to amend their terms and conditions, including the duration, insured amount and coverage under concluded contracts.

(2) The withdrawal of its authorisation does not release the person from its obligations under already concluded contracts.

Powers of the Commission in case of withdrawal of the authorisation

Article 42. (1) After the entry into force of the decision to withdraw the authorisation of an insurer, respectively reinsurer, the Commission shall inform the European Authority about that and shall file an application with the competent court for initiation of winding-up proceedings, and in the cases of Article 40, Paragraph 1, point 2 and Paragraph 2, points 9 and 10 – for initiation of bankruptcy proceedings, and shall take the necessary measures to inform the public.

(2) The Commission, respectively the Deputy Chairperson, may carry out inspections and impose coercive administrative measures under Article 587 until the deletion of the company, respectively the association, from the trade register.

Notification to the competent authorities of the other Member States in case of withdrawal of the authorisation of an insurer or reinsurer

Article 43. (1) The Commission shall immediately inform the respective competent authorities of the other Member States in case of withdrawal of the authorisation of an insurer or reinsurer and shall ask the respective competent authorities to take action in accordance with their laws to:

1. prevent the conclusion of new contracts, the offering of new terms and the amendment of terms of contracts concluded by the insurer, respectively reinsurer;

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

(2) Where the Commission has been notified of the withdrawal of the authorisation of an insurer or reinsurer by another Member State, it shall take appropriate action under Paragraph 1

in connection with the activities and assets of the insurer, respectively reinsurer, in the territory of the Republic of Bulgaria.

Chapter IV
OPERATIONS IN ANOTHER MEMBER STATE OF A LOCAL INSURER OR REINSURER. OPERATIONS IN THE REPUBLIC OF BULGARIA OF AN INSURER OR REINSURER FROM ANOTHER MEMBER STATE
Section I
Operations in another member state of a local insurer

Right of establishment and freedom to provide services

Article 44. (1) A local insurer authorised under the terms and provisions of this Code may carry out activities for which an authorisation has been granted to it, in the territory of another Member State under the right of establishment or the freedom to provide services.

(2) Paragraph 1 shall not apply to insurers authorised and operating under Title IV of Part II.

Operations under the right of establishment

Article 45. (1) A local insurer that intends to establish a branch in another Member State must notify the Commission about that in advance.

(2) The notification under Paragraph 1 shall include:

1. indication of the Member State in which the insurer intends to establish a branch, as well as its address;

2. a scheme of operations of the insurer, including information about the classes of insurance with which the insurer will operate in the Member State of the branch, as well as the organisational structure of the branch;

3. the name of the authorised representative of the branch who must have representative powers with a scope that allows him to accept obligations on behalf of the insurer to third parties and to represent it before the public authorities and courts of the Member State of the branch;

4. proof of membership in the respective national bureaux of the green card system and in the institution tasked to perform guarantee payments analogous to the Guarantee Fund under Article 518 of the Member State of the branch if the insurer intends to carry out activities under point 10.1., Section II, letter "A" of Annex No 1;

5. information on the measure selected by the insurer under Article 147 for prevention of conflicts of interest if the insurer intends to carry out activities under point 17, Section II, letter "A" of Annex No 1.

(3) The Commission shall provide the relevant competent authority of the Member State of the branch with the information under Paragraph 2 within three months of receipt of the information and the documents under Paragraph 2, as well as a certificate that the insurer has sufficient own funds to cover the Solvency Capital Requirement and the Minimum Capital

Requirement. The Commission shall immediately notify the insurer of the provision of the information under the first sentence.

(4) The Commission may refuse, within the term under Paragraph 3, to provide the information under Paragraph 2 to the relevant competent authority of the Member State of the branch, with a reasoned decision, if the system of governance of the insurer, its financial condition or the professional qualification and experience of the persons who manage and represent it or of the authorised representative of the branch are inadequate or insufficient in view of the insurance with which the insurer intends to operate in the Member State, as well as in the cases when the insurer is implementing a reorganisation plan and therefore, the interests of the insured are endangered. The Commission shall immediately notify the insurer of the decision under the first sentence.

(5) The insurer may establish the branch and take up operations in the territory of the Member State after the Commission has received a notification from the competent authority of that State, respectively after the expiry of two months from the notification under Paragraph 3 from the respective competent authority if no notification has been received within this term.

(6) The insurer shall notify the Commission and the respective competent authority of the Member State of the branch of any change in the data and documents under Paragraph 2 within a term of not less than one month before implementing the change. In this case, Paragraph 4 shall apply respectively.

Operations under the freedom to provide services

Article 46. (1) An insurer with a head office in the Republic of Bulgaria, which intends to pursue the business of insurance in another Member State under the freedom to provide services, without opening a branch on its territory, shall notify the Commission in advance, indicating:

1. the classes of insurance it intends to contract and the nature of the risks it expects to cover in that Member State;

2. proof of membership in the respective national bureaux of the green card system and in the institution tasked to perform guarantee payments analogous to the Guarantee Fund under Article 518 of the Member State of the branch, as well as the name and address of the claim settlement representative, if the insurer intends to carry out activities under point 10.1., Section II, letter "A" of Annex No 1;

3. the measure selected by the insurer under Article 147 for prevention of conflicts of interest if the insurer intends to carry out activities under point 17, Section II, letter "A" of Annex No 1.

(2) The Commission shall also provide the relevant competent authority of the Member State under Paragraph 1 within one month of the notification with information under Paragraph 1 and on the classes of insurance with which the insurer has the right to operate in the territory of the Republic of Bulgaria, together with a certificate that the insurer has sufficient own funds to cover the Solvency Capital Requirement and the Minimum Capital Requirement. The Commission shall immediately notify the insurer of the provision of the information under the first sentence.

(3) The Commission may refuse, within the period under Paragraph 2, to provide the information under Paragraph 1 to the respective competent authority of the Member State with a reasoned decision, if the own funds of the insurer does not ensure the coverage of the Solvency

Capital Requirement or the Minimum Capital Requirement or if the insurer is implementing a reorganisation plan or if the interests of the insured are endangered for any other reason.

(4) The insurer may start business in the territory of the Member State from the date on which it was notified about the submission of the information under Paragraph 1 by the Commission to the respective competent authority of the Member State.

(5) The insurer shall notify the Commission in writing of any change in the data and documents under Paragraph 1 at least one month before implementing the change. The Commission shall inform the respective competent authority of the Member State of the changes under the first sentence.

Provision of information

Article 47. (1) An insurer with a head office in the Republic of Bulgaria which operates in another Member State shall provide, following the procedure set out in Article 126, quarterly and annual information to the Commission, separately for insurance concluded under the right of establishment and the freedom to provide services, about the amount of the insurance premiums, including the reinsurer's share, and about the amount of the claims and commissions by Member State and by types of activities (lines of business), determined by Regulation (EU) 2015/35. Regarding the insurance under point 10.1, Section II, letter "A" of Annex No 1, the insurer shall also present information on the frequency and average cost of the claims.

(2) The Deputy Chairperson shall provide a summary of the information under Paragraph 1 to the competent authorities of the respective Member States upon their request.

Section II
Operations in the territory of the Republic of Bulgaria of an insurer from another member state

Right of establishment and freedom to provide services

Article 48. An insurer from another Member State receiving an insurance authorisation from the respective competent authority of the home Member State of the insurer may carry out the activity for which the authorisation has been granted in the territory of the Republic of Bulgaria under the right of establishment or freedom to provide services.

Operations under the right of establishment

Article 49. (1) Within two months of receipt of the information pursuant to Article 45, Paragraph 2 from the respective competent authority on an insurer from another Member State which intends to establish a branch in the territory of the Republic of Bulgaria, the Deputy Chairperson shall inform the respective competent authority of the home Member State of the insurer and, if necessary, provide information to it on the conditions under which the business of insurance is pursued in the territory of the Republic of Bulgaria, in order to protect the public interest.

(2) The insurer may establish a branch and take up operation in the territory of the Republic of Bulgaria after the competent authority of the home Member State has received notification from the Deputy Chairperson under Paragraph 1, respectively after the expiry of the term under Paragraph 1, if no notification has been received within that term.

(3) The insurer shall notify the Commission in writing of any changes in the circumstances under Article 45, Paragraph 2 under which it operates within a period of not less than one month prior to the implementation of the change. In this case, Paragraph 2 shall apply respectively.

Operations under the freedom to provide services

Article 50. (1) An insurer from another Member State which intends to pursue the business of insurance in the territory of the Republic of Bulgaria under the freedom to provide services without establishing a branch may take up operations from the date of notification by the relevant competent authority of the home Member State that the Commission has provided with information within the meaning of Article 46, Paragraphs 1 and 2.

(2) The insurer under Paragraph 1 which has expressed intention to pursue the business of insurance under point 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 pursuant to Article 51, Paragraph 2 and shall declare the circumstances under Article 51, Paragraph 1, when this information has not been provided to the Commission by the competent authority of the home Member State of the insurer under Paragraph 1.

(3) Paragraph 1 shall apply accordingly to any change in the classes of insurance which the insurer from a Member State intends to offer in the Republic of Bulgaria under the freedom to provide services.

Requirements to insurers with a head office in another Member State

Article 51. (1) An insurer that operates in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services and which covers risks related to insurance under point 10.1., Section II, letter "A" of Annex No 1 must be a member of the National Bureau of Bulgarian Motor Insurers and shall participate in the financing of the Guarantee Fund under this Code.

(2) An insurer that operates in the territory of the Republic of Bulgaria under the freedom to provide services shall appoint a person domiciled in or resident of the Republic of Bulgaria to represent it in its dealings with insured persons or damaged parties under the compulsory liability insurance of motorists residing or domiciled in the Republic of Bulgaria. The representative shall have sufficient powers to collect all the information necessary to settle the claims of such persons and to make payments and represent the insurer in administrative and judicial proceedings relating to the settlement of such claims. The representative shall certify to the Commission and to other competent authorities the existence and validity of insurance policies for compulsory liability insurance of motorists.

(3) The appointment of a representative under Paragraph 2 shall not be considered as residence of the insurer from the Member State. Where that insurer has also established a branch in the territory of the Republic of Bulgaria, this branch may perform the functions of a representative office in connection with the compulsory liability insurance of motorists, concluded under the freedom to provide services.

(4) With approval of the Commission, an insurer that offers compulsory liability insurance of motorists in the country under the freedom to provide services may assign the activities under Paragraph 2 to the claims representative in the Republic of Bulgaria under Article 503.

Section III

Operations in another Member State of a local reinsurer. Operations in the territory of the Republic of Bulgaria of a reinsurer from another member state

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

Article 52. A local reinsurer authorised under the terms and provisions of this Code may carry out activities for which an authorisation has been granted to it, in the territory of another Member State under the right of establishment or the freedom to provide services after informing the Commission thereof and in compliance with the law of the 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 authorised for reinsurance at its head office may carry out the activity for which an authorisation has been granted to it in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services and in compliance with the law of the Republic of Bulgaria.

Chapter V
OPERATIONS IN A THIRD COUNTRY OF A LOCAL INSURER OR REINSURER. OPERATIONS IN THE TERRITORY OF THE REPUBLIC OF BULGARIA OF AN INSURER OR REINSURER FROM A THIRD COUNTRY

Section I
Operations in a third country of a local insurer

Issuance of authorisation

Article 54. (1) For a local insurer to carry out insurance activities in the territory of a third country, the local insurer shall submit an application for authorisation to the Commission, stating:

1. the country in which the insurer intends to pursue its business and the manner of operation (through a branch or direct provision of services);

2. the classes of insurance for which the insurer will carry out activities in the third country.

(2) The following shall be enclosed with the application under Paragraph 1:

1. a scheme of operations with the amendments and supplements in connection with the operations in the third country;

2. documents certifying compliance with the requirements of Articles 80 and 83 – for the branch manager, and the address of the branch, when the activity will be carried out through a branch.

(3) Where the competent authority in the home country of the branch and the Commission have not concluded an agreement for cooperation and exchange of information, the Commission may require from the applicant to certify the requirements imposed by the law of the third country in relation to insurance operations through a branch.

(4) At the proposal of the Deputy Chairperson, the Commission shall pass a decision within two months of receipt of the application. If irregularities are found or if additional information is needed, respectively Article 34, Paragraphs 2, 4 and 5 shall apply, where the term to remedy the irregularities or provide additional information shall not be shorter than 15 days.

(5) The Commission shall refuse to grant an authorisation where:

1. taking up operations in a third country would endanger the financial position of the insurer;

2. the submitted scheme of operations stipulates that insurance operations will be carried out in the third country which are beyond the scope of the insurer's authorisation;

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

4. there are legal or administrative obstacles to the supervision of the operations of the branch by the Commission or the Deputy Chairperson;

5. the insurer is in the process of implementing a plan under Article 215, Paragraphs 1 or 2;

6. other requirements of this Code or its implementing instruments have not been fulfilled.

Notification to the Commission

Article 55. Within 7 days of receipt of an authorisation to carry out insurance activities from the competent authority of the respective third country, the insurer shall submit a copy thereof to the Commission.

Section II
Operations in the Republic of Bulgaria of an insurer from a third country

Conditions for pursuit of business

Article 56. (1) An insurer from a third country is authorised to pursue insurance business in the territory of the Republic of Bulgaria through a branch registered under the Commerce Act, after receiving an authorisation from the Commission under the terms and conditions of this Code and its implementing instruments. The authorisation may only cover insurance operations for the insurance classes for which the insurer is authorised to pursue the business of insurance in the country where its head office is located. Simultaneous pursuit of business under Section I and Section II of Annex No 1 through branch is not allowed.

(2) The Commission may grant an authorisation under Paragraph 1, provided that:

1. the person is entitled to pursue the business of insurance under its national law;

2. the branch of the insurer has assets in the Republic of Bulgaria amounting to not less than half the respective floor of the Minimum Capital Requirement under Article 192, Paragraph 2;

3. a deposit amounting to a quarter of the respective floor of the Minimum Capital Requirement under Article 192, Paragraph 2 has been made to a bank which carries out banking operations in the Republic of Bulgaria;

4. a general representative has been appointed who meets the requirements of Article 80, Paragraphs 1, 3 and 4 and Article 83 and who has sufficient representative powers to accept

obligations for the insurer to third parties and to represent it before the public authorities and courts of the Republic of Bulgaria;

5. a scheme of operations has been submitted, which contains, in addition to the relevant information under Article 33, further information on the state of the eligible own funds and eligible basic own funds in relation to the Solvency Capital Requirement and the Minimum Capital Requirement, as well as information on the structure of the system of governance;

6. the branch complies with the requirements relating to the system of governance under Chapter VII.

(3) Insofar as this Code does not provide otherwise, an insurer from a third country shall have the rights and obligations of an insurer with a head office in the Republic of Bulgaria and its activities in the country shall be subject to the state insurance supervision exercised by the Commission and the Deputy Chairperson with regard to insurers with a head office in the country. When an insurer from a third country has chosen the competent authorities of the Republic of Bulgaria under Article 62, Paragraph 3, the Commission and the Deputy Chairperson shall exercise solvency supervision on the activity of all its branches established within the European Union and the European Economic Area and shall apply coercive administrative measures as per this Code.

Issuance of authorisations

Article 57. (1) To receive an authorisation to take up insurance operations in the territory of the Republic of Bulgaria through a branch, an insurer from a third country shall submit an application, enclosing:

1. a certified copy of the registration document of the insurer and document from the registration authority with current data on its head office and management address, scope of activities, amount of subscribed capital, system of governance and persons managing and/or representing it;

2. a certified copy of the permission for insurance operations granted by the competent authority at the head office of the insurer, including a description of the classes of insurance for which the permission is granted;

3. a certified copy of the decision of the competent management body of the insurer for the establishment of a branch in the territory of the Republic of Bulgaria and for the appointment of a branch manager;

4. a certificate issued by the competent authority exercising insurance supervision in the country where the head office of the insurer is established certifying that a local insurer may take up and pursue the business of insurance in that country under the general procedure established for foreign insurers;

5. a document issued by a bank which carries out banking operations in the Republic of Bulgaria certifying that a deposit is made in accordance with Article 56, Paragraph 2, point 3 and documents certifying the size of the assets under Article 56, Paragraph 2, point 2;

6. details on the branch manager;

7. the scheme of operations;

8. evidence that the branch will comply with the requirements relating to the system of governance under Chapter VII, including the documents under Article 77, Paragraph 1, points 1, 3 and 4;

9. a statement from the management body of the insurer that it will compile and submit annual financial statements on the activity to be pursued in the country through the branch and that it will keep such reports at the head office of the branch;

10. a written statement by the management body of the insurer that the branch will cover the Solvency Capital Requirement and the Minimum Capital Requirement in compliance with the procedure established for local insurers;

11. the annual financial statements of the insurer for the previous three years, respectively for the period of existence of the insurer if it has existed for a shorter period;

12. details on the persons holding directly or through related persons 10 % or over 10 % of the voting rights in the general meeting or of the capital of the insurer or other shareholding enabling them to control it;

13. when an insurance authorisation is applied for, which covers an activity under point 10.1., Section II, letter "A" of Annex No 1:

a) the name and address of the claims representative for that type of insurance in each of the Member States;

b) a document for a bank guarantee in accordance with the statutes of the National Bureau of Bulgarian Motor Insurers;

c) a reinsurance contract in accordance with criteria set with a decision of the Commission;

14. the technical bases for calculation of scales of premiums and technical provisions.

(2) The Commission shall pass a decision within 4 months of receipt of the application. If irregularities are found or if additional information is needed, respectively Article 34, Paragraphs 2, 4 and 5 shall apply, where the term to remedy the irregularities or provide additional information shall not be shorter than 15 days.

(3) The application under Paragraph 1 shall be reviewed after payment of a fee for document processing.

Refusal of authorisation

Article 58. (1) The Commission shall refuse to grant an authorisation if there are grounds under Article 35, Paragraph 1, as well as when the legal framework at the head office of the insurer from a third country or the supervision exercised over it by the respective competent authority impedes the provision of the state insurance supervision under this Code and the Financial Supervision Commission Act or otherwise jeopardises the interests of the beneficiaries of insurance services.

(2) The Commission may also refuse to grant an authorisation if it has established that the competent authority in the country at the head office of the insurer does not apply the principle of reciprocity in ensuring access of Bulgarian insurers to the respective foreign insurance market and if the insurer from a third country represents a threat to national security of the Republic of Bulgaria.

(3) The grounds for the Commission's refusal to grant an authorisation shall be stated in writing.

(4) A new authorisation application may be filed not earlier than 6 months of the effective date of the decision to refuse to grant authorisation.

Registration in the trade register

Article 59. (1) A branch of an insurer from a third country with subject of activity insurance and/or reinsurance shall be registered in the trade register after presenting the authorisation granted by the Commission.

(2) The insurer from a third country shall notify the Commission of any changes in the documents or the circumstances under Article 57, Paragraph 1 within 7 days of the decision, of becoming aware of the change or of the registration of the circumstance when it is subject to registration in the trade register, but not later than 14 days after the registration.

Requirements to the business

Article 60. (1) An insurer from a third country operating in the territory of the Republic of Bulgaria through a branch shall keep its accounting books in the Bulgarian language according to the current Bulgarian legislation and shall store at its branch address all available documents related to the business pursued by it in the territory of the Republic of Bulgaria.

(2) Within 7 days of the termination of an insurer from a third country, the branch manager shall submit to the commission the decision of the competent body.

(3) The branch of an insurer from a third country shall:

1. value its assets and liabilities under Article 152;

2. establish adequate technical provisions to cover the obligations under insurance and reinsurance contracts entered into in the territory of the Republic of Bulgaria pursuant to Chapter VIII, Section II;

3. determine its own funds pursuant to Chapter XII.

Solvency Capital Requirement and Minimum Capital Requirement

Article 61. (1) The branch of an insurer from a third country shall have eligible own funds to cover the Solvency Capital Requirement in accordance with the requirements of Chapter XII.

(2) The Solvency Capital Requirement and the Minimum Capital Requirement of the branch of an insurer from a third country shall be calculated pursuant to Chapter XIII and Chapter XIV respectively, taking into account only the activities carried out by the branch.

(3) The eligible basic own funds, including the deposit of Article 56, Paragraph 2, point 3, of the branch of an insurer from a third country may not be less than one half of the floor of the Minimum Capital Requirement under Article 192, Paragraph 2.

(4) The assets to cover the Solvency Capital Requirement of the branch of an insurer from a third country up to the amount of the Minimum Capital Requirement shall be located in the country, and the remaining assets – within the European Union.

Advantages for insurers from third countries

Article 62. (1) An insurer from a third country that has requested or received an authorisation to pursue the business of insurance in the territory of the Republic of Bulgaria

through a branch and in one or more Member States may apply to the Commission for the following advantages which may be granted only jointly:

1. that its Solvency Capital Requirement is calculated on the basis of the total volume of the business carried out by the insurer from a third country in the European Union, in which case only the activities carried out by all branches of the insurer from a third country in the Member States shall be taken into account;

2. that the deposit under Article 56, Paragraph 2, point 3 is made in only one of the Member States in which it operates;

3. that the assets representing funds in the amount of the Minimum Capital Requirement are located in one of the Member States in which the insurer operates.

(2) In order to benefit from the advantages under Paragraph 1, the insurer from a third country shall submit an application to the Commission and to the competent authorities of the other Member States where it proposes to operate or has acquired an authorisation to operate.

(3) The application of the insurer from a third country shall indicate a competent authority of one of the Member States where it proposes to operate or has acquired an authorisation to operate, which is to supervise its solvency in connection with the activities of all of its branches established within the European Union and the European Economic Area, and the reasons for choosing that authority. The deposit under Paragraph 1, point 2 shall be made in the country under the first sentence.

(4) The advantages under Paragraph 1 shall be provided only with the consent of the competent authorities of all Member States to which an application has been submitted under Paragraph 2. The Commission shall give its consent with a decision after an assessment of the financial position of the insurer from a third country, including its solvency.

(5) The insurer from a third country may benefit from the advantages under Paragraph 1 after the competent authority under Paragraph 3 informs the other competent authorities that it will supervise the solvency of the insurer in connection with the activities of all of its branches established within the European Union and the European Economic Area.

(6) The Commission shall provide the respective competent authority under Paragraph 3 with all the information necessary for the supervision that it has available.

(7) The provided advantages shall be withdrawn simultaneously in all Member States in which the insurer from a third country operates at the proposal of the competent authority of any of these Member States.

Withdrawal of authorisation

Article 63. (1) The Commission shall withdraw the authorisation of the branch of an insurer from a third country for its activities through a branch in the territory of the Republic of Bulgaria under the terms and conditions of Article 40. In this case, Articles 41 and 42 shall apply accordingly.

(2) The Commission shall also withdraw the authorisation of the branch of an insurer from the third country when its authorisation to pursue the business of insurance has been withdrawn by the competent authority in the country at its head office or by the competent authority under Article 62, Paragraph 3 on the grounds of non-fulfilment of the solvency requirements. When the authority under Article 62, Paragraph 3 has notified the Commission about the withdrawal of the

authorisation of an insurer from a third country due to other reasons, the Commission shall take the necessary measures.

(3) Upon withdrawal of the authorisation by the Commission in its capacity of an authority under Article 62, Paragraph 3, it shall immediately notify the competent authorities of the Member States in which the insurer operates and which have given their consent under Article 62, Paragraph 4, stating the reasons for the decision.

Section III
Operations in a third country of a local reinsurer Operations in the Republic of Bulgaria of a reinsurer from a third country

Operations of a local reinsurer in a third country

Article 64. For the activities of a reinsurer with a head office in the Republic of Bulgaria carried out in a third country, the law of the third country shall apply, unless this Code provides otherwise.

Activities of a reinsurer from a third country in the Republic of Bulgaria through a branch under the Commerce Act

Article 65. (1) A reinsurer from a third country is authorised to pursue the business of reinsurance in the territory of the Republic of Bulgaria through a branch registered under the Commerce Act, after receiving an authorisation from the Commission under the terms and conditions of this Code and its implementing instruments. The authorisation for reinsurance shall be granted only for the types of activities for which the reinsurer is authorised in the country of its head office.

(2) The Commission shall grant the authorisation under Paragraph 1, provided that:

1. the person is entitled to pursue the business of reinsurance under its national law;

2. the branch of the reinsurer has assets in the Republic of Bulgaria amounting to not less than half the floor of the Minimum Capital Requirement under Article 192, Paragraph 2;

3. a deposit amounting to a quarter of the floor of the Minimum Capital Requirement under Article 192, Paragraph 2 has been made to a bank which carries out banking operations in the Republic of Bulgaria;

4. a branch manager has been appointed who meets the requirements of Article 80, Paragraphs 1, 3 and 4 and Article 83 and who has sufficient representative powers to accept obligations for the reinsurer to third parties and to represent it before the public authorities and courts of the Republic of Bulgaria;

5. a scheme of operations has been submitted, which contains the relevant information under Article 33, information on the status of the eligible own funds and the eligible basic own funds in relation to the Solvency Capital Requirement and the Minimum Capital Requirement, as well as information on the structure of the system of governance.

(3) Insofar as this Code does not provide otherwise, a reinsurer from a third country shall have the rights and obligations of a reinsurer with a head office in the Republic of Bulgaria and its activities in the country shall be subject to the state insurance supervision exercised by the

Commission and the Deputy Chairperson with regard to reinsurers with a head office in the country.

(4) For the issuance and the refusal to grant an authorisation under Paragraph 1, Article 57, Paragraph 1, point 1 to 11 and 14, Paragraphs 2 and 3 and Article 58 shall apply respectively. Articles 59 to 61 shall apply to the reinsurer accordingly.

(5) The Commission shall withdraw the authorisation of a branch of a reinsurer from a third country under the terms and conditions of Article 40, and when its authorisation to pursue the business of reinsurance has been withdrawn by the competent authority in the country of the head office of the reinsurer. Articles 41 and 42 shall apply to reinsurers.

Provision of services in the Republic of Bulgaria by a reinsurer with a head office in a third country

Article 66. (1) A reinsurer from a third country may provide services in the Republic of Bulgaria from its head office or branch, provided that it has received a permission to carry out reinsurance activities in the country of its head office and its overall activity is subject to supervision by the competent authority in that country.

(2) With regard to a reinsurer from a third country carrying out reinsurance activities in the territory of the Republic of Bulgaria, no provisions shall apply which result in a more favourable treatment than that granted to reinsurers with a head office in a Member State.

(3) The Commission may, by an ordinance, impose on insurers or reinsurers from third countries carrying out reinsurance activities in the Republic of Bulgaria the obligation to provide a pledge or other guarantees to cover unearned premiums or outstanding claims provisions.

(4) Paragraph 3 shall not apply to insurers and reinsurers from third countries with a supervisory regime which is recognised as equivalent by the European Commission under the terms and conditions laid down in Directive 2009/138/EC and its implementing instruments.

Section IV
Provision of information

Information provided to the European Commission

Article 67. The Commission, respectively the Deputy Chairperson, shall notify the European Commission, European Authority and the competent insurance supervision authorities of the Member States of:

1. granted authorisation to an insurer or reinsurer under the control, directly or through related parties, of one or more parent companies when at least one of them is subject to the law of a third country; the notification shall specify the structure of the group to which the persons under the first sentence belong;

2. acquired holding by a parent company under point 1 in an insurer or reinsurer with a head office in the Republic of Bulgaria, which enables the parent company to exercise control over the insurer or reinsurer;

3. the existence of obstacles to the pursuit of business in a third country by an insurer or reinsurer with a head office in the Republic of Bulgaria.

TITLE II

REQUIREMENTS TO THE MANAGEMENT AND OPERATIONS OF INSURERS AND REINSURERS
Chapter VI
QUALIFYING HOLDINGS

Acquisitions

Article 68. (1) Any natural or legal person or such persons acting in concert that have taken a decision either to acquire, directly or indirectly, a qualifying holding in an insurance or reinsurance joint-stock company or to increase, directly or indirectly, such a qualifying holding, as a result of which the proportion of the voting rights or capital held would reach or exceed 20 %, 30 % or 50 %, or the insurance or reinsurance joint-stock company would become their subsidiary, shall notify the Deputy Chairperson of the decision in writing before the acquisition, indicating the size of the intended holding. When as a result of objective circumstances beyond the control of the persons, their holding becomes qualifying or reach or exceed the thresholds under the first sentence, the notification shall be made after the acquisition, respectively the increase of the holding, within 15 business days after they become aware of that.

(2) Any natural or legal person that has taken a decision to dispose, directly or indirectly, of a qualifying holding in an insurance or reinsurance joint-stock company shall notify the Deputy Chairperson of the decision in writing before the disposal, indicating the size of its holding after the intended disposal. The person shall likewise notify the Deputy Chairperson of a decision to reduce that person's qualifying holding as a result of which the proportion of the voting rights or of the capital held would fall below 20 %, 30 % or 50 % or the insurance or reinsurance joint-stock company would cease to be its subsidiary.

(3) Qualifying holding means a direct or indirect holding in an insurer or reinsurer which represents 10 % or more than 10 % of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of that insurer, respectively reinsurer.

(4) Any person under Paragraph 1 shall be identified conclusively up to the level of actual owner (beneficial owner).

(5) An actual owner (beneficial owner) within the meaning of Paragraph 4 means one or more natural persons who ultimately own or control the applicant proposing to acquire a qualifying holding. Actual owners (actual beneficial owners) shall cover at least:

1. in case of corporate entities:

a) the natural person or persons who ultimately own or control a given legal entity through direct or indirect ownership or control of a sufficient percentage of the shares or voting rights in that legal person, including through holding bearer shares, other than companies whose shares are listed on a regulated market that is subject to the terms of the disclosure requirements in accordance with the law of the European Union or equivalent international standards; 25 % plus one share shall be deemed sufficient to meet this criterion;

b) the natural person or persons who otherwise exercise control over the management of a legal person;

2. in case of legal entities such as foundations or legal arrangements such as trust companies which administer and allocate funds:

a) where the future actual owners (actual beneficial owners) have been determined – the natural person or person who are actual owners (beneficial owners) of 25 % or more of the property of the legal arrangement or legal entity;

b) where the natural persons who benefit from the legal arrangement or legal entity are to be determined – the category of the persons in whose main interest the legal arrangement or legal entity is established or managed;

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

(6) In determining the size of the qualifying holding, the voting rights in accordance with Article 146, Paragraph 1 of the Public Offering of Securities Act shall also be taken into account. For the determination of the amount of the qualified holdings, the voting rights or shares held by the investment intermediaries or credit institutions as a result of the provision of the services under Article 5, Paragraph 2, point 6 of the Markets in Financial Instruments Act shall not be taken into account, provided that these rights are not exercised or used to influence the governance of the insurer or reinsurer and provided that these rights are disposed of within one year of the acquisition.

(7) At the proposal of the Deputy Chairperson, the Commission shall assess the planned takeover, respectively the increase of the qualifying holding, in order to ensure the sound and prudent management of the insurer, respectively reinsurer, subject of the acquisition. In the course of the assessment, the Commission shall consider the likely influence of the proposed acquirer on the insurer, respectively on the reinsurer, on the basis of which the Deputy Chairperson shall assess whether the applicant is appropriate and financially stable by applying the following criteria:

1. the reputation of the applicant;

2. the reputation and professional experience of any person who will manage the business of the insurer or reinsurer as a result of the proposed acquisition;

3. the financial stability of the applicant in connection with the activities carried out or intended to be carried out by the insurer, respectively reinsurer, subject to the proposed acquisition; it is deemed that the applicant is financially stable if, on the basis of the submitted documents and their analysis it may reasonably be assumed that within a period of not less than three years of the date of the acquisition it is not likely to experience financial difficulties and will have the financial position to ensure the planned development of the insurer or reinsurer, including by financial support if necessary;

4. whether the insurer, respectively reinsurer, will be able to fulfil or continue to fulfil the prudential requirements of the law and, in particular, whether the group to which it will belong after the acquisition has a structure that allows the exercise of effective supervision and exchange of information between the competent supervisory authorities and the determination and allocation of the responsibilities between them;

5. whether reasoned assumptions may be made that in connection with the proposed acquisition money laundering is being committed or has been attempted within the meaning of the Measures against Money Laundering Act or terrorism financing is being committed or has

been attempted within the meaning of the Measures against Terrorism Financing Act, or that the realisation of the proposed acquisition would increase the risk thereof.

(8) At the proposal of the Deputy Chairperson, the Commission may oppose the proposed acquisition only if there are grounds thereof on the basis of the criteria set out in Paragraph 7 or if the information provided by the applicant is incomplete.

(9) The Commission and the Deputy Chairperson shall neither impose any prior conditions in respect of the level of holding that must be acquired nor examine the proposed acquisition in terms of the economic needs of the market.

(10) The Commission and the Deputy Chairperson shall not require information that is not relevant for a prudential assessment. In connection with a particular acquisition or increase of a qualifying holding, the Deputy Chairperson may require additional information and evidence when they are needed for the assessment of the compliance with the prudential requirements.

(11) In the event that two or more notifications for acquisition or increase of a qualifying holding in the same insurer, respectively reinsurer, are submitted, the Deputy Chairperson shall assess each of the acquisitions in a non-discriminatory manner.

(12) Prudential requirements are the requirements in Part II, Chapters VII to X, Titles III, IV and VII, as well as under the Supplementary Supervision of Financial Conglomerates Act, when this act applies or will apply to the insurer, respectively reinsurer in which the capital holding is to be acquired.

(13) The Commission shall adopt decisions, guidelines or practices for implementation of guidelines or recommendations adopted by the European Authority for assessment of acquisitions or increases of qualifying holdings.

Information regarding acquisitions or increases of qualifying holdings

Article 69. (1) The notification pursuant to Article 68, Paragraph 1 shall be in writing and shall contain the information and documents under Paragraphs 2 to 6. The notification shall specify:

1. the insurer, respectively reinsurer, in which the applicant intends to acquire a holding;

2. the size of the intended holding, including the number and type of shares held by the applicant before and after the acquisition, the share of stocks in the total capital before and after the acquisition, expressed in percentages and in monetary terms, as well as the share of the voting rights when different from the capital share before and after the acquisition;

3. the purpose of the acquisition of the holding;

4. comprehensive information about actions in concert with other persons in connection with the acquisition when there is action in concert or a declaration of the lack of concert.

(2) Where the applicant is a natural person, the following shall be enclosed with the notification:

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

2. for Bulgarian citizens – extract from the judicial record and a declaration of no convictions outside the Republic of Bulgaria, and for persons who are not Bulgarian citizens – an

official document certifying the lack of prior conviction or a declaration of no condemnation, when the country of their habitual residence does not issue such a document; the documents under the preceding sentence shall be recognized if submitted within 6 months of the date of their issue;

3. a CV indicating exhaustively the education, qualifications and professional experience of the applicant, as well as all professional activities, positions and functions of the person performed as of the date of submission of the notification;

4. declaration:

a) on the presence or absence of pending criminal lawsuits in which the person is the defendant and on the outcome of such completed proceedings;

b) on the presence or absence of pending civil cases for outstanding loans, tort/delict to the company managed by the person to which the defendant was the applicant for the acquisition of a qualifying holding or a legal person over which the applicant exercised control or a legal person in which the person was a member of a management or supervisory body or a procurator, and on the outcome of such completed proceedings;

c) on the presence or absence of pending or completed proceedings for the imposition of administrative penalties and/or coercive administrative measures against the applicant for breaches of regulations pertaining to the financial sector;

d) whether the applicant was a member of a management or supervisory body of a company which was terminated by a court decision due to activities in violation of the law or which pursue unlawful purposes;

e) whether the applicant was a member of a management or supervisory body or a general partner in a company when it was terminated due to bankruptcy and if unsatisfied creditors have remained;

f) whether a person over which the applicant exercised control was declared insolvent, respectively bankrupt or in compulsory winding-up;

g) whether a legal person on which the applicant exercised control or a legal person in which the applicant was a member of the management or supervisory body or procurator:

aa) was penalised with an administrative sanction and/or coercive administrative measures for violation of regulations pertaining to the financial sector;

bb) has been refused the issuance of an authorisation or the registration in a register kept by the Commission, the Bulgarian National Bank or similar bodies in other countries, was refused membership in a trade or professional organisation, respectively the authorisation granted to the person was withdrawn or the registration deleted, including with regard to companies in whose management or control bodies these legal persons have participated;

h) whether the applicant was released from office, as a result of an imposed coercive administrative measure, as a member of the management or supervisory body of an insurer, reinsurer, credit institution or another financial institution whose activity is subject to an authorisation regime;

i) whether the applicant was deprived of the right to hold a position involving material liability;

k) whether a previous identical assessment of the reputation of the applicant or a person controlled by the applicant has been performed by a competent supervisory authority in the financial sector and which was the supervisory authority and what was the result of the assessment;

l) whether a review of the applicant or a person controlled by the applicant has been performed by a competent supervisory authority outside of the financial sector and which was the supervisory authority and what was the result of the assessment;

5. declaration by the applicant on:

a) its financial condition, including information on property owned, the liabilities accepted by it, the collaterals provided and guarantees granted, as well as information about the sources and amount of its income for the previous three years;

b) the presence of financial or other interests or relations of the applicant with:

aa) the insurer, respectively reinsurer, or the group to which they belong;

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

cc) members of the management or supervisory bodies or other executives in the insurer, respectively reinsurer;

dd) the existence of any other interest that could lead to a conflict of interest with the insurer, respectively reinsurer, and plan to tackle such a conflict;

6. a document regarding awarded ratings and public statements of the companies controlled by the applicant, if any.

(3) Where the applicant is a legal person, the following shall be submitted:

1. data on: company/name, head office and management address, mailing address and identification number of the applicant, if any;

2. a certified copy of the memorandum and/or articles of association, when the memorandum is part of the registration documents of the person;

3. a current certificate of registration in the relevant trade register for persons registered outside the Republic of Bulgaria;

4. a current and detailed description of the activity of the applicant;

5. a list of the names of the persons managing or representing the applicant and a CV indicating exhaustively the education, qualifications and professional experience of each of the persons, as well as all professional activities, positions and functions of each of the persons performed as of the date of submission of the notification;

6. a declaration by the legal representative of the applicant regarding the structure and allocation of the capital of the applicant – legal person, with information under point 1 up to the level of the actual owner (actual beneficial owner);

7. declarations by the applicant about the circumstances under Paragraph 2, point 4, letter "b", "d" to "f", letter "g", sub-letter "bb", letters "h", "k" and "l" and a declaration under Paragraph 2, point 5, letter "b" on the existence of financial or other interests or relations of the applicant and of the persons who manage and represent it;

8. a description of the structure of the group if the applicant belongs to a group as a subsidiary or parent company, and a description of the activities carried out by the group;

9. information on the persons in the group on which financial or other supervision is exercised and an indication of the supervisory authority at the head office of the persons concerned;

10. annual financial statements of the applicant for the last three years following an audit, if such is required, including balance sheet, income statement, annual activity report and other disclosures to the financial statements for the respective period;

11. a document on the credit rating awarded to the applicant and the group to which it belongs, if awarded.

(4) The following appendices with additional information on the financing of the acquisition of qualifying holdings shall be enclosed with the notification under Paragraph 1:

1. a declaration about the origin of the funds with which the qualifying holding is to be acquired;

2. information on the means of acquisition of the shares and the manner of payment;

3. information on the manner of funding of the acquisition of shares, including on the access to sources of capital and financial markets;

4. information on the use of borrowings from the banking system or on the issuance of financial instruments in order to finance the acquisition, and any financial relations with other shareholders of the insurer, including data on the maturities, terms and conditions, provided collaterals and guarantees;

5. information on the assets of the applicant or of the insurer, respectively reinsurer, in which holding is acquired, which are intended for sale in the short term in order to finance the acquisition, as well as the terms and conditions and the transaction price.

(5) The following appendices with additional information depending on the level of the qualifying holding to be acquired shall be enclosed with the notification under Paragraph 1:

1. when after the acquisition of qualified holdings, a change in the control of the insurer, respectively reinsurer, will follow – a scheme of operations including:

a) a strategic development plan containing the main objectives of the acquisition and the principal ways to achieve them, and in particular:

aa) reasons for the acquisition;

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

cc) the main synergies expected to be realised;

dd) expected relocation of activities, customers and products, and expected reallocation of resources within the insurer, respectively reinsurer;

ee) the essential circumstances related to the inclusion and integration of the insurer, respectively reinsurer, in the group structure of the applicant, including the interdependencies to be realised with other companies in the group, together with a description of the policy governing intragroup relations;

b) forecast financial statements of the insurer, respectively reinsurer, individually and on a consolidated basis, for the following three years, including:

aa) forecast balance sheet and income statement;

bb) forecast of the prudential ratios, at least for the coverage with own funds of the Minimum Capital Requirement and the Solvency Capital Requirement, respectively the minimum capital guarantee and the solvency margin, loss ratios and expense ratios;

cc) information on the risk exposure by types of risks, at least for operational, credit, market and underwriting risks;

dd) a forecast of the expected intragroup transactions;

c) a summary of the impact of the acquisition on the management of the insurer, respectively reinsurer, as well as on its organisational structure;

2. where after the acquisition of the qualifying holding it will not exceed 20 % of the capital – a document on the strategy of the applicant, including:

a) the period over which the applicant intends to maintain its holding;

b) the applicant's intention to increase, reduce or maintain its participation at the same level in the foreseeable future;

c) information on the ability and willingness of the applicant to support the insurer, respectively reinsurer, with additional own funds in the event of financial difficulties;

3. where after the acquisition of the qualifying holding it will exceed 20 %, but will not exceed 50 % of the capital – a document on the strategy of the applicant under point 2 including:

a) information on the influence that the applicant intends to exert on the financial condition of the insurer, respectively reinsurer, (including on the dividend allocation policy), on its strategic development and regarding the allocation of its resources;

b) a description of the intentions and expectations of the applicant in terms of the activity of the insurer, respectively reinsurer, in the medium term.

(6) Where a qualifying holding is acquired or the crossing a threshold under Article 68, Paragraph 1 is indirect, the notification under Paragraph 1 shall be submitted to the Commission upon acquisition of a holding in a current direct or indirect shareholder, in the following cases:

1. acquisition of a qualifying holding or increase of holding resulting in exceeded 20 %, 30 % or 50 % in the capital of a shareholder exercising control over the insurer, respectively reinsurer, or

2. acquisition of control over a shareholder that owns a qualifying holding but that does not exercise control over the insurer, respectively reinsurer.

(7) In the case of intra-group acquisitions within the group of an existing shareholder of the insurer, respectively reinsurer, as a result of which the actual owner (the actual beneficiary) of the holding in the capital of the insurer does not change, only the documents under Paragraph 3, point 6 shall be enclosed with the notification under Paragraph 1.

Acquisition of a qualifying holding by financial enterprises

Article 70. (1) The Deputy Chairperson shall exchange information with the relevant supervisory authorities in the course of the review of the acquisition if the applicant is one of the following persons:

1. a credit institution, insurer or reinsurer, investment firm or management 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 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ, L 302/32 of 17 November 2009) authorised in another Member State or in a sector other than that in which the acquisition is proposed;

2. the parent undertaking of a credit institution, insurer or reinsurer, investment firm or UCITS management company authorised in another Member State or in a sector other than that in which the acquisition is proposed;

3. a natural or legal person controlling a credit institution, insurer or reinsurer, investment firm or UCITS management company authorised in another Member State or in a sector other than that in which the acquisition is proposed.

(2) The opinions and objections of the supervisory authorities with which coordination activities have been carried out pursuant to Paragraph 1 shall be stated in the decision of the Deputy Chairperson under Article 71, Paragraph 4 or 5.

(3) The Deputy Chairperson shall provide without delay any information which is essential or relevant for the assessment, when the acquisition of a qualifying holding is proposed by a person under Paragraph 1, which is an insurer or reinsurer with a head office in the Republic of Bulgaria, or parent company or a natural or legal person controlling an insurer or reinsurer with a head office in the Republic of Bulgaria. In the process of cooperation under the first sentence, the Deputy Chairperson shall submit to the relevant supervisory authorities upon request or ex officio any information necessary or essential for their assessment.

(4) The information under Article 69, Paragraphs 2 and 3 shall not be required by the applicant in the event that the supervisory authority under Paragraph 1 is from a Member State and provides a certificate that the applicant meets the requirements of Directive 2009/138/EC or Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Directive 92/49/EEC of the Council and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings 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 is a supervised entity of the Commission and regarding which the documents under Article 69, Paragraphs 1 to 4 have been submitted to the Commission in connection with other proceedings.

(6) The information under Article 69, Paragraphs 2 and 3 shall not be required from an applicant which was evaluated in other proceedings in the previous two years by the Deputy Chairperson or by the Commission and for which documents of Article 69, Paragraphs 2 and 3 have been submitted.

Notification procedure

Article 71. (1) No later than two business days of the date of receipt of the application together with all documents requisite under Article 69, at the proposal of the Deputy Chairperson, the Commission shall confirm the receipt of the application to the applicant in writing and shall notify the applicant of the date of expiry of term for passing a decision under Paragraph 4. Where the application is not accompanied by all documents under Article 69, the term for the confirmation under sentence 1 shall start from the date of submission of all required documents. The first sentence shall apply accordingly for all subsequent submissions by the applicant.

(2) At the proposal of the Deputy Chairperson, the Commission may, until the expiry of 50 business days from the date of the confirmation under Paragraph 1, request additional information as needed to rule on the application. The request for additional information shall be in writing and shall specify the required information. The term for passing a decision under Paragraph 4 shall be suspended from the date of the request for additional information to the date of its receipt, but for no more than 20 business days. Where the applicant is with a head office or is supervised outside the European Union or is a natural person or legal person which is not an insurer, credit institution or investment firm, the maximum period for which the term for ruling may be suspended shall be 30 days of the date of the written request for additional information. Subsequent requests for additional information shall not suspend the term for ruling. The two-day term under Paragraph 1 shall apply upon each receipt of additional information.

(3) Within 60 business days from the date of the confirmation under Paragraph 1, at the proposal of the Deputy Chairperson, the Commission shall issue a prohibition for the acquisition of the proposed holding if there are reasonable grounds thereof in accordance with the criteria under Article 68, Paragraph 7 or if the information provided by the applicant is incomplete. The decision of the Commission to issue the prohibition together with the relevant reasons shall be sent to the applicant before the expiry of the term for the decision and not later than two days of the date of issue of the decision. The decision shall be announced on the web page of the Commission or by other appropriate means.

(4) Within the period under Paragraph 3, at the proposal of the Deputy Chairperson, the Commission may approve the change in the shareholding and fix the maximum period within which the acquisition under Article 68, Paragraph 1 is to be made, after the expiry of which term the approval shall be invalidated. The determined maximum term may be extended at the request of the applicant if there are reasonable grounds to do so.

(5) If the applicant is not notified within the term under Paragraph 3 of an issued prohibition for acquisition of the proposed holding, it shall be entitled to acquire the proposed holding.

(6) A person that acquires a qualifying holding or exceeds another threshold under Article 68, Paragraph 1, sentence 1 without submitting a notification under Article 68, Paragraph 1 before the expiry of the term under Paragraph 3 or in breach of the prohibition of the Commission cannot exercise the voting rights of the shares so acquired. When the person also holds other shares acquired before the acquisition of a qualifying holding or before exceeding another threshold under the first sentence, its voting rights under these shares shall be preserved. The voting rights of the person under the new shares acquired under the first sentence shall not be taken into account in determining whether a quorum for a general meeting of the insurer, respectively reinsurer, is present.

(7) The relevant central depository, authorised by the Commission, which keeps the shareholders' register of the insurer, respectively reinsurer, shall notify the Commission of each

acquisition of holding under Article 68, Paragraph 1, respectively a reduction under Article 68, Paragraph 2, within three days of becoming aware of that.

Powers of the supervisory authority with regard to qualifying holdings

Article 72. (1) In case of acquisition of a qualifying holding before the expiry of the term under Article 71, Paragraph 4 or without the submission of a notice under Article 68, or in violation of the prohibition of the Deputy Chairperson and when influence exercised by the persons referred to in Article 68, Paragraph 1 is likely to operate against the sound and prudent management of the insurer, the Deputy Chairperson, respectively the Commission, shall take appropriate measures, including, at the discretion of the authority, injunctions, administrative penalties against members of management and supervisory bodies of persons which have not complied with the obligation for notification under Article 68, and a suspension of the exercise the voting rights attaching to the shares held by the shareholders or members in question.

(2) If a qualifying holding is acquired in violation of the prohibition of the Deputy Chairperson, the Commission shall:

1. suspend the exercise of the corresponding voting rights in the general meeting of the insurer, respectively reinsurer, and

2. may lodge a claim for the nullity of the decision of the general meeting of the shareholders.

Acquisition of unqualifying holdings

Article 73. A person that acquires 1 or more %, but not more than 10 %, of the shares of an insurer, respectively reinsurer, shall be obliged, within a period of not more than 14 days after acquiring or increasing the holding, to identify itself up to the level of its actual owner (beneficial owner) to the Deputy Chairperson by presenting the documents under Article 69, Paragraph 2, point 1, respectively under Paragraph 3, points 1 and 6.

Reporting qualifying holdings

Article 74. (1) The insurer, respectively reinsurer, shall inform the Deputy Chairperson of any acquisitions or disposals of holdings in its capital that cause those holdings to exceed or fall below any of the thresholds referred to in Article 68, Paragraph 1 upon becoming aware thereof.

(2) The insurer, respectively reinsurer, shall submit to the Commission annually, by 31 March, a statement, using a template approved by the Deputy Chairperson, on the persons possessing qualifying holdings and on the sizes of such holdings.

Chapter VII
SYSTEM OF GOVERNANCE
Section I
Management, structure and organisation of the activity of the insurer and reinsurer

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

Article 75. The management and supervisory bodies of the insurer or reinsurer shall be responsible for the adoption and implementation in its operations of the necessary organisation and rules designed to ensure compliance with:

1. this Code;

2. its implementing regulations;

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

4. the by-laws of the insurer or reinsurer.

System of governance. General requirements

Article 76. (1) The insurer or reinsurer shall be obliged to deploy an effective system of governance in order to ensure sound and prudent management of the business.

(2) The system of governance shall include an adequate transparent organisational structure with a clear allocation and appropriate segregation of responsibilities and an effective system for ensuring the transmission of information. The system of governance may include additional items at the discretion of the insurer or reinsurer.

(3) The system of governance shall be based on the requirements under Articles 77 to 100 and Articles 110 and 111.

(4) The system of governance shall be proportionate to the nature, scale and complexity of the operations of the insurer or reinsurer.

(5) The insurer or reinsurer shall be obliged to review its system of governance periodically and to make changes therein when this is necessary to achieve the objectives under Paragraph 1.

Structure of the system of governance

Article 77. (1) The management, respectively supervisory, body pursuant to its powers under the statutes of the insurer or reinsurer shall also be responsible for the strict implementation of:

1. the management and organisational structure of the insurer or reinsurer, which shall define as a minimum:

a) the activity of the individual organisational units;

b) the executive positions other than the positions under Article 80, Paragraph 1, as well as their functions and powers;

c) the allocation of the functions and powers among the executive directors and the appropriate allocation of functions among the members of the management body;

2. a scheme of operations of the insurer or reinsurer in accordance with Article 33 for a period of three years, which shall be updated annually by 31 March each year;

3. policies on:

a) risk management, including as a minimum:

aa) a policy for management of the risk associated with underwriting and allocation of technical provisions;

bb) policy for management of the operational risk;

cc) policy for risk management through reinsurance and other risk-mitigation measures;

dd) asset-liability management policy;

ee) policy for investment risk management;

ff) policy for liquidity risk management;

b) the internal control;

c) the operational control, including rules and procedures for the performance and accounting of the activities of the individual organisational units;

d) the internal audit;

e) the transfer of activities within the meaning of Article 110 if such transfers are made;

f) the fulfilment of the obligations under Article 127, Paragraph 7;

g) the information system and documentation flow;

h) underwriting and using insurance intermediaries;

i) the prevention of conflicts of interest;

k) the appraisal of assets;

l) the capital management;

m) other activities at the discretion of the management body or when stipulated in a law or another regulatory document;

4. the policy for remuneration of the persons employed by the insurer or reinsurer.

(2) The body under Paragraph 1 shall review at least once a year the documents under Paragraph 1 and shall make the necessary amendments or additions in response to material changes in the matters governed by these documents and shall submit to the general meeting of the shareholders or association members an annual report on their implementation, including on the implementation of the scheme under Paragraph 1, point 2.

(3) The insurer or reinsurer shall take reasonable steps to ensure the continuity and regularity of the activities carried out by it, including by developing contingency plans. For this purpose, the insurer or reinsurer shall use systems, resources and procedures suitable and adequate to the volume, nature and complexity of its activities.

(4) The Deputy Chairperson:

1. is authorised to receive all information on the system of governance of the insurer or reinsurer and to order inspections establishing its status;

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

3. may order the improvement or strengthening of the system of governance to ensure compliance with the requirements of Article 76, Paragraph 3.

(5) The Commission may designate by ordinance more detailed requirements for the system of governance of the insurers and reinsurers in accordance with the principles set out in this Chapter, where necessary for compliance with the guidelines of the European Authority.

Functions in the system of governance

Article 78. (1) Within the system of governance, the insurer or reinsurer shall establish:

1. a risk management function;

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

3. an internal audit function;

4. an actuarial function, and

5. other functions stipulated in this Code and functions at the discretion of its managing and controlling bodies.

(2) A function within the meaning of Para 1 is the internal capacity for realisation of practical tasks. The insurer or reinsurer shall select individually the organisational structure of the functions under Paragraph 1, unless this Code provides for otherwise. The functions under Paragraph 1 may be carried out by employees of the insurer or reinsurer or through ceding activities under Article 110.

(3) The organisational structure under Article 77, Paragraph 1, point 1 shall clearly regulate all functions under Paragraph 1.

(4) Articles 269 – 271 of Regulation (EU) 2015/35 shall also apply to insurers without the right of access to the single market.

Section II
Requirements for qualifications and reliability

Persons participating in the governance of the insurer or reinsurer and persons performing other key functions

Article 79. (1) The insurer, respectively reinsurer, shall ensure that the persons that effectively run it – the members of its management and its supervisory boards or of the board of directors for joint-stock companies, respectively the members of management and supervisory board of mutual associations, hereinafter referred to as "management and supervisory bodies", other persons that are authorised to manage or represent it, as well as persons that have key functions under Article 78, Paragraph 1, shall at all times fulfil the following requirements:

1. qualifications – their professional qualifications, knowledge and experience are adequate to enable sound and prudent management; and

2. reliability – they are of good repute.

(2) Article 258, Paragraph 1, letter "c" of Regulation (EU) 2015/35 shall also apply to insurers without the right of access to the single market.

(3) The insurer, respectively reinsurer, shall be represented by at least two natural persons. The insurer, respectively reinsurer, shall notify the Deputy Chairperson of any changes in the persons who effectively run it or perform the key functions, providing all the information necessary to assess the fulfilment of the requirements for qualifications and reliability by the new persons.

(4) The insurer, respectively reinsurer, shall notify the Deputy Chairperson in case of the discharge of a person under Paragraph 1 and the reasons thereof if the person has ceased to meet the requirements of this Code, not later than 7 days from the date of the discharge.

(5) The Board of Directors, respectively the Supervisory Board of the insurer or reinsurer shall adopt and apply rules and procedures ensuring the that persons under Paragraph 1 shall at

all times meet the requirements for qualifications and reliability (qualifications and reliability policy).

Requirements for professional qualifications and reliability

Article 80. (1) Each member of the management or supervisory body of an insurer, respectively reinsurer, and any person authorised to manage and/or represent it shall:

1. have a higher education diploma with an educational and qualification degree of "Master" and the relevant professional qualifications necessary for the governance of the business of the insurer, respectively reinsurer;

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

3. not have been convicted of a wilful crime of general nature;

4. over the last three years before the initial date of insolvency set by the court, not have been a member of a managing or controlling body or a general partner in a company against which bankruptcy proceedings have been initiated or which has been terminated due to bankruptcy if unsatisfied creditors have remained;

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

6. not be a spouse or relative in the direct or collateral line to the fourth degree, and/or a relative by marriage to the third degree to another member of a managing or controlling body of the person;

7. not have been deprived of the right to hold a position involving material liability;

8. over the last year prior to the act of the respective competent body, have not been a member of the managing or controlling body or a general partner in a company with a withdrawn authorisation for performance of an activity subject to an authorisation regime, unless the authorisation has been withdrawn at the request of the company and unless the act for withdrawal of the granted authorisation has been repealed following the statutory procedure;

9. have not been relieved from a position in a managing or controlling body of a commercial company on the basis of an imposed coercive administrative measure, unless the act of the competent body has been repealed following the statutory procedure.

(2) The requirements of Paragraphs 1 shall also apply to natural persons who represent legal persons – members of the management and supervisory bodies of an insurance or reinsurance joint-stock company.

(3) A member of a management or supervisory body of an insurer, respectively reinsurer, and a person authorised to manage or represent it shall be a person of good repute who does not endanger the management of the person, the interests of the beneficiaries of insurance services and who does not obstruct insurance supervision. In the approval proceedings under Paragraph 10, the applicant shall also submit declarations under Article 69, Paragraph 2. point 4, letters "a" to "d", "f" to "l".

(4) The Executive Director, respectively the Chairperson of the association, or another person authorised to manage and represent the insurer or reinsurer, must not hold any other paid positions under employment arrangements, unless a professor at a higher education institution. Natural persons – citizens of a third country must also have a permit for continuous residence in the Republic of Bulgaria.

(5) The circumstances under Paragraph 1, point 1 shall be certified to the Deputy Chairperson with a notarized copy of the higher education diploma acquired in the Republic of Bulgaria, respectively with a certified translation of the higher education diploma acquired in a higher education institution outside of the Republic of Bulgaria.

(6) The circumstances under Paragraph 1, point 2 shall be certified to the Deputy Chairperson with a CV indicating: the place, respectively places, where the applicant has accumulated professional experience, providing accurate data about them (name, legal form, head office, subject of activity, registration number, where applicable, territorial scope of the activity), the positions held by the applicant and their place in the organisational structure of the undertaking or institution, the period during which the applicant held each position, a detailed description of the position, its functions, powers and duties.

(7) The circumstances under Paragraph 1, point 3 shall be certified to the Deputy Chairperson for Bulgarian citizens with an extract from the judicial record and a declaration of no convictions outside the Republic of Bulgaria, and for persons who are not Bulgarian citizens – only with an extract from the judicial record issued by the state of habitual residence of the person. The circumstances under Paragraph 1, pages 4 to 9 shall be certified by a declaration. The documents under the first and second sentences shall be admissible if they are submitted within three months from their date of issue, respectively their elaboration. A permit for continuous residence in the Republic of Bulgaria of a person from a third country shall be submitted not later than three months from the date of issue of the approval.

(8) Where the Member State of habitual residence of the person or the Member State from which the person concerned comes does not issue the certificate of no conviction, it may be replaced by a declaration on oath – or in Member States where there is no provision for declaration on oath by a solemn declaration – made by the person concerned before a competent judicial or administrative authority, notary in the home Member State or the Member State from which that person comes. Such authority or notary shall issue a certificate attesting the authenticity of the declaration on oath or solemn declaration. The declaration under Paragraph 1 in respect of no previous bankruptcy may also be made before a competent professional or trade body in the Member State concerned.

(9) The CV and any declaration establishing circumstances under Paragraphs 1 to 6 shall be signed by the applicant. A declaration signed by two members of the management or supervisory body of the insurer, respectively reinsurer, and by the official in the insurer or reinsurer who has verified the authenticity of the circumstances contained in the respective documents that the assessment has been carried out in accordance with the law and the policy for qualifications and reliability and that the person meets the requirements for the position shall also be submitted. The person for whom approval is sought shall give a consent in writing to the Deputy Chairperson to request a confirmation of all circumstances disclosed in the course of the approval proceedings and to receive the necessary information from other authorities and persons which hold the relevant information.

(10) The persons under Paragraphs 1 and 2 shall be subject to approval by the Deputy Chairperson before their election or appointment to the respective position. The Deputy Chairperson shall pass a decision within one month of receipt of the application.

(11) Upon finding inconsistencies or contradictions with the legal requirements in the documents supporting the application under Paragraph 10, the Deputy Chairperson shall require

that the applicant remedy the irregularities within a one-month period. The term for the ruling under Paragraph 10 shall be suspended during the period from the sending the notice requiring the remedy of irregularities until the receipt of the additional documents.

(12) Persons that have received an approval under Paragraph 10 in the course of previous proceedings shall not be subject to a new qualifications approval.

Independent members

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

(2) An independent member of the board may not be:

1. an employee of the insurer;

2. a person that is related to the insurer within the meaning of § 1, point 22, letters "a" and "c" of the Additional Provisions;

3. a person that has a long-term commercial relationship with the insurer;

4. a member of the management or supervisory body, procurator or employee of a person under points 2 or 3;

5. a person related to another member of a management or supervisory body of the insurer.

(3) The persons elected as independent members of the board of directors or the supervisory board, for whom the circumstances under Paragraph 2 occur after the date of their election shall immediately notify the respective body of the insurer. In this case, the persons shall cease to perform their functions and shall receive no remuneration.

(4) The candidates for independent members shall provide evidence of the absence of the circumstances under Paragraph 2, by means of a declaration.

Requirements to the management and supervisory bodies of insurance holding companies and mixed financial holding companies

Article 82. Each member of the management or supervisory body, as well as any other person authorised to manage and/or represent an insurance holding company or mixed-activity financial holding company with a head office in the Republic of Bulgaria shall meet the requirements of Article 80, Paragraph 1. When the Deputy Chairperson exercises supervision over the group, Article 80, Paragraphs 2 to 12, Article 83, Paragraph 2 and Article 84 shall apply.

Professional experience

Article 83. (1) A person authorised to manage and/or represent an insurer, respectively reinsurer, as well as a member of the management body of an insurer, respectively reinsurer, has professional experience if:

1. for a period of not less than three years has held a position in the management body of an insurer, insurance or financial holding company, mixed-activity insurance holding company, mixed-activity financial holding company, reinsurer or pension insurance company, bank or another undertaking in the financial sector, when the activity of that financial sector undertaking is commensurable with that of the insurer, respectively reinsurer;

2. for a period of not less than 5 years has held a position in the supervisory body or an executive position in an insurer, insurance or financial holding, mixed-activity insurance holding company, mixed-activity financial holding company, reinsurer, pension insurance company, bank or another undertaking in the financial sector, when the activity of that financial sector undertaking is commensurable with that of the insurer, respectively reinsurer, and if the person holds a higher education degree in the field of economics or jurisprudence – not less than three years;

3. for a period of not less than 5 years has held a position as a representative insurance broker directly managing the business of insurance mediation, where the activity of the broker with regard to insurance transactions is commensurable with the activity of the insurer, and if the person holds a higher education degree in the field of economics or jurisprudence – not less than three years;

4. for a period of not less than 10 years has held an executive position in the financial management of a non-financial undertaking whose assets are commensurable with the value of the assets of the insurer, respectively reinsurer, and if the person holds a higher education degree in the field of economics or jurisprudence – not less than 5 years;

5. for a period of not less than 10 years has held an executive position in a state institution in the field of economics and finance or an executive position in the financial management of other state institutions, and if the person holds a higher education degree in the field of economics or jurisprudence – not less than 5 years.

(2) A member of the supervisory body of an insurer, apart from the cases under Paragraph 1, may be a person who has held for a period of at least three years another executive position in an insurer, insurance or financial holding company, mixed-activity insurance holding company, mixed-activity financial holding company, reinsurer, pension insurance company, bank, state institution in the field of economics and finance or as representative insurance broker directly engaged in the business of insurance mediation, when the activity of the broker with regard to insurance transactions is commensurate with the activity of the insurer, if the person holds a higher education degree in the field of economics or jurisprudence – not less than two years.

Assessment of professional qualifications and experience

Article 84. The Deputy Chairperson shall also refuse to issue an approval in the cases when despite the formal compliance with the requirements of Article 80, Paragraph 1, point 1 and Article 83, the Deputy Chairperson judges that the person does not have sufficient professional qualifications and experience necessary for the person's effective participation in the governance of the relevant insurer, respectively reinsurer. The reasoned refusal shall be sent to the relevant insurer, respectively reinsurer.

Requirements to persons holding executive positions

Article 85. (1) Persons holding executive positions according to the organisational structure of the insurer shall comply with the requirements of Article 80, Paragraph 1, points 3 and 4 and shall have appropriate qualifications and experience.

(2) The rules of Article 79, Paragraph 5 set out the detailed requirements to the qualifications and experience of the persons under Paragraph 1 and may stipulate additional requirements to persons performing key functions.

Section III

Risk management

General principles

Article 86. (1) The insurer or reinsurer shall have a system of risk management that includes strategies, processes and reporting procedures in order to continuously identify, measure, monitor, manage and report the risks to which it is exposed or could be exposed, both individually and in their entirety and in their interdependencies.

(2) The risk management system shall be effective and well integrated into the organisational structure and the decision-making processes of the insurer or reinsurer and shall be suitably taken into account by the persons under Article 80 and the persons exercising the functions under Article 78, Paragraph 1.

(3) The risk management system covers risks that are included in the calculation of the Solvency Capital Requirement, respectively those that would affect the own funds of the insurer or reinsurer and the coverage of its capital guarantee and its solvency margin with own funds, as well as the risks that are not fully or partially included in the calculation.

(4) The risk management system covers the following areas:

1. underwriting and reserving;

2. asset-liability management;

3. investments and in particular derivatives and similar commitments;

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

5. operational risk management;

6. reinsurance and other risk-mitigation techniques;

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

(5) The risk management policy under Article 77, Paragraph 1, point 3, letter "a" shall include risk management policies for each of the areas under Paragraph 4.

(6) In connection with the investment risk, insurers and reinsurers shall provide evidence that they comply with the rules set out in Articles 124, 196 and 197.

Risk management rules in relation to the application of matching adjustment and volatility adjustment

Article 87. (1) Where the insurer or reinsurer applies the matching adjustment or the volatility adjustment, it shall set up a liquidity plan projecting the incoming and outgoing cash flows in relation to the assets and liabilities subject to those adjustments.

(2) With regard to the management of the assets and liabilities of the insurer, respectively reinsurer, regularly evaluate the sensitivity of their technical provisions and eligible own funds on the basis of the assumptions underlying the extrapolation of the relevant risk-free interest rate term structure.

(3) With regard to the management of assets and liabilities and when a matching adjustment is applied, the insurer, respectively reinsurer, shall regularly evaluate:

1. the sensitivity of its technical provisions and eligible own funds to the assumptions underlying the calculation of the matching adjustment, including the calculation of the

fundamental spread referred to in Article 157, Paragraph 1, point 2, and the possible effect of a forced sale of assets on its eligible own funds;

2. the sensitivity of its technical provisions and eligible own funds to changes in the composition of the assigned portfolio of assets;

3. the impact of a reduction of the matching adjustment to zero.

(4) With regard to the management of assets and liabilities and when a volatility adjustment under Article 158 is applied, the insurer, respectively reinsurer, shall regularly evaluate:

1. the sensitivity of its technical provisions and eligible own funds to the assumptions underlying the calculation of the volatility adjustment and the possible effect of a forced sale of assets on their eligible own funds;

2. the impact of a reduction of the volatility adjustment to zero.

(5) The insurer, respectively reinsurer, shall submit the assessments under Paragraphs 2 to 4 on an annual basis to the Deputy Chairperson as part of the information reported under Article 127. Where the reduction of the matching adjustment or the volatility adjustment to zero would result in non-compliance with the Solvency Capital Requirement, the undertaking shall also submit an analysis of the measures it could apply in such a situation to re-establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce its risk profile to restore compliance with the Solvency Capital Requirement.

(6) Where the volatility adjustment under Article 158 is applied, the risk management policy under Article 77, Paragraph 1, point 3, letter "a" shall include a policy on the criteria for application of the volatility adjustment.

Assessment of the appropriateness of external credit assessments

Article 88. (1) In order to avoid overreliance on external credit assessment institutions when using external credit rating assessment in the calculation of technical provisions and the Solvency Capital Requirement, the insurer, respectively reinsurer, shall assess the appropriateness of those external credit assessments as part of its risk management by using additional assessments wherever practicably possible in order to avoid any automatic dependence on external assessments.

(2) An external credit assessment institution is a credit rating agency registered or certified in accordance with Regulation (EC) 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ, L 302/1 of 17 November 2009), or a central bank issuing credit ratings.

(3) Assessment of the external credit assessments shall be carried out in the order determined by an instrument of the European Union.

Risk management function

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

(2) The person who performs the risk management function or the head of the unit/structure performing this function (risk manager) shall have appropriate qualifications and experience in the field of risk management and meet the requirements of Article 80, Paragraph 1, points 3 to 9. In this case, Article 80, Paragraphs 3, 7 and 8 shall apply respectively.

(3) Where an insurer or reinsurer applies a full or partial internal model, the risk management function shall also perform the following tasks:

1. designs and implements the internal model;

2. tests and validates the internal model;

3. documents the internal model and the subsequent changes made to it;

4. analyses the results of the application of the internal model and summarises them in reports;

5. informs the management body of the insurer or reinsurer of the results of the application of the internal model, indicating areas where improvement is needed, and periodically informs the management body on the status of the efforts to overcome the previously identified weaknesses.

Own risk and solvency assessment

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

(2) The assessment under Paragraph 1 shall include:

1. the overall solvency needs, taking into account the specific risk profile, approved risk tolerance limits and the business strategy of the insurer, respectively reinsurer;

2. whether the Solvency Capital Requirement, Minimum Capital Requirement, as well as requirements relating to the technical provisions are fulfilled on an on-going basis;

3. the extent to which the risk profile of the undertaking deviates from the assumptions of Article 170, Paragraph 3, underlying the indicated Solvency Capital Requirement as calculated using the standard formula or a proprietary full or partial internal model.

(3) For the purposes of the assessment under Paragraph 2, point 1, the insurer, respectively reinsurer, has processes that are proportionate to the nature, scale and complexity of the inherent business risks and that allow it to properly identify and assess the risks it faces in the short or long term and to which it is or may be exposed. The insurer, respectively reinsurer, shall demonstrate the methods used for this assessment to the Deputy Chairperson.

(4) Where an insurer, respectively reinsurer, applies a matching adjustment under Article 156 and the volatility adjustment referred to in Article 158, it shall assess the compliance with the capital requirements under Paragraph 2, point 2 with consideration and without consideration of these adjustments and transitional measures.

(5) In the cases referred to in Paragraph 2, point 3, when an internal model is used, the assessment shall be performed together with the recalibration that transforms the internal risk numbers into the Solvency Capital Requirement risk method of measure and calibration.

(6) The own-risk and solvency assessment shall be an integral part of the business strategy and shall be taken into account on an ongoing basis in the strategic decisions of the insurer or reinsurer.

(7) The insurer, respectively reinsurer, shall perform the assessment under Paragraph 1 on a regular basis and immediately after any change in its risk profile.

(8) The insurer, respectively reinsurer, shall inform the Deputy Chairperson of the results of each of its own risk and solvency assessments. The terms and conditions for the provision of the information shall be set out in the ordinance under Article 77, Paragraph 5.

(9) The own-risk and solvency assessment shall not serve to calculate the capital requirements of the insurer or reinsurer. The Solvency Capital Requirement shall be adjusted only under the terms and conditions of Articles 252 to 255, Articles 259 and 584.

Supervision on finite reinsurance

Article 91. (1) Insurers and reinsurers concluding finite reinsurance contracts or pursuing finite reinsurance activities shall properly identify, measure, monitor, manage, control and report the risks arising from those contracts or activities.

(2) Finite reinsurance means reinsurance under which the explicit maximum loss potential, expressed as the maximum economic risk transferred, arising both from a significant underwriting risk and timing risk transfer, exceeds the premium over the lifetime of the contract by a limited but significant amount, together with at least one of the following features:

1. explicit and material consideration of the time value of money;

2. contractual provisions to moderate the balance of economic experience between the parties over time to achieve the target risk transfer.

Section IV
Internal control. Internal audit

Internal control system

Article 92. The insurer, respectively reinsurer, shall establish an effective internal control system, which shall include:

1. administrative and accounting procedures;

2. a framework for implementation of internal control;

3. appropriate rules for reporting at all levels;

4. compliance function;

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

Compliance function

Article 93. (1) The compliance function of the insurer, respectively reinsurer, shall comprise of:

1. advising the management and supervisory bodies of the insurer or reinsurer regarding compliance with laws, regulations, directly applicable acts of the competent authorities of the European Union and the internal regulations of the insurer, respectively reinsurer;

2. assessing the possible impact of changes in the legal environment on the operations of the insurer or reinsurer;

3. identification and assessment of the risk arising from non-compliance with laws, regulations, directly applicable acts of the competent authorities of the European Union and the internal regulations of the insurer, respectively reinsurer.

(2) Insurers and reinsurers shall have appropriate systems and structures that allow the provision of the information that is required to be provided to the Commission pursuant to this Code.

(3) The insurers and reinsurers shall determine how to ensure the continuing adequacy of the published and provided information through written internal regulations approved by the management and supervisory bodies.

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

(5) The person who manages the compliance function shall have appropriate qualifications and experience in the field of regulation compliance control and shall meet the requirements of Article 80, Paragraph 1, points 3 to 9, applying Article 80, Paragraph 3 and Paragraphs 5 to 12 and Article 84 accordingly.

Duties of the compliance function

Article 94. (1) The person who manages the compliance function shall immediately inform the management bodies of identified breaches in the activities of the insurer, respectively reinsurer.

(2) The person who manages the compliance function shall prepare an annual report on the activities of the function and shall present it to the management body and the general meeting of the shareholders, respectively the association members.

(3) The person who manages the compliance function shall immediately inform the Deputy Chairperson in the cases when as a result of a performed inspection, breaches and weaknesses are identified in the organisation of activities and the management of the insurer, respectively reinsurer, that about which the management body is considered not to have taken sufficient measures to remedy.

Internal audit function

Article 95. (1) The internal audit function of the insurer or reinsurer has to be effective. It shall include an evaluation of the adequacy and effectiveness of the internal control system and other elements of the system of governance.

(2) The internal audit function shall be objective and independent from the other operational functions. Persons performing internal audit functions cannot simultaneously perform other activities within the insurer or reinsurer.

(3) The person who performs the internal audit function or manages the unit performing this function shall be appointed by the management body of the insurer, respectively reinsurer, and in the case of a branch under the Commerce Act of an insurer from a third country – that person shall be appointed by the branch manager and should have appropriate qualifications and experience in the field of internal audit and meet the requirements of Article 80, Paragraph 1, points 3 to 9, applying Article 80, Paragraph 3 and Paragraphs 5 to 12 and Article 84 accordingly. Employees who are part of the unit carrying out the internal audit function should have appropriate qualifications and experience in the field of internal audit.

Duties of the internal audit function

Article 96. (1) The internal audit function shall adopt and implement a plan to carry out audit inspections which covers a period of at least one year. At the discretion of the persons performing the internal audit function, inspections may be carried out outside the approved plan.

(2) The person who performs the internal audit function or manages the unit performing the function shall immediately inform the management or supervisory bodies of the insurer, respectively reinsurer, of any identified breaches in the activity. The management or supervisory bodies of the insurer shall take measures for the effective remedy of the breaches and for application of the recommendations of the internal audit function.

(3) The person who performs the internal audit function or managers the unit performing the function shall prepare an annual report on the activities of the function and present it to the management body.

Section V
Actuarial function

Responsible actuary

Article 97. (1) The actuarial function of the insurer or reinsurer shall be effective and shall be performed by a responsible actuary, who organises, manages and is responsible for the actuarial services of the insurer or reinsurer. A responsible actuary shall be a natural person of recognised competence or a legal person with signatories one or more natural persons with recognised competence – responsible actuary (actuarial undertaking).

(2) The responsible actuary, respectively natural person – signatory for the actuarial undertaking, shall:

1. not be convicted of a wilful crime of general nature;

2. over the last three years before the initial date of insolvency set by the court, not have been a member of a managing or controlling body or a general partner in a company against which bankruptcy proceedings have been initiated or which has been terminated due to bankruptcy if unsatisfied creditors have remained;

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

4. not be deprived of the right to hold a position involving material liability;

5. have a higher education diploma with an educational and qualification degree of "Master" or an educational and academic degree of "PhD" with the respective number of academic classes in calculus as per requirements specified in an ordinance of the Commission;

6. have at least three years of experience as an actuary for an insurer, reinsurer, pension insurance company, authorities supervising the activities of these persons or as a senior academic in the fields of insurance or actuarial science;

7. have legal competence as a responsible actuary recognised by the Commission after successfully passing an examination, or have recognised legal competence as a responsible actuary in another Member State;

8. not have had his or her legal competence revoked pursuant to Article 98, Paragraph 1, points 1 to 3 and 5 and have not had his or her legal competence as an actuary revoked by a state or public organisation in the Republic of Bulgaria or in another Member State on grounds of bad faith in the performance of his or her actuarial duties.

(3) The requirements under Paragraph 2, points 2 and 3 shall also apply to actuarial undertakings.

(4) The terms and conditions for the conduct of the examination and for recognition of the legal competence under Paragraph 2, point 7, as well as for recognition of legal competence acquired outside the Republic of Bulgaria shall be determined by an ordinance of the Commission. For the purposes of this Code, the legal competence of the responsible actuary shall be recognised in compliance with the provisions of the Social Security Code, where the passed examination for legal competence shall include an assessment of the knowledge in the field of insurance.

Withdrawal of the legal competence of a responsible actuary

Article 98. (1) At the proposal of the Deputy Chairperson, the Commission shall revoke the legal competence of a responsible actuary if it is established that he or she:

1. no longer meets the requirements of Article 97, Paragraph 2, points 1 to 4;

2. in the performance of actuarial services for an insurer or reinsurer, he or she has committed gross or systematic breaches of this Code or its implementing instruments;

3. has submitted misrepresentations or documents with untruthful content on the basis of which his or her competence has been recognised;

4. has not performed the activity for more than 7 consecutive years as of the recognition of the legal competence or since his or her dismissal from the position of a responsible actuary, unless he or she has been operating as an actuary;

5. his or her legal competence as an actuary has been revoked by a state or public organisation in the Republic of Bulgaria or in another Member State on grounds of bad faith in the performance of his or her actuarial duties.

(2) Upon revocation of the legal competence on any of the grounds under Paragraph 1, the legal competence of the person as a responsible actuary as recognised under the Social Security Code shall be considered as revoked as well.

Additional requirements to the responsible actuary

Article 99. (1) The responsible actuary cannot be a spouse or relative in a direct or collateral line to the fourth degree of consanguinity inclusive or by marriage to the third degree with a member of a management or supervisory body of the insurer, respectively reinsurer, or a member of the management or supervisory body of another insurer, respectively reinsurer.

(2) The responsible actuary shall be appointed by the management body of the insurer or reinsurer to which the actuary shall declare the absence of the circumstances under Paragraph 1 in advance. The insurance or reinsurance shall notify the Deputy Chairperson of the decision to appoint a responsible actuary within 7 days from the date of the decision and shall submit a certified copy of the declaration under the first sentence.

(3) In case of a change in the circumstances under Paragraph 1 or in case of revocation of the legal competence as a responsible actuary under Article 98, Paragraph 1, the management body of the insurer or reinsurer shall dismiss the responsible actuary and appoint a new one within three months of becoming aware of the circumstances.

Key responsibilities of the actuarial function

Article 100. (1) The responsible actuary shall:

1. coordinate the calculation of technical provisions;

2. ensure the appropriateness of the methodologies and underlying models used as well as the assumptions made in the calculation of technical provisions;

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

4. compare best estimates against experience;

5. inform the management or supervisory body of the reliability and adequacy of the calculation of technical provisions;

6. oversee the calculation of technical provisions by means of approximations and individual approaches on a case-by-case basis, where there is insufficient data suitable for the application of reliable actuarial methods;

7. express an opinion on the overall underwriting policy;

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

9. contribute to the effective implementation of the risk management system, including by contributing to the creation of the risk models underlying the calculation of the Solvency Capital Requirement and the Minimum Capital Requirement and the own risk and solvency assessment.

(2) In connection with the activities under Paragraph 1, the responsible actuary shall:

1. prepare and certify the statements of the insurer or reinsurer in relation to the actuarial work;

2. prepare and submit to the Commission an annual actuarial report – within the term set out in Article 126, Paragraph 1, point 1.

(3) In the performance of their duties, responsible actuaries shall have access to all the necessary information, and the management bodies and employees of the insurer shall be obliged to provide assistance to them.

(4) The format of the actuarial certification and the format and content of the actuarial report and the statements to be certified by the responsible actuary shall be determined by an ordinance of the Commission.

(5) Article 272 of Regulation (EU) 2015/35 shall also apply to insurers without the right of access to the single market.

Section VI
External auditors

Audit and certification of annual financial statements

Article 101. (1) The annual financial statements of an insurer, respectively reinsurer, insurance holding company or mixed-activity financial holding company with a head office in the Republic of Bulgaria, and annual statements, reports and appendices under Article 126, Paragraph 1 shall be audited and certified by a specialised audit company, which is a registered auditor under the Independent Financial Audit Act.

(2) Persons that have a material interest in an insurer or reinsurer other than those of an insured, a policy holder, or are employees or representatives of the insurer, respectively reinsurer, can not participate in their audit.

(3) A person cannot be an auditor if the person or registered auditors in its structure who will perform the certification:

1. have not complied with the requirements of this Code and its implementing instruments, of the independent Financial Audit Act or with the directly applicable law of the European Union and that has been established by an enforced act, or

2. have had their competence as auditor revoked or their right to perform independent financial audits of the financial statements revoked by a governmental or public organisation in the Republic of Bulgaria or in another country, or

3. have certified an untruthful report of an insurer or reinsurer without this having been recorded in the opinion expressed by the audit company.

(4) Within 7 days of the selection of an auditor, the insurer, respectively reinsurer, shall provide to the Commission a declaration in writing by the representatives of the specialised audit company that the requirements of Paragraph 3 are met.

Auditor duties

Article 102. (1) The auditor of an insurer, respectively reinsurer, shall be required to express an opinion regarding the fair representation in all material respects of the financial position of the insurer or reinsurer in its financial statements, including the adequacy of its technical provisions. The auditor shall have adequate capacity to fulfil the duty under the first sentence.

(2) The auditor of an insurer or reinsurer, or of persons participating in the group of insurers and/or reinsurers shall immediately notify the Deputy Chairperson of any circumstances or decisions which came to his knowledge in the course of the audit and which refer to the insurer or to a person under Article 233, Paragraphs 4 or 5, when the insurer, respectively reinsurer, belongs to a group, and which:

1. constitutes or may lead to a material breach of this Code or its implementing instruments, as well as of the directly applicable law of the European Union;

2. affects or could affect adversely the activities of the insurer, respectively reinsurer;

3. may constitute grounds for refusal to certify the accounts or to the expression of reservations;

4. results or may result in a lack of coverage by own funds of the solvency margin or the minimum capital guarantee of the Solvency Capital Requirement or the Minimum Capital Requirement;

5. is associated with actions of the persons under Article 80 or persons holding executive positions in the insurer, respectively reinsurer, causing or likely to cause significant damage to the insurer, respectively reinsurer, or to the beneficiaries of the insurance services offered by it;

6. is associated with incorrect or incomplete information in the reports, statements and records which the insurer, respectively reinsurer, submits to the Commission.

(3) The auditor under Paragraph 1 shall also inform the Deputy Chairperson of any circumstance under Paragraph 2, that it came to his knowledge in the course of an audit of a person related to the insurer, respectively reinsurer.

(4) In the cases under Paragraphs 2 and 3, the restrictions on the disclosure of information as provided by law, regulation or contract shall not apply. The auditor shall not be liable for the disclosure in good faith of information under Paragraphs 2 and 3 to the Commission and the Deputy Chairperson.

Auditor liability

Article 103. The liability of the audit company for damages in connection with the audit of an insurer or reinsurer, regardless of whether the damage is a direct and immediate consequence of any fault of action or inaction or of any wilful misconduct on the part of persons involved in the audit on behalf of the audit company, shall be unlimited.

Section VII
Organisation of the insurance claims settlement activity

Internal rules

Article 104. (1) Within one month of the granting of the insurance authorisation, the management body of the insurer shall adopt internal rules for the settlement of claims under insurance contracts. The rules shall not apply to the settlement of claims for insurance of large risks, unless otherwise provided therein.

(2) The rules shall govern the procedures according to which the insurer accepts claims under insurance contracts, collects evidence to establish the grounds and the amount, assesses the incurred damages, determines the amount of the compensation, makes payments to the beneficiaries of insurance services and reviews complaints lodged by them.

(3) The rules cannot contradict the law and shall guarantee the rights of the beneficiaries of the insurance services, ensuring the fast, transparent and fair settlement of their claims.

(4) The rules and their amendments and supplements from time to time shall be submitted to the Commission within 7 days of their adoption. The Deputy Chairperson may issue binding instructions to remedy contradictions with the law and in cases of unjustified restriction of the rights of the beneficiaries of insurance services.

(5) The rules shall be public. The insurer shall publish them on its Internet page and shall ensure free access to them at the places where it pursues its business.

(6) The Commission may determine by an ordinance additional requirements to the procedure for settlement of insurance claims, where that is necessary to ensure compliance with guidelines adopted by the European Authority.

Prohibition of accounting for gender as a factor in determining the insurance compensation or amount

Article 105. (1) The insurer shall not take into account gender as a factor in determining the insurance compensation or amount.

(2) Costs related to pregnancy and maternity shall not lead to differences in determining the insurance compensation or amount.

Filing insurance claims. Evidence

Article 106. (1) Insurance claims shall be filed in the manner and within the time limits provided for in the insurance contract with the insurer and in compliance with Article 380, Paragraph 1.

(2) The insurer shall register the date of each claim filed, register the date of any subsequent receipt of all documents relating to it and verify each of these circumstances individually or according to a list to the person filing the claim.

(3) Where the beneficiary of an insurance service is a damaged party under liability insurance or a third party beneficiary under other insurance, the insurer shall inform him of the evidence to be submitted by him in order to determine the grounds and amount of his claim. Additional evidence may be required only if the need for them could not have been foreseen as of the date of filing of the claim and not later than 45 days from the date of submission of the evidence requested for the registration under the first sentence.

(4) Where the beneficiary of the insurance service is a party to the insurance contract, the insurer shall notify him of the additional evidence not later than 45 days of the submission of the evidence set out in the contract and the rules of Article 104, which have not been provided for in the insurance contract upon its conclusion and which are necessary to determine the grounds and amount of his claim.

(5) It is not permitted to require evidence that the beneficiary of the insurance service cannot receive because of existing regulatory barriers or lack of legal options to receive it, as well as such evidence that may be reasonably considered as having no material import on establishing the grounds and amount of the claim and seeking to unduly delay and prolong the claim settlement procedure.

Assistance from government authorities and third parties

Article 107. (1) In order to establish the insured event and the damage caused by it, the insurer, the person claiming compensation, the Guarantee Fund under Article 518 or the National Bureau of Bulgarian Motor Insurers under Article 506 shall be entitled to receive the necessary information held by the bodies of the Ministry of Interior, the investigating authorities, other public bodies, the personal physician, the medical and healthcare establishments and the persons authorised to certify the occurrence of circumstances, as well as certified copies of documents. Where the required information is part of the materials of pre-trial proceedings, the prosecutor shall allow access to it.

(2) Where the information under Paragraph 1 is a secret protected by law, upon its provision the persons shall be notified in writing of their obligations not to disclose it and the consequences of its unauthorised disclosure, which shall be certified by their signature.

Conclusion of the insurer. Terms for issuance of conclusions and their implementation

Article 108. (1) The insurer shall issue a conclusion on claims for insurance under Section I of Annex No 1 or under points 1 to 3, 8 to 10 and 13 to 18 of Section II, letter "A" of Annex No 1, which does not constitute large-risk insurance, within 15 business days of the submission of all evidence under Article 106, and shall:

1. determine and pay the amount of the compensation or the insured amount, or

2. refuse payment, stating the reasons thereto.

(2) Where all evidence under Article 106 related to insurance under Paragraph 1, with the exception of liability insurance of motorists, has not been submitted, the insurer shall issue a conclusion in one of the manners under Paragraph 1 not later than 6 months from the date on which the claim was lodged.

(3) In the cases related to liability insurance of motorists, where all evidence under Article 106 has not been submitted, the term set out in Article 496, Paragraph 1 shall apply.

(4) The response of the insurer under Article 496, Paragraph 2, point 2 shall be considered as refusal to pay within the meaning of Paragraph 1, point 2.

(5) In connection with activities for settlement of claims related to large-risk insurance, the term under Paragraph 1 shall not be longer than six months, and the term under Paragraph 2 shall not be longer than one year. In the cases of insurance under points 5, 6, 11 and 12, Section II, letter "A" of Annex No 1, the terms for issuance of conclusions under sentence 1 and under Paragraphs 1 and 2 shall not apply.

(6) In case of an appeal by a beneficiary of insurance services, the insurer shall, within 7 days, provide a written factual and legal justification of the determined compensation amount.

(7) Where the beneficiary of the insurance service has consented to have the damage remedied by an external contractor, the insurer shall assign in writing the remedy of such damages to an external contractor within the term under Paragraph 1 or 5. In the cases under sentence 1, the remedy of the damages shall be performed within a reasonable term, unless a specific term has been agreed upon between the insurer and the beneficiary.

Specifics of large risks

Article 109. For the purposes of this Section, a large risk is not:

1. the risk related to insurance under points 3 and 10, Section II, letter "A" of Annex No 1 – in all cases;

2. the risk related to insurance under points 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 uncommon nature; the property, liability or damages are of common nature when they are commensurate with property, liability or damages related to insurance of the same class which does not constitute a risk.

Section VIII
Ceding of activities by an insurer or reinsurer to third parties

Definition

Article 110. (1) The ceding of an activity by an insurer or reinsurer constitutes a permanent assignment under any type of agreement whatsoever of a separate activity, service or process that should be performed by the insurer, respectively reinsurer, to be performed, directly or through a subcontractor, by a third party (service provider).

(2) The insurer, respectively reinsurer, shall continue to be responsible for the fulfilment of all of its obligations in connection with the functions or activities ceded to third parties. The insurer, respectively reinsurer, shall be responsible for the actions of the service provider as for its own actions.

(3) The insurer, respectively reinsurer, cannot cede a function within the meaning of Article 78, Paragraph 1, points 1 to 4 or another important function or activity when:

1. the quality of its systems of governance deteriorates significantly;

2. the operational risk is increased unreasonably;

3. insurance supervision is obstructed;

4. the interests of the beneficiaries of insurance services are jeopardised.

Performance of ceded activities. Control. State supervision

Article 111. (1) The ceded activities shall be performed according to the requirements established for the insurer, respectively reinsurer.

(2) The ceded activities and their assignees shall be covered by the system of governance and for internal control of the insurer, respectively reinsurer.

(3) The insurer, respectively reinsurer, shall stipulate in the cession contract and shall take all other necessary measures to ensure that:

1. the service provider cooperates with the Commission and the Deputy Chairperson with regard to the ceded function or activity;

2. it, its auditors, the Commission and the Deputy Chairperson have effective access to the information related to the ceded functions or activities;

3. the Chairperson of the Commission, the Deputy Chairperson or persons assigned by them have effective access to the business premises of the service provider and are able to exercise that right of access.

(4) The contracts for cession of functions within the meaning of Article 78, Paragraph 1, points 1 to 4 or of other important functions or activities shall be submitted to the Deputy Chairperson before their conclusion. The insurer, respectively reinsurer, shall provide information on the performance of the ceded functions or activities following a procedure set out in the ordinance under Article 77, Paragraph 5. The Deputy Chairperson may order inspections, including on-site inspections, of a third party to whom an insurer or reinsurer has ceded an activity. At the request of the Deputy Chairperson, the third party to whom an insurer or reinsurer has ceded an activity shall provide any information relating to the ceded activity.

(5) Where breaches of a law or practice have been established in the activity of a person to whom an insurer or reinsurer has ceded an activity and such breaches which endanger the stability of the insurer or reinsurer, the rights and interests of the beneficiaries of insurance services and the proper and timely fulfilment of obligations under reinsurance contracts, or where that activity prevents the exercise of state insurance supervision, the Deputy Chairperson shall order the remedy of such breaches and shall set a relevant time frame. When the order was not complied with, or even if it was complied with but the person continues to violate the law, to endanger the stability of the insurer or reinsurer, the rights of the beneficiaries, the proper and timely fulfilment of obligations under reinsurance contracts or to prevent supervision, the Deputy Chairperson shall order the insurer to terminate its contract with that person.

(6) The insurer, respectively reinsurer, shall not pay any penalties and other damages for early termination of a contract for cession of an activity when complying with an order under Paragraph 5.

(7) The Commission, respectively the Deputy Chairperson, may exercise against the person to whom the insurer or reinsurer has ceded an activity and against the ceded activity all other powers that they possess against the insurer or reinsurer according to the nature of the ceded activity.

Inspections of service providers in other Member States

Article 112. (1) The Deputy Chairperson may order an on-site inspection at the premises of a service provider in another Member State after informing the authority in the relevant Member State supervising the service provider. Where the service provider is not subject to supervision in the relevant country, the competent authority exercising insurance supervision in the Member State shall be notified. The Deputy Chairperson may delegate the inspection to the authority under sentence 1 or 2.

(2) Where the Deputy Chairperson is unable to carry out the inspection under Paragraph 1, it may request the assistance of the European Authority.

(3) Where a competent authority exercising insurance supervision in the Member State has notified its intention to carry out an inspection of a service provider in the Republic of Bulgaria, the Commission shall provide the necessary assistance, respectively the Deputy Chairperson shall order an inspection of the service provider if the authority of the other Member State has assigned it.

Chapter VIII
REPORTING
Section I
Flow of documents and information system

Flow of documents and organisation of accounting reporting

Article 113. (1) The management and supervisory bodies of the insurer, respectively reinsurer, shall be responsible for the organisation and performance of accounting reporting in order to ensure the accurate reporting of its results and financial condition.

(2) The bodies under Paragraph 1 shall adapt the procedures relating to the flow of documents and the reporting to the nature and volume of the business.

Information system

Article 114. (1) The insurer, respectively reinsurer, shall create and keep up to date an information system in which the information can be processed, stored and archived in a durable medium according to the internal regulations of the insurer and which shall contain current, complete, accurate and reliable data on:

1. the concluded insurance contracts and contracts for inward reinsurance of insurers, with information on:

a) the written and received premiums;

b) contractual data relating to the measurement of their underwriting risk;

c) other data at the discretion of the insurer, respectively reinsurer.

2. the claims lodged, with information on:

a) the amount claimed by the beneficiary and the date of lodging of the claim;

b) the fair value assessment of each claim on the basis of documents and other evidence or its average value based on statistical methods, with the data on the value of the lodged claims subject to adjustment by the insurer only in case of newly received documents and evidence that result in a change in the amount of the claim;

c) the amount and date of the payments made under each claim;

d) other data at the discretion of the insurer, respectively reinsurer.

3. accounting information reflecting accurately and clearly the type, amount and grounds for the concluded transactions, their impact on the results and financial condition of the insurer, respectively reinsurer;

4. the internal documents relating to the system of governance;

5. the minutes of the sessions of the general meeting of the shareholders, respectively the general meeting of the association members, and the management and controlling bodies;

6. other data, at the discretion of the insurer, respectively reinsurer, or by order of the Deputy Chairperson.

(2) The insurer, respectively reinsurer, shall have in place internal processes and procedures with regard to the information system to ensure that:

1. the data for the purposes of calculation of the technical provisions are appropriate, complete and reliable and in compliance with Article 19 of Regulation (EC) 2015/35;

2. the methods for calculation of the technical provisions and the assumptions underlying their calculation are regularly compared against experience.

(3) The information system of the insurer, respectively reinsurer, shall have the capability to provide all the information necessary for supervisory purposes in compliance with the requirements of Article 127.

(4) The management body of the insurer, respectively reinsurer, shall ensure that the information contained in the information system is current, complete, accurate and reliable, and shall ensure conditions to guarantee its security.

(5) The insurer shall provide to the Deputy Chairperson remote access to periodic reports with content and in format as determined by an ordinance of the Commission.

Section II
General financial requirements

General

Article 115. To ensure the possibility for accurate fulfilment of the obligations under the concluded insurance and reinsurance contracts, the insurer, respectively reinsurer, shall at all times:

1. determine and apply in its activities premiums that correspond to the amount of the accepted risk and to its costs;

2. establish technical provisions sufficient in terms of type and size in accordance with the statutory requirements;

3. report its financial condition truthfully and accurately in accordance with the statutory requirements;

4. have sufficient own funds to cover the Solvency Capital Requirement and the Minimum Capital Requirement, or the solvency margin and the minimum capital guarantee respectively;

5. invest its assets in accordance with the prudent person principle.

Insurance and reinsurance premiums

Article 116. (1) Insurance and reinsurance premiums shall be sufficient, calculated on the basis of reasonable actuarial assumptions, to ensure fulfilment of all obligations of the insurer, respectively reinsurer, including the formation of sufficient (adequate) technical provisions.

(2) In order to fulfil the requirement of Paragraph 1, the financial condition of the insurer and its solvency in the long-term shall be projected only on the basis of premiums as the sole source of income.

(3) It is not permitted to take into account gender as an actuarial factor when determining the insurance premium.

(4) Costs related to pregnancy and maternity shall not result in differences when determining the premiums.

Recalculation of financial indicators for supervisory purposes

Article 117. Where an insurer or reinsurer has calculated, in violation of the law or any other regulatory document, the amount of the technical provisions, capital requirements, the value of the assets, liabilities, income and expenses or other indicators reported in financial statements, other reports or statements submitted to the Commission, at the proposal of the Deputy Chairperson, the Commission may, for the purposes of the exercised insurance supervision, by means of a certificate of findings, reassess or recalculate any of those indicators and impose a coercive administrative measure under Article 587.

Types of provisions

Article 118. (1) The insurer, respectively reinsurer, shall establish general and technical provisions.

(2) The general provisions shall consist of:

1. A reserve fund under Article 246 of the Commerce Act, respectively under Article 34 of the Cooperatives Act;

2. other funds, if provided for in the statutes.

(3) The technical provisions shall be an obligation of the insurer, respectively reinsurer, and shall be reported as a liability in its balance sheet.

(4) The types of technical provisions that the insurer, respectively reinsurer, are to maintain shall be determined in accordance with Article 119.

(5) The increase of the technical provisions shall be included in the operating costs and their reduction shall be included in the operating income of the insurer, respectively reinsurer, when calculating the financial result.

Types of technical provisions

Article 119. (1) An insurer authorised to provide insurance services for the classes of insurance under Section I of Annex No 1 shall establish technical provisions as follows:

1. reserve fund (equalisation provision);

2. provision for claims outstanding;

3. unearned premiums;

4. mathematical provision;

5. capitalised value of pensions;

6. provision for future income participation;

7. unit-linked and index-linked life insurance provisions;

8. provision for bonuses and rebates;

9. other provisions approved by the Deputy Chairperson or established by order of the Deputy Chairperson.

(2) An insurer authorised to provide insurance services for the classes of insurance under Section I of Annex No 1 shall establish technical provisions as follows:

1. reserve fund (equalisation provision);

2. provision for claims outstanding;

3. unearned premiums;

4. provisions for unexpired risks;

5. provision for bonuses and rebates;

6. other provisions approved by the Deputy Chairperson or established by order of the Deputy Chairperson.

(3) A branch of an insurer from a third country authorised to pursue the business of insurance in the territory of the Republic of Bulgaria shall establish technical provisions under Paragraph 1 or 2 to cover its obligations under the concluded insurance and reinsurance contracts in the Republic of Bulgaria.

(4) A reinsurer shall establish technical provisions under Paragraph 1 with regard to its activity under Section I of Annex No 1 and the provisions under Paragraph 2 with regard to its activity under Section II of Annex No 1.

General rules relating to technical provisions

Article 120. (1) The insurer, respectively reinsurer, shall maintain technical provisions for all of its insurance and reinsurance obligations under insurance and reinsurance contracts.

(2) The amount of the technical provisions shall be calculated based on the value of the obligations accepted by the insurer or reinsurer which are expected to be fulfilled in the future under effective insurance or reinsurance contracts, the costs associated with the fulfilment of those obligations and value of the potential adverse deviation from that expectation.

(3) The value of technical provisions shall correspond to the current amount which the insurer, respectively reinsurer, would have to pay if it transferred its insurance and/or reinsurance obligations immediately to another insurer or reinsurer.

(4) The calculation of technical provisions shall make use of and be consistent with information provided by the financial markets and generally available data on underwriting risks (market consistency).

(5) Technical provisions shall be calculated in a prudent, reliable and objective manner.

(6) The procedure and methodology for establishment of technical provisions and a reserve fund, the principles applicable to the calculation of their size, as well as the maximum amount of the technical interest rate for insurance under Section I of Annex No 1 shall be determined by an ordinance of the Commission.

(7) Insurers applying Part II, Title IV shall establish their technical provisions in accordance with the requirements of the ordinance under Paragraph 6 and the requirements of Part II, Title IV, and insurers applying Part II, Title III shall establish their technical provisions in accordance with the requirements of the ordinance under Paragraph 6 and the requirements of Part II, Title III and in compliance with Regulation (EU) 2015/35.

(8) The basis and methods for calculation of technical provisions for insurance under Section I of Annex No 1 shall be public. The insurer shall provide them to all stakeholders upon request.

(9) The data for calculation of the technical provisions shall be appropriate, complete and accurate and shall fulfil the requirements of Article 19 of Regulation (EU) 2015/35.

Sufficiency of the technical provisions

Article 121. (1) The insurer, respectively reinsurer, shall at all times maintain an appropriate level of technical provisions, corresponding to its entire business, for each class of insurance, in order to ensure coverage of the accepted insurance risks.

(2) Upon request from the Deputy Chairperson, the insurer, respectively reinsurer, shall provide evidence of the appropriateness of the level of its technical provisions, as well as the applicability and relevance of the methods applied, and the adequacy of the underlying statistical data used.

Technical provisions for co-insurance

Article 122. In case of co-insurance, the insurer shall establish the types of provisions under Article 119, taking into account its share under the terms of the co-insurance contract.

Non-Compliance with technical provisions

Article 123. When an insurer or reinsurer fails to comply with the technical provision requirements of this Code and its implementing instruments, the Deputy Chairperson may prohibit the free disposal of assets of the insurer, respectively reinsurer.

Prudent person principle

Article 124. (1) Each insurer, respectively reinsurer, shall invest its assets in accordance with the prudent person principle under Paragraphs 2 to 7.

(2) With respect to its entire portfolio of assets, the insurer, respectively reinsurer, may only invest in assets and instruments the arising risks from which it is able to properly identify, measure, monitor, control and report, and take into account in an appropriate manner when assessing its overall solvency needs in accordance with Article 90, Paragraph 2, point 1.

(3) The assets covering the Minimum Capital Requirement, respectively the minimum capital guarantee, the Solvency Capital Requirement, respectively the solvency margin, and all other assets shall be invested in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a whole. In addition the localisation of those assets shall be such as to ensure their availability.

(4) Assets held to cover the technical provisions shall also be invested in a manner appropriate to the nature and duration of the insurance and reinsurance liabilities. Those assets shall be invested in the best interest of all insured and insurance beneficiaries taking into account any disclosed objective of the asset investment policy.

(5) In case of a conflict of interest, the insurer, respectively reinsurer, or the person managing its portfolio of assets, shall ensure that the investment is made in the best interest of the insured and the beneficiaries.

(6) In addition to the requirements of Paragraphs 2 to 5, with respect to assets related to life insurance contracts where the investment risk is borne by the insured, the following rules shall apply as well:

1. where the benefits provided by a contract are directly linked to the value of units in an UCITS or to the value of assets contained in an internal fund held by the insurer and usually divided into units, the technical provisions in respect of those benefits must be covered as closely as possible by those units or, in the case where units are not established, by those assets.

2. Where the benefits provided by a contract are directly linked to a share index or some other reference value other than those referred to in point 1, the technical provisions in respect of those benefits must be covered as fully as possible either by the units deemed to represent the reference value or, in the case where units are not established, by assets of appropriate security and liquidity which correspond as closely as possible with those on which the particular reference value is based;

3. where the benefits under points 1 or 2 include a guarantee of investment performance or another guaranteed benefit, Paragraph 7 shall apply for the covering assets.

(7) In addition to the requirements of Paragraphs 2 to 5, with respect to assets other than those under Paragraph 6, the following rules shall apply as well:

1. the use of derivatives shall be possible insofar as they contribute to a reduction of risks or facilitate efficient portfolio management;

2. investments in assets which are not admitted to trading on a regulated financial market shall be kept to prudent levels;

3. assets shall be properly diversified in such a way as to avoid excessive reliance on any particular asset, issuer or group of undertakings, or market, and excessive accumulation of risk in the portfolio as a whole;

4. investments in assets issued by the same issuer, or by issuers belonging to the same group, shall not expose the insurer to excessive risk concentration.

Section III
Annual financial statements and periodic statements

Annual and periodic statements of insurers and reinsurers

Article 125. (1) Insurers and reinsurers, insurance holding companies and mixed-activity financial holding companies with a head office in the Republic of Bulgaria shall prepare annual financial statements and periodic financial statements and records.

(2) Insurers and reinsurers shall prepare annual financial statements and periodic financial statements and records with a structure (format) and content in compliance with an ordinance of the Commission which introduces the requirements of Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings and other reporting requirements.

Terms, certification and submission of statements

Article 126. (1) The insurer, respectively reinsurer, shall submit to the Commission for financial supervisory purposes:

1. annual financial statements – within the terms set out in Regulation (EU) 2015/35;

2. annual records, reports and appendices – within the terms set out in Regulation (EU) 2015/35;

3. quarterly statements, records, reports and appendices – within the terms set out in Regulation (EU) 2015/35;

4. monthly statements and records – by the end of the month following the month to which they relate.

(2) The statements and records under Paragraph 1 shall be submitted in the form of an electronic document signed with a qualified electronic signature in accordance with the requirements of the ordinance under Article 125.

(3) The annual financial statements and the annual records, reports and appendices under Paragraph 1, points 1 and 2 shall be certified by a specialised audit company under Article 101.

(4) The Commission shall establish by an ordinance the information and data from the statements and records under Paragraph 1 subject to public disclosure in the register under Article 30, Paragraph 1, point 8 of the Financial Supervision Commission Act.

Section IV
Submission of information to the supervisory authority. Public disclosure

Information submitted for supervisory purposes

Article 127. (1) The insurer, respectively reinsurer, shall submit to the Commission all information necessary for the purposes of insurance supervision in conjunction with the purposes under Article 2.

(2) The information under Paragraph 1 shall contain, as a minimum, the information necessary to achieve the following objectives of the supervisory review process:

1. to assess:

a) the system of governance applied by the insurer or reinsurer;

b) the business pursued by the insurer, respectively reinsurer;

c) the valuation principles applied for solvency purposes;

d) the risks which the insurer or reinsurer faces and risk management systems;

e) the capital structure, capital needs and capital management of the insurer, respectively reinsurer;

2. to make any appropriate decisions resulting from the exercise of the supervisory powers of the Commission and the Deputy Chairperson.

(3) The Deputy Chairperson may:

1. determine the nature, the scope and the format of the information under Paragraph 1, submitted by insurers and reinsurers:

a) periodically;

b) upon occurrence of predefined events;

c) during on-site inspections or inspections of documents;

2. receive any information regarding contracts which are held by intermediaries or regarding contracts which are entered into with third parties, and

3. require information from external experts, including auditors and actuaries.

(4) The information under Paragraphs 1 to 3 shall include:

1. qualitative or quantitative elements, or any appropriate combination thereof;

2. historic, current or prospective elements, or any appropriate combination thereof; and

3. data from internal or external sources, or any appropriate combination thereof.

(5) The information under Paragraphs 1 to 3 shall:

1. reflect the nature, scale and complexity of the business of the insurer or reinsurer concerned, and in particular the risks inherent in that business;

2. be accessible, complete in all material respects, comparable and consistent over time;

3. be relevant, reliable and comprehensible.

(6) The information under Paragraphs 1 to 3 shall be submitted in the form of electronic documents signed with a qualified electronic signature or on paper – at the discretion of the Deputy Chairperson.

(7) The insurer, respectively reinsurer, shall be required to have appropriate systems and structures in place to ensure fulfilment of the obligations under Paragraphs 1 to 6, as well as to have a policy approved by its management body ensuring the ongoing accuracy, completeness and timeliness of the submitted information.

Notifications

Article 128. (1) The insurer, respectively reinsurer, shall notify the Commission of:

1. new facts and circumstances subject to entry in the register of the Commission;

2. the entry of circumstances in the trade register;

3. any changes in its related persons, by submitting information on the exercise of on-going control regarding the occurrence of the circumstances under Article 35, Paragraph 1, points 6 and 7.

(2) The obligation under Paragraph 1 shall be fulfilled within 7 days from the occurrence or learning of the relevant fact or circumstance, and when it is subject to entry in the trade register – within 7 days of its entry.

Report on solvency and financial condition

Article 129. (1) The insurer, respectively reinsurer, shall disclose publicly, on an annual basis within the terms set out in Regulation (EU) 2015/35, a report on its solvency and financial condition, in compliance with Article 127, Paragraphs 4 and 5. The report on solvency and financial condition shall be part of the annual financial statements of the insurer and reinsurer.

(2) The solvency and financial condition report shall contain information, in full or by way of references to equivalent information, both in nature and scope, disclosed publicly under other legal or regulatory requirements, as follows:

1. a description of the business and the performance of the person;

2. a description of the system of governance and an assessment of its adequacy for the risk profile of the insurer, respectively reinsurer;

3. a description, separately for each category of risk, of the risk exposure, concentration, mitigation and sensitivity;

4. a description, separately for assets, technical provisions and other liabilities, of the bases and methods used for their valuation, together with an explanation of any major differences in the bases and methods used for their valuation in financial statements;

5. a description of the capital management, including at least the following:

a) the structure and amount of own funds, and their quality;

b) the amounts of the Solvency Capital Requirement and of the Minimum Capital Requirement;

c) information allowing a proper understanding of the main differences between the underlying assumptions of the standard formula and those of any internal model used by the person for the calculation of its Solvency Capital Requirement;

d) the amount of any non-compliance with the Minimum Capital Requirement or the minimum capital guarantee or of any significant non-compliance with the Solvency Capital Requirement or solvency margin during the reporting period, even if subsequently resolved, with an explanation of its origin and consequences as well as any remedial measures taken.

(3) Where the matching adjustment referred to in Article 156 is applied, the description referred to in Paragraph 2, point 4 shall include a description of the matching adjustment and of the portfolio of obligations and assigned assets to which the matching adjustment is applied, as well as a quantification of the impact of a change to zero of the matching adjustment on the financial position of the insurer or reinsurer. The description referred to in Paragraph 2, point 4 shall also include information on whether the volatility adjustment referred to in Article 158 is used by the person and a quantification of the impact of a change to zero of the volatility adjustment on the financial position of the insurer or reinsurer.

(4) The description referred to in Paragraph 2, point 5, letter “a” shall include an analysis of any significant changes as compared to the previous reporting period and an explanation of any major differences in relation to the value of such elements in financial statements, and a brief description of the capital transferability.

(5) The disclosure of the Solvency Capital Requirement under Paragraph 2, point 5, letter "b" show separately the amount, calculated in accordance with Chapter XIII, Sections II and III, and the capital add-on imposed in accordance with Article 584, or the impact of the specific parameters the insurer or reinsurer is required to use in accordance with Article 174, together with concise information on its justification by the Commission.

(6) Where applicable, the disclosure of the Solvency Capital Requirement shall be accompanied by an indication that its final amount is subject to assessment by the competent supervisory authority.

Public disclosure principles

Article 130. (1) The Deputy Chairperson shall permit the insurer or reinsurer not to disclose information in the following cases:

1. if by disclosing such information, the competitors of the insurer, respectively reinsurer, would gain significant undue advantage;

2. if there are obligations to insured persons or other counterparty relationships binding the person to secrecy or confidentiality.

(2) The person under Paragraph 1, authorised by the Deputy Chairperson not to disclose information, shall make a statement to this effect in its report on solvency and financial condition and shall state the reasons.

(3) The Deputy Chairperson shall permit a person under Paragraph 1 to make use of – or refer to – public disclosures made under other regulatory requirements, to the extent that those disclosures are equivalent to the information required under Article 129 in their nature and scope.

(4) Paragraphs 1 and 2 shall not apply to the information under Article 129, Paragraph 2, point 5.

Update of the solvency and financial condition report

Article 131. (1) In the event of any major development affecting significantly the relevance of the information disclosed in accordance with Articles 129 and 130, the insurer, respectively reinsurer, shall disclose appropriate information on the nature and effects of that major development.

(2) A major development under Paragraph 1 occurs as a minimum where:

1. there is a non-compliance with the Minimum Capital Requirement, respectively the minimum capital guarantee, and the Deputy Chairperson considers that the person will not be able to submit a realistic short-term plan or within one month of the date when non-compliance was observed has not received such a plan;

2. there is a significant non-compliance with the Solvency Capital Requirement, respectively the solvency margin, and the Deputy Chairperson has not received a realistic solvency recovery plan within two months of the date when non-compliance was observed.

(3) In the cases under Paragraph 2, point 1, the Deputy Chairperson shall require the person concerned to disclose immediately the amount of non-compliance, together with an explanation of its origin and consequences, including any remedial measures taken. If a short-term finance scheme initially considered to be realistic has been implemented but the non-compliance with the Minimum Capital Requirement has not been resolved three months after its observation, it shall be disclosed at the end of that period, together with an explanation of its origin and

consequences, including any remedial measures taken as well as any further remedial measures planned.

(4) In the cases under Paragraph 2, point 2, the Deputy Chairperson shall require the person concerned to disclose immediately the amount of non-compliance, together with an explanation of its origin and consequences, including any remedial measures taken. If a recovery plan initially considered to be realistic has been implemented but the significant non-compliance with the Solvency Capital Requirement has not been resolved 6 months after its observation, it shall be disclosed at the end of that period, together with an explanation of its origin and consequences, including any remedial measures taken as well as any further remedial measures planned.

Additional voluntary information in the solvency and financial condition report

Article 132. The insurer, respectively reinsurer, may disclose, on a voluntary basis, any information or explanation related to its solvency and financial condition which is not already required to be disclosed in accordance with this Section.

Organisation of public disclosure

Article 133. (1) The insurer, respectively reinsurer, shall:

1. establish appropriate systems and structures to fulfil the obligations under this Section;

2. adopt internal rules to ensure the on-going relevance of any information disclosed in accordance with this Section.

(2) The annual financial statements, including the solvency and financial condition report, shall be subject to approval by the management and controlling body of the insurer, respectively reinsurer, and then be disclosed publicly on the Internet page of the insurer, respectively reinsurer.

(3) Where an instrument of the European Commission specifies additional requirements to the information subject to disclosure and to the deadlines for annual disclosure, these requirements shall also be fulfilled by insurers without the right of access to the single market.

Section V
Co-insurance in the European Union

The business of co-insurance in the European Union

Article 134. (1) A co-insurance operation in the European Union means a co-insurance operation which relates to one or more risks under the classes in points 3 to 16, Section II, letter "A" of Annex No 1, and which fulfils the following conditions:

1. the risk is a large risk;

2. the risk is covered by a single contract at an overall premium and for the same period by two or more insurers each responsible for its own part as co-insurer, one of them being the leading insurer;

3. the risk is situated within a Member State;

4. for the purpose of covering the risk, the leading insurer is treated as if it were the insurer covering the whole risk;

5. at least one of the co-insurers participates in the contract through its head office or a branch established in a Member State other than that of the leading insurer;

6. the leading insurer fully assumes the leader's role in co-insurance practice and in particular determines the terms and conditions of insurance and rating.

(2) Articles 46, 50 and 51 shall apply to the leading insurer.

(3) The provisions of this Section shall not apply to co-insurance operations which do not satisfy the conditions set out in Paragraph 1.

Participation in co-insurance in the European Union

Article 135. An insurer may participate in co-insurance operations in the European Union in compliance with the requirements of this Section.

Technical provisions

Article 136. (1) The amount of the technical provisions of an insurer participating in co-insurance in the European Union shall be determined according to the rules fixed by its respective home Member State or, in the absence of such rules, according to customary practice in that State.

(2) Notwithstanding Paragraph 1, the technical provisions shall be at least equal to those determined by the leading insurer according to the rules of its home Member State.

Statistical data

Article 137. An insurer involved in co-insurance in the European Union shall keep statistical data showing the extent of the co-insurance operations in the European Union in which it participates and the Member States concerned.

Treatment of co-insurance contracts in winding-up and bankruptcy proceedings

Article 138. In the event of the winding-up or bankruptcy of an insurer, its liabilities arising from participation in co-insurance contracts in the European Union shall be met in the same way as those arising from other insurance contracts of that insurer, regardless of the country of the beneficiaries of insurance services.

Exchange of information between supervisory authorities

Article 139. For the purposes of the implementation of this Section, the Commission and the Deputy Chairperson shall exchange the necessary information with the supervisory authorities of the other Member States.

Cooperation on implementation

Article 140. (1) The Deputy Chairperson shall cooperate with the European Commission and the supervisory authorities of the other Member States to resolve any potential difficulties in implementing this Section.

(2) In the course of the cooperation under Paragraph 1 they shall examine any practices which might indicate that the leading insurer does not assume the role of the leader in co-insurance practice or that the risks clearly do not require the participation of two or more insurers for their coverage.

Chapter IX
SEPARATION OF LIFE AND NON-LIFE INSURANCE MANAGEMENT

General requirements

Article 141. (1) An insurer engaged in both insurance under Section I and accident insurance and/or sickness insurance under Section II, letter "A" of Annex No 1, shall be organised in such a way that the life insurance activity is distinct from non-life insurance activity.

(2) The interests of the insured under contracts under Section I of Annex No 1 shall not be affected at the expense of the interests of the insured under accident insurance and/or sickness insurance, and the interests of the insured under accident insurance and/or sickness insurance shall not be affected at the expense of the interests of the insured under contracts under Section I of Annex No 1. The profits from the activity under Section I of Annex No 1 shall benefit only the insured under the classes of insurance related to that activity as if the insurer pursued only the activity of life insurance.

Measures for separation of life and non-life insurance management

Article 142. (1) Notwithstanding the obligation to maintain eligible own funds to cover the Solvency Capital Requirement and the Minimum Capital Requirement, respectively the solvency margin and the minimum capital guarantee, the insurer shall calculate:

1. a notional Minimum Capital Requirement, respectively capital guarantee, with respect to its life insurance or reinsurance activity, calculated as if the insurer concerned only pursued that activity, on the basis of the separate financial statements under Article 143;

2. a notional Minimum Capital Requirement, respectively capital guarantee, with respect to its non-life insurance or reinsurance activity, calculated as if the insurer concerned only pursued that activity, on the basis of the separate financial statements under Article 143.

(2) An insurer under Article 141, Paragraph 1 shall provide coverage by an equivalent amount of eligible basic own fund items of at least:

1. the notional Minimum Capital Requirement, respectively capital guarantee, with respect to the life insurance activity;

2. the notional Minimum Capital Requirement, respectively capital guarantee, with respect to the non-life insurance activity.

(3) The minimum financial obligations under Paragraph 2 in respect of the life insurance activity and the non-life insurance activity, shall not be borne by the other activity.

(4) An insurer under Article 141, Paragraph 1 may use as coverage for the Solvency Capital Requirement, respectively the solvency margin, the explicit eligible own-fund items which are available for one or the other activity, provided that:

1. the minimum financial obligations under Paragraphs 2 and 3 are fulfilled;

2. it has notified the Commission thereof.

(5) In exercising insurance supervision over an insurer under Article 141, Paragraph 1, the results in both life insurance and accident insurance and/or sickness insurance shall be analysed to ensure compliance with Paragraphs 1 to 4 and with Article 141.

Additional reporting requirements

Article 143. (1) An insurer under Article 141, Paragraph 1 shall draw up its financial statements as to show the sources of the results for life and non-life insurance separately.

(2) All income, in particular premiums, payments by reinsurers and investment income, and expenditure, in particular insurance settlements, additions to technical provisions, reinsurance premiums and operating expenses in respect of insurance business, shall be broken down according to origin.

(3) Items common to both activities shall be entered in the accounts in accordance with methods of apportionment to be accepted by the Deputy Chairperson.

(4) The insurer shall, on the basis of the financial statements under Paragraph 1, prepare a report in which the eligible basic own-fund items covering each notional Minimum Capital Requirement under Article 142, Paragraph 1 are clearly identified, in accordance with the eligibility requirements of the ordinance under Article 168.

Prohibition on representation of financial results

Article 144. An insurer authorised under Section I of Annex No 1 and an insurer authorised under Section II of Annex No 1, having financial, commercial or administrative links between them, may not conclude agreements and apply other arrangements that lead to unfair representation of their financial results and in particular that affect the structure of their income and expenses.

Special requirements in case of deficiency of eligible basic own funds

Article 145. (1) If the amount of the eligible basic own-fund items with respect to one of the insurance activities is insufficient to cover the minimum financial obligations under Article 142, Paragraph 2, at the proposal of the Deputy Chairperson, the Commission shall apply to that activity the measures provided for in Article 215, whatever the results in the other activity.

(2) Notwithstanding Article 142, Paragraph 3, at the proposal of the Deputy Chairperson, the Commission may authorise a transfer of explicit eligible basic own-funds items from one insurance activity to the other.

Chapter X
DISCLOSURE OF CONFLICTS OF INTEREST. INSURANCE SECRECY

Disclosure and avoidance of conflicts of interest

Article 146. (1) All members of a management or controlling body, all other executives, as well as all other persons authorised to manage and represent an insurer, respectively reinsurer, shall notify the management body of the insurer, respectively reinsurer, in writing when concluding a contract with the insurer that is outside of the scope of the usual activity of the insurer, respectively reinsurer, or deviates significantly from normal market conditions.

(2) The provision of Paragraph 1 shall also apply when a party to an transaction with the insurer, respectively 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 his family owns directly or through related parties a qualifying holding under Article 68, Paragraph 1;

3. a company in which a person under Paragraph 1 or a member of his family is a partner, member of the management or controlling body, executive or a person authorised to manage or represent the company.

(3) All persons under Paragraph 1 shall notify the management body of the insurer, respectively reinsurer, in writing, at least once every six months, of the companies in which the person or his family members hold directly or through related parties a qualifying holding under Article 68, Paragraph 1, in which they are partners or shareholders, members of a management or controlling body, executives or persons authorised to manage or represent the company.

(4) A person under Paragraph 1 shall not participate in negotiations, discussions and decision-making related to the conclusion of a transaction with the insurer, respectively reinsurer, under which that person or a person under Paragraph 2 is a party.

(5) The insurer, respectively reinsurer, the persons under Paragraph 1, as well as the other employees of the insurer, respectively reinsurer, shall be required in the performance of their functions to place the interests of the insurer, respectively reinsurer, and its beneficiaries of insurance services, respectively cedents, before their own interests.

(6) The insurer shall be required to establish an effective internal organisation of its activities in such a manner as to prevent conflicts of interest under Paragraph 7 to adversely affect the interests of its beneficiaries of insurance services.

(7) The insurer shall take all necessary measures to identify conflicts of interest that arise in the course of the distribution of insurance products between:

1. the insurer, the members of its bodies, its other employees, other persons that conclude insurance contracts in its name, as well as the persons linked to it directly or indirectly by a control relationship on the one hand, and the beneficiaries of insurance services on the other hand;

2. one beneficiary of insurance services and another.

(8) Where the organisation under Paragraph 6 cannot sufficiently guarantee that the risk of injury to the interests of the beneficiary of insurance services will be avoided, the insurer shall clearly disclose to the beneficiary the nature and sources of conflicts of interest before entering into a contractual relationship with him.

Special requirements for avoidance of conflicts of interest

Article 147. An insurer covering risks under legal expenses insurance shall take the necessary measures to avoid conflicts of interest by fulfilling at least one of the following conditions:

1. not allowing its employees entrusted with claims settlement or provision of legal advice on legal expenses insurance to simultaneously perform any similar activities in connection with other classes of insurance under Section II of Annex No 1 for their account or for the account of another insurer with which the insurer has commercial, financial or administrative links;

2. if it covers risks under legal expenses insurance and under other insurance under Section II of Annex No 1, to cede under the terms and conditions of Article 110 the activity of claims settlement for legal expenses insurance to another legal person, which must fulfil the condition of point 1;

3. to inform the insured persons of their right to authorise a lawyer of their choice to protect their interests from the moment that those insured persons have a claim under the insurance.

Delegation

Article 148. The Commission may, by an ordinance, specify more detailed requirements for fulfilment of the obligations under Article 146, Paragraphs 6 to 8.

Insurance secrecy. Protection of insurance secrecy

Article 149. (1) The insurer, respectively reinsurer, members of the management and controlling bodies, auditors, actuaries, and all other persons employed by the insurer, respectively reinsurer, including persons with whom the insurer, respectively reinsurer, has an agreement under Article 110, shall be obliged to keep confidential the information that has become known to them in connection with the performance of their functions. The persons under sentence 1 shall not use the received information for personal benefit or for the benefit of another person, as well as for any other purposes other than the performance of their functions.

(2) The obligation under Paragraph 1 shall also applies to insurance and reinsurance intermediaries and their employees.

(3) All employees and members of management and controlling bodies of the insurer, respectively reinsurer, shall, upon their appointment, sign a statement to protect insurance secrecy. The obligation under sentence 1 shall also apply to natural persons who represent legal persons – members of the management and controlling bodies of the insurer, respectively reinsurer, and the insurance and reinsurance intermediary.

(4) Insurance agents and persons with whom the insurer, respectively reinsurer, has an agreement under Article 110 shall sign the statement under Paragraph 3 upon the conclusion of the contract which regulates their relationship with the insurer, respectively reinsurer. Persons under sentence 1 shall inform their employees of the obligations under Paragraph 1.

(5) The provisions of Paragraph 1 shall also apply in cases where persons under Paragraphs 1 to 4 have discontinued their contractual relationship with the insurer, respectively reinsurer, in connection with which their obligation for protection of insurance secrecy has arisen.

Disclosure of insurance secrecy

Article 150. (1) In addition to the Commission, the Deputy Chairperson and the authorised administrative employees of the Commission, the information under Article 149, Paragraph 1 may only be disclosed:

1. with the express written consent of the person it concerns;

2. to the judicial authorities, prosecutor's office, investigative authorities and police authorities, as provided for by law;

3. to the State Agency for National Security under the terms and conditions set out in the Measures against Money Laundering Act;

4. to the Guarantee Fund and the National Bureau of Bulgarian Motor Insurers in connection with their activities under this Code;

5. to and by the Guarantee Fund for the purposes of establishing information systems to prevent insurance fraud and for the purposes of creating a bonus-malus system;

6. to a director of a territorial directorate of the National Revenue Agency when:

a) an act of the revenue authority has established that the inspected person has prevented the performance of an audit or inspection or does not keep the required records, and also if such records are incomplete or incorrect;

b) an act of a competent authority has established the occurrence of an accidental event resulting in the destruction of the accounting records of the inspected person;

7. to the competent authority of the National Revenue Agency regarding the information under Title II, Chapter XVI, Section IIIa of the Tax-Insurance Procedure Code;

8. to the Executive Director of the National Revenue Agency regarding the application of Article 143h of the Tax-Insurance Procedure Code;

9. to a reinsurer, when necessary in connection with the conclusion and maintenance of a reinsurance contract;

10. to the legal successors of an insured person or a person entitled to an insurance benefit.

(2) At the request of the policy holder, the insurer may provide to such party information on benefits or amounts paid under the insurance contract.

Prohibition on health status information

Article 151. The insurer shall not provide to the policy holder, where the policy holder is not the same person as the insured, information on the health status of the insured persons.

TITLE III
REQUIREMENTS TO THE FINANCIAL CONDITION OF INSURERS WITH RIGHT OF ACCESS TO THE SINGLE MARKET, AND TO REINSURERS
Chapter XI
VALUATION OF ASSETS AND LIABILITIES

Valuation of the assets and liabilities

Article 152. (1) Unless this Code, its implementing instruments or the instruments of the European Commission implementing Directive 2009/138/EC provide otherwise, the insurer, respectively reinsurer, shall value its assets and liabilities as follows:

1. assets shall be valued at the amount for which they could be exchanged between knowledgeable willing parties in an arm's length transaction;

2. liabilities (obligations) shall be valued at the amount for which they could be transferred, or settled, between knowledgeable willing parties in an arm's length transaction.

(2) When valuing liabilities under Paragraph 1, point 2, no adjustment to take account of the own credit standing of the insurer or reinsurer shall be made.

Segmentation upon calculation of technical provisions

Article 153. When calculating technical provisions, insurers and reinsurers shall segment their insurance and reinsurance obligations into homogeneous risk groups, and as a minimum by types of activity (lines of business) within the meaning of Regulation (EU) 2015/35.

Calculation of technical provisions

Article 154. (1) The value of technical provisions shall be equal to the sum of a best estimate and a risk margin.

(2) The best estimate shall correspond to the probability-weighted average of future cash-flows, taking account of the time value of money (expected present value of future cash-flows), using the relevant risk-free interest rate term structure.

(3) The calculation of the best estimate shall be based upon up-to-date and credible information and realistic assumptions and be performed using adequate, applicable and relevant actuarial and statistical methods.

(4) The cash-flow projection used in the calculation of the best estimate shall take account of all the cash in- and out-flows required to settle the insurance and reinsurance obligations over the lifetime thereof.

(5) The best estimate shall be calculated as a gross amount – without deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles for alternative insurance risk transfer. Those amounts shall be calculated separately and in accordance with Article 161.

(6) The risk margin shall be such as to ensure that the value of the technical provisions is equivalent to the amount that an insurer, respectively reinsurer, would be expected to require in order to take over and meet the insurance, respectively reinsurance, obligations.

(7) The insurer, respectively reinsurer, shall value the best estimate and the risk margin separately.

(8) However, where future cash flows associated with insurance and reinsurance obligations can be replaced (replicated) reliably using financial instruments for which a reliable market value is observable, the value of technical provisions associated with those future cash flows shall be determined on the basis of the market value of those financial instruments. In this case, it shall not be required to calculate the best estimate and the risk margin separately.

(9) Where the insurer or and reinsurer values the best estimate and the risk margin separately, the risk margin shall be calculated by determining the cost of providing an amount of eligible own funds equal to the Solvency Capital Requirement necessary to support the insurance and reinsurance obligations over the lifetime thereof.

(10) The rate used in the determination of the cost of providing the amount of eligible own funds (Cost-of-Capital rate) shall be the same for all insurers and reinsurers and shall be reviewed periodically.

(11) The used Cost-of-Capital rate shall be equal to the additional rate, above the relevant risk-free interest rate, that an insurer or reinsurer would pay if holding an amount of eligible own funds, as set out in Chapter XII, equal to the Solvency Capital Requirement necessary to guarantee the insurance and reinsurance obligations over the lifetime of those obligations.

(12) The calculation of technical provisions shall take account of:

1. the costs related to the fulfilment of the obligations under insurance and reinsurance contracts;

2. the inflation, including the inflation of the claims and costs;

3. all payments to insured, reinsured persons and beneficiaries, including future discretionary bonuses which the insurer, respectively reinsurer, expects to make, regardless of whether those payments are contractually guaranteed.

(13) The additional requirements for the calculation of the best estimate and the risk margin shall be determined by an instrument of the European Commission and as set out in the ordinance under Article 120, Paragraph 6.

Extrapolation of the relevant risk-free interest rate term structure

Article 155. (1) The determination of the relevant risk-free interest rate term structure referred to in Article 154, Paragraph 2 shall be based on, and be consistent with, information derived from relevant financial instruments. That determination shall take into account relevant financial instruments of those maturities where the markets for those financial instruments as well as for bonds are sufficiently deep, liquid and transparent. For maturities where the markets for the relevant financial instruments or for bonds are no longer sufficiently deep, liquid and transparent, the relevant risk-free interest rate term structure shall be extrapolated.

(2) The extrapolated part of the relevant risk-free interest rate term structure shall be based on forward rates converging smoothly from one or a set of forward rates in relation to the longest maturities for which the relevant financial instrument and the bonds can be observed in a deep, liquid and transparent market to an ultimate forward rate.

Matching adjustment to the relevant risk-free interest rate term structure

Article 156. (1) After prior approval of the Deputy Chairperson, the insurer, respectively reinsurer, may apply a matching adjustment to the relevant risk-free interest rate term structure in order to calculate the best estimate of a portfolio of life insurance or reinsurance obligations, as well as annuity obligations resulting from non-life insurance contracts.

(2) The conditions for an approval under Paragraph 1 shall be as follows:

1. the insurer, respectively reinsurer, has assigned a portfolio of assets, consisting of bonds and other assets with similar cash-flow characteristics, to cover the best estimate of the portfolio of insurance or reinsurance obligations and maintains that assignment over the lifetime of the obligations, except for the purpose of maintaining the replication of expected cash flows between assets and liabilities where the cash flows have materially changed;

2. the portfolio of insurance or reinsurance obligations to which the matching adjustment is applied and the assigned portfolio of assets are identified, organised and managed separately from other activities of the insurer, respectively reinsurer, and the assigned portfolio of assets cannot be used to cover losses arising from other activities of the insurer, respectively reinsurer;

3. the expected cash flows of the assigned portfolio of assets replicate each of the expected cash flows of the portfolio of insurance or reinsurance obligations in the same currency and any mismatch does not give rise to risks which are material in relation to the risks inherent in the insurance or reinsurance business to which the matching adjustment is applied;

4. the contracts underlying the portfolio of insurance or reinsurance obligations do not give rise to future premium payments;

5. the only underwriting risks connected to the portfolio of insurance or reinsurance obligations are longevity risk, expense risk, revision risk and mortality risk;

6. where the underwriting risk connected to the portfolio of insurance or reinsurance obligations includes mortality risk, the best estimate of the portfolio of insurance or reinsurance obligations does not increase by more than 5 % under a mortality risk stress that is calibrated in accordance with Article 170, Paragraphs 2 to 6;

7. the contracts underlying the portfolio of insurance or reinsurance obligations include no options for the persons holding rights under insurance contracts or only a surrender option where the surrender value does not exceed the value of the assets, valued in accordance with Article 152, covering the insurance or reinsurance obligations at the time the surrender option is exercised;

8. the cash flows of the assigned portfolio of assets are fixed and cannot be changed by the issuers of the assets or any third parties;

9. the insurance or reinsurance obligations of an insurance or reinsurance contract are not split into different parts when composing the portfolio of insurance or reinsurance obligations for the purpose of this Paragraph.

(3) Notwithstanding the provisions of Paragraph 2, point 8, the insurer, respectively reinsurer, may use assets where the cash flows are fixed except for a dependence on inflation, provided that those assets replicate the cash flows of the portfolio of insurance or reinsurance obligations that depend on inflation.

(4) In the event that issuers or third parties have the right to change the cash flows of an asset in such a manner that the investor receives sufficient compensation to allow it to obtain the same cash flows by re-investing in assets of an equivalent or better credit quality, the right to change the cash flows shall not disqualify the asset for admissibility to the assigned portfolio in accordance with Paragraph 2, point 8.

(5) An insurer, respectively reinsurer, that applies the matching adjustment to a portfolio of insurance or reinsurance obligations shall not revert back to an approach that does not include a matching adjustment. Where the person that applies the matching adjustment is no longer able to comply with the conditions set out in Paragraph 2, that person shall immediately inform the Deputy Chairperson and take the necessary measures to restore compliance with those conditions. Where the insurer, respectively reinsurer, is not able to restore compliance with those conditions within two months of the starting date of non-compliance, it shall cease to apply the matching adjustment to any of its insurance or reinsurance obligations and shall not apply the matching adjustment for a period of a further 24 months.

(6) The matching adjustment shall not be applied with respect to insurance or reinsurance obligations where the relevant risk-free interest rate term structure to calculate the best estimate for those obligations includes a volatility adjustment under Article 158.

Calculation of the matching adjustment

Article 157. (1) For each currency the matching adjustment referred to in Article 156 shall be calculated in accordance with the following principles:

1. the matching adjustment must be equal to the difference of:

a) the annual effective rate, calculated as the single discount rate that, where applied to the cash flows of the portfolio of insurance or reinsurance obligations, results in a value that is equal to the value in accordance with Article 152 of the portfolio of assigned assets;

b) the annual effective rate, calculated as the single discount rate that, where applied to the cash flows of the portfolio of insurance or reinsurance obligations, results in a value that is equal to the value of the best estimate of the portfolio of insurance or reinsurance obligations where the time value of money is taken into account using the basic risk-free interest rate term structure;

2. the matching adjustment must not include the fundamental spread reflecting the risks retained by the insurer, respectively reinsurer;

3. notwithstanding point 1, the fundamental spread must be increased where necessary to ensure that the matching adjustment for assets with sub-investment grade credit quality does not exceed the matching adjustments for assets of investment grade credit quality and the same duration and asset class;

4. the use of external credit assessments in the calculation of the matching adjustment must be in accordance with an instrument of the European Commission.

(2) For the purpose of Paragraph 1, point 2 the fundamental spread:

1. is equal to the sum of:

a) the credit spread corresponding to the probability of default of the assets;

b) the credit spread corresponding to the expected loss resulting from downgrading of the assets;

2. for exposures to Member States' central governments and central banks, no lower than 30 % of the long-term average of the spread over the risk-free interest rate of assets of the same duration, credit quality and asset class, as observed in financial markets.

3. for assets other than exposures to Member States' central governments and central banks, no lower than 35 % of the long-term average of the spread over the risk-free interest rate of assets of the same duration, credit quality and asset class, as observed in financial markets.

(3) The probability of default referred to in Paragraph 2, point 1, letter “a” shall be based on long-term default statistics that are relevant for the asset in relation to its duration, credit quality and asset class.

(4) Where no reliable credit spread can be derived from the default statistics referred to in Paragraph 3, the fundamental spread shall be equal to the portion of the long-term average of the spread over the risk-free interest rate set out in Paragraph 2, points 2 and 3.

Volatility adjustment to the relevant risk-free interest rate term structure

Article 158. (1) After prior approval by the Deputy Chairperson, an insurer, respectively reinsurer, may apply a volatility adjustment to the relevant risk-free interest rate term structure to calculate the best estimate referred to in Article 154, Paragraph 2.

(2) For each relevant currency, the volatility adjustment to the relevant risk-free interest rate term structure shall be based on the spread between the interest rate that could be earned from assets included in a reference portfolio for that currency and the rates of the relevant basic risk-free interest rate term structure for that currency. The reference portfolio for a currency shall be representative for the assets which are denominated in that currency and which insurance and reinsurance undertakings are invested in to cover the best estimate for insurance and reinsurance obligations denominated in that currency.

(3) The amount of the volatility adjustment to risk-free interest rates shall correspond to 65 % of the risk-corrected currency spread.

(4) The risk-corrected currency spread shall be calculated as the difference between the spread referred to in Paragraph 2 and the portion of that spread that is attributable to a realistic assessment of expected losses or unexpected credit or other risk of the assets.

(5) The volatility adjustment shall apply only to the relevant risk-free interest rates of the term structure that are not derived by means of extrapolation in accordance with Article 155. The extrapolation of the relevant risk-free interest rate term structure shall be based on those adjusted risk-free interest rates.

(6) For each relevant country, the volatility adjustment to the risk-free interest rates referred to in Paragraphs 3 to 5 for the currency of that country shall, before application of the 65 % factor, be increased by the difference between the risk-corrected country spread and twice the risk-corrected currency spread, whenever that difference is positive and the risk-corrected country spread is higher than 100 basis points. The increased volatility adjustment shall be applied to the calculation of the best estimate for insurance and reinsurance obligations of products sold in the insurance market of that country. The risk-corrected country spread is calculated in the same way as the risk-corrected currency spread for the currency of that country, but based on a reference portfolio that is representative for the assets which insurers and reinsurers are invested in to cover the best estimate for insurance and reinsurance obligations of products sold in the insurance market of that country and denominated in the currency of that country.

(7) The volatility adjustment shall not be applied with respect to insurance obligations where the relevant risk-free interest rate term structure to calculate the best estimate for those obligations includes a matching adjustment under Article 156.

(8) By way of derogation from the requirements of Article 170, the Solvency Capital Requirement shall not cover the risk of loss of basic own funds resulting from changes of the volatility adjustment.

Use of the technical information produced by the European Authority and adopted by an instrument of the European Commission

Article 159. (1) When calculating the best estimate under Article 154, the matching adjustment under Article 156 and the volatility adjustment under Article 158, the insurer, respectively reinsurer, shall use the technical information produced by the European Authority and adopted by an instrument of the European Commission under Article 77e, Paragraph 2 of Directive 2009/138/EC.

(2) No volatility adjustment shall be applied to the relevant risk-free interest rate term structure to calculate the best estimate with respect to currencies and national markets where such an adjustment is not set out in an instrument of the European Commission referred to in Paragraph 1.

(3) The additional requirements for the calculation of the best estimate and the risk margin shall be determined by an ordinance of the Commission and by an instrument of the European Commission.

Valuation of financial guarantees and contractual options included in insurance and reinsurance contracts

Article 160. (1) When calculating technical provisions, an insurer, respectively reinsurer, shall take account of the value of financial guarantees and any contractual options included in insurance and reinsurance policies.

(2) Any assumptions made by an insurer, respectively reinsurer, with respect to the likelihood that policy holders will exercise contractual options, including lapses and surrenders, shall be realistic and based on current, relevant and credible information. The assumptions shall take account, either explicitly or implicitly, of the impact that future changes in financial and non-financial conditions may have on the exercise of those options.

Recoverables under reinsurance contracts and from special purpose vehicles

Article 161. (1) The insurer, respectively reinsurer, shall calculate amounts recoverable under reinsurance contracts and from special purpose vehicles in compliance with Article 120 and Articles 153 to 160.

(2) When calculating amounts recoverable under reinsurance contracts and from special purpose vehicles, the insurer, respectively reinsurer, shall take account of the time difference between recoveries and direct payments.

(3) The result from that calculation shall be adjusted to take account of expected losses due to default of the counterparty. That adjustment shall be based on an assessment of the probability of default of the counterparty and the average loss resulting therefrom (loss-given-default).

Data quality and application of approximations, including case-by-case approaches, for technical provisions

Article 162. (1) The insurer, respectively reinsurer, shall have internal processes and procedures in place to ensure that the data used in the calculation of their technical provisions are appropriate, complete and reliable.

(2) Where, in specific circumstances, an insurer, respectively reinsurer, has insufficient data of appropriate quality to apply a reliable actuarial method to a set or subset of their insurance and reinsurance obligations, or receivables under reinsurance contracts and from special purpose vehicles, appropriate approximations, including case-by-case approaches, may be used in the calculation of the best estimate.

Comparison against experience

Article 163. (1) The insurer, respectively reinsurer, shall have processes and procedures in place to ensure that best estimates, and the assumptions underlying the calculation of best estimates, are regularly compared against experience.

(2) Where the comparison identifies systematic deviation between experience and the best estimate calculations of the insurer, respectively reinsurer, it shall make appropriate adjustments to the actuarial methods being used and/or the assumptions being made.

Chapter XII
OWN FUNDS

General requirements

Article 164. (1) The own funds of the insurer, respectively reinsurer, shall include basic own funds and ancillary own funds.

(2) All insurers, respectively reinsurers, shall at all times hold eligible own funds at least equal to the Solvency Capital Requirement.

(3) All insurers, respectively reinsurers, shall at all times hold eligible basic own funds at least equal to the Minimum Capital Requirement, respectively the minimum capital guarantee.

Basic own funds

Article 165. (1) Basic own funds shall consist of the following items:

1. the excess of assets over liabilities, valued in accordance with Chapter XI;

2. subordinated liabilities.

(2) The excess under Paragraph 1, point 1 shall be reduced by the amount of own shares held by the insurer, respectively reinsurer.

Ancillary own funds

Article 166. (1) Ancillary own funds shall consist of items other than basic own funds which can be called up to absorb losses.

(2) Ancillary own funds may comprise the following items to the extent that they are not basic own-fund items:

1. letters of credit and guarantees;

2. other legally binding commitments received by the insurer, respectively reinsurer.

(3) In the case of a mutual association, ancillary own funds may also comprise any future claims which that association may have against its members by way of a call for supplementary contribution, within the following 12 months.

(4) Where an ancillary own-fund item has been paid in or called up, it shall be treated as an asset and cease to form part of the ancillary own-fund items.

Approval of ancillary own funds and their classification in tires

Article 167. (1) The amounts of ancillary own-fund items to be taken into account when determining own funds shall be subject to prior approval by the Commission, at the proposal of the Deputy Chairperson.

(2) The amount ascribed to each ancillary own-fund item shall reflect the loss-absorbency of the item and shall be based upon prudent and realistic assumptions. Where an ancillary own-fund item has a fixed nominal value, the amount of that item shall be equal to its nominal value, where it appropriately reflects its loss-absorbency.

(3) At the proposal of the Deputy Chairperson, the Commission shall approve:

1. a monetary amount for each ancillary own-fund item, or

2. a method by which to determine the amount of each ancillary own-fund item, in which case supervisory approval of the amount determined in accordance with that method shall be granted for a specified period of time.

(4) For each ancillary own-fund item, at the proposal of the Deputy Chairperson, the Commission shall base his approval on an assessment of the following:

1. the status of the counterparties concerned, in relation to their ability and willingness to pay;

2. the recoverability of the funds, taking account of the legal form of the item, as well as any conditions which would prevent the item from being successfully paid in or called up;

3. any information on the outcome of past calls which the insurer, respectively reinsurer, has made for such ancillary own funds, to the extent that information can be reliably used to assess the expected outcome of future calls.

(5) The own-fund items of the insurer, respectively reinsurer, shall be classified into three tiers according to an instrument of the European Commission and the ordinance under Article 168. Where an own-fund item cannot be classified in accordance with the list in the instrument of the European Commission under Article 168, it shall be classified into the relevant tier by the insurer or reinsurer, in compliance with the requirements of the ordinance under Article 168. The classification under sentence 2 shall be subject to approval by the Commission, at the proposal of the Deputy Chairperson.

Delegation

Article 168. The other qualitative and quantitative requirements for the determination of own funds, their classification and their eligibility shall be determined by an instrument of the European Commission and by an ordinance of the Commission.

Chapter XIII
SOLVENCY CAPITAL REQUIREMENT
Section I
General rules

Solvency Capital Requirement

Article 169. The Solvency Capital Requirement shall be calculated in accordance with the standard formula or using a full or partial internal model.

General principles for calculation of the Solvency Capital Requirement

Article 170. (1) The Solvency Capital Requirement shall be calculated on the presumption that the insurer, respectively reinsurer, will pursue its business as a going concern.

(2) The Solvency Capital Requirement shall be calibrated so as to ensure that all quantifiable risks to which an insurer, respectively reinsurer, is exposed are taken into account. It shall cover existing business, as well as the new business expected to be written over the following 12 months. With respect to existing business, it shall cover only unexpected losses.

(3) The Solvency Capital Requirement shall correspond to the Value-at-Risk of the basic own funds of an insurer, respectively reinsurer, subject to a confidence level of 99.5 % over a one-year period.

(4) The Solvency Capital Requirement shall cover at least the following risks:

1. non-life underwriting risk;

2. life underwriting risk;

3. health underwriting risk;

4. market risk;

5. credit risk;

6. operational risk.

(5) The operational risk under Paragraph 4, item 6 shall include legal risks, and exclude risks arising from strategic decisions, as well as reputation risks.

(6) When calculating the Solvency Capital Requirement, an insurer, respectively reinsurer, shall take account of the effect of risk-mitigation techniques, provided that credit risk and other risks arising from the use of such techniques are properly reflected in the Solvency Capital Requirement.

Frequency of calculation

Article 171. (1) The insurer, respectively reinsurer, shall calculate the Solvency Capital Requirement at least once a year and report the result of that calculation to the Commission.

(2) The insurer, respectively reinsurer, shall hold eligible own funds which cover the last reported Solvency Capital Requirement

(3) The insurer, respectively reinsurer, shall monitor the amount of eligible own funds and the Solvency Capital Requirement on an ongoing basis.

(4) If the risk profile of an insurer, respectively reinsurer, deviates significantly from the assumptions underlying the last reported Solvency Capital Requirement, the insurer, respectively reinsurer, concerned shall recalculate the Solvency Capital Requirement without delay and report it to the Commission.

(5) Where there is evidence to suggest that the risk profile of the insurer, respectively reinsurer, has altered significantly since the date on which the Solvency Capital Requirement was last reported, the Deputy Chairperson may order the insurer, respectively reinsurer, to recalculate the Solvency Capital Requirement.

Section II
Calculation of the Solvency Capital Requirement on the basis of the standard formula

Standard formula

Article 172. (1) An insurer, respectively reinsurer, not authorised to apply a full or partial internal model shall calculate the Solvency Capital Requirement using the standard formula.

(2) The standard formula and procedure to use it to calculate the Solvency Capital Requirement shall be determined by an instrument of the European Commission and by an ordinance of the Commission.

Replacement of a subset of the parameters used in the standard formula by parameters specific to the insurer, respectively reinsurer

Article 173. (1) After prior approval by the Commission, at the proposal of the Deputy Chairperson, the insurer, respectively reinsurer may, within the design of the standard formula, replace a subset of its parameters by parameters specific to it when calculating the life, non-life or health underwriting risk modules.

(2) Such parameters shall be calibrated on the basis of the internal data of the insurer or reinsurer concerned, or of data which is directly relevant for its operations using standardised methods.

(3) As part of the approval-granting procedure, at the proposal of the Deputy Chairperson, the Commission shall verify the completeness, accuracy and appropriateness of the data used.

Significant deviations from the assumptions underlying the standard formula calculation

Article 174. Where it is inappropriate to calculate the Solvency Capital Requirement in accordance with the standard formula, because the risk profile of the insurer or reinsurer concerned deviates significantly from the assumptions underlying the standard formula calculation, at the proposal of the Deputy Chairperson, the Commission may, in compliance with 173, by means of a decision stating the reasons, require the insurer or reinsurer concerned to replace a subset of the parameters used in the standard formula calculation by parameters specific to it when calculating the life, non-life and health underwriting risk modules. Those specific parameters shall be calculated in such a way as to ensure compliance with Article 170, Paragraphs 2 and 3.

Section III
Solvency Capital Requirement using the internal models

Full and partial internal models

Article 175. (1) An insurer, respectively reinsurer, may calculate the Solvency Capital Requirement using a full or partial internal model after approval by the Commission at the proposal of the Deputy Chairperson.

(2) A partial internal model may be used for calculation of one or more of the following items:

1. one or more risk modules, or sub-modules, of the Basic Solvency Capital Requirement;

2. the capital requirement for operational risk;

3. the adjustment for the loss-absorbing capacity of technical provisions and deferred tax liabilities.

(3) A partial internal model may be applied to the whole business of the insurer, respectively reinsurer, or only to one or more major business units.

Internal module use test

Article 176. (1) The internal model shall be widely used and play an important role in the system of governance of the insurer, respectively reinsurer, and in particular:

1. in its risk-management system and decision-making processes;

2. in economic and solvency capital assessment and allocation processes, including in the assessment of its equity and solvency.

(2) The frequency of calculation of the Solvency Capital Requirement using the internal model shall be consistent with the frequency with which an insurer, respectively reinsurer, uses its internal model.

(3) The management and controlling body of the insurer, respectively reinsurer, shall ensure that the design and operations of the internal model are appropriate and that the internal model continues to appropriately reflect the risk profile of the insurer or reinsurer concerned.

Statistical quality standards

Article 177. (1) The internal model and the probability distribution forecast underlying it shall comply with the criteria set out in Paragraphs 2 to 9.

(2) The methods used to calculate the probability distribution forecast shall be based on adequate, applicable and relevant actuarial and statistical techniques and shall be consistent with the methods used to calculate technical provisions. The methods used to calculate the probability distribution forecast shall be based upon current and credible information and realistic assumptions. The insurer, respectively reinsurer, shall be able to justify the assumptions underlying its internal model to the Deputy Chairperson.

(3) The data used for the internal model shall be accurate, complete and appropriate. The insurer, respectively reinsurer, shall update the data sets used in the calculation of the probability distribution forecast at least annually.

(4) A particular method for the calculation of the probability distribution forecast shall be selected by the insurer, respectively reinsurer. Regardless of the calculation method chosen, the ability of the internal model to rank risk shall be sufficient to ensure that it is widely used in and plays an important role in the system of governance of the insurer or reinsurer, as well as compliance with the other requirements under Article 176, Paragraph 1. The internal model shall cover all of the material risks to which the insurer, respectively reinsurer, is exposed, covering at least the risks under Article 170, Paragraph 4.

(5) As regards diversification effects, the insurer, respectively reinsurer, may take account in its internal model of dependencies within and across risk categories, provided that the Commission is satisfied that the system used for measuring those diversification effects is adequate.

(6) The insurer, respectively reinsurer, may take full account of the effect of risk-mitigation techniques in its internal model, as long as credit risk and other risks arising from the use of such techniques are properly reflected in the internal model.

(7) The insurer, respectively reinsurer, shall accurately assess the particular risks associated with financial guarantees and any contractual options in its internal model, where material. It shall also assess the risks associated with both options of insured persons and contractual options for the insurer, respectively reinsurer. For that purpose, it shall take account of the impact that future changes in financial and non-financial conditions may have on the exercise of those options.

(8) In its internal model, an insurer, respectively reinsurer, may take account of future management actions that they would reasonably expect to carry out in specific circumstances. In those cases, the time necessary to implement such actions shall also be taken into account.

(9) In its internal model the insurer, respectively reinsurer, shall take account of all payments to insured persons and beneficiaries which it expects to make, whether or not those payments are contractually guaranteed.

Calibration standards

Article 178. (1) For internal modelling purposes the insurer, respectively reinsurer, may use a different time period or risk measure than those set out in Article 170, Paragraph 3, as long as the outputs of the internal model can be used to calculate the Solvency Capital Requirement in a manner that provides the insured and the beneficiaries with a level of protection equivalent to that set out in Article 170.

(2) Where practicable, the insurer, respectively reinsurer, shall derive the Solvency Capital Requirement directly from the probability distribution forecast generated by its internal model, using the Value-at-Risk measure set out in Article 170, Paragraph 3.

(3) Where the insurer, respectively reinsurer, cannot derive the Solvency Capital Requirement directly from the probability distribution forecast generated by the internal model, the Deputy Chairperson may allow approximations to be used in the process to calculate the Solvency Capital Requirement, as long as the relevant person can demonstrate that the insured are provided with a level of protection equivalent to that provided for in Article 170.

(4) The Deputy Chairperson may require the insurer, respectively reinsurer, to run its model on relevant benchmark portfolios and using assumptions based on external rather than internal data in order to verify the calibration of the internal model and to check that its specifications are in line with the generally accepted market practice.

Review of the sources of profits and losses

Article 179. The insurer, respectively reinsurer, shall review, at least annually, the causes and sources of profits and losses for each major business unit and demonstrate how the categorisation of risk chosen in the internal model explains the causes and sources of profits and losses. The categorisation of risk and the review the sources and the losses shall reflect the risk profile of the insurer, respectively reinsurer.

Validation standards

Article 180. (1) The insurer, respectively reinsurer, shall have a regular cycle of model validation which includes monitoring the performance of the internal model, reviewing the ongoing appropriateness of its specification and testing its results against experience.

(2) The model validation process shall include an effective statistical process for validating the internal model which enables the insurer, respectively reinsurer, to demonstrate to the Deputy Chairperson that the resulting capital requirements are appropriate.

(3) The statistical methods applied shall test the appropriateness of the probability distribution forecast compared not only to loss experience but also to all material new data and information relating thereto.

(4) The model validation process shall include an analysis of the stability of the internal model and in particular the testing of the sensitivity of the results of the internal model to changes in key underlying assumptions. It shall also include an assessment of the accuracy, completeness and appropriateness of the data used by the internal model.

Documentation standards

Article 181. (1) The insurer, respectively reinsurer, shall document the design and operational details of the internal model.

(2) The documentation shall:

1. demonstrate compliance with the requirements of Articles 176 to 180;

2. provide a detailed outline of the theory, assumptions, and mathematical and empirical bases underlying the internal model;

3. indicate the circumstances under which the internal model does not work effectively.

(3) The insurer, respectively reinsurer, shall document all major changes to its internal model in accordance with Article 186.

External models and data

Article 182. The use by the insurer, respectively reinsurer, of models and data obtained from third parties shall not constitute a justification for exemption from any of the requirements set out in Articles 176 to 181.

Application of the instruments of the European Commission

Article 183. Any additional requirements to the internal models shall be governed by an instrument of the European Commission, as well as by an ordinance of the Commission.

General provisions for the approval of full and partial internal models

Article 184. (1) The insurer, respectively reinsurer, shall submit an application to the Deputy Chairperson for the approval of an internal model. The application shall contain, as a minimum, documentary evidence that the model fulfils the requirements set out in Articles 176 to 181. Where the application by an insurer, respectively reinsurer, relates to the approval of a partial internal model, the requirements set out in Articles 176 to 181 shall be adapted to take account of the limited scope of the application of the model. The Deputy Chairperson may require all necessary evidence and Article 7 of the Act Restricting Administrative Regulation and Administrative Control over Economic Activity shall not apply.

(2) At the proposal of the Deputy Chairperson, the Commission shall deal with the application within 6 months of receipt of the application under Paragraph 1, accompanied by all necessary evidence.

(3) The Commission shall give approval to the internal model only if it is satisfied that the systems of the insurer, respectively reinsurer, for identifying, measuring, monitoring, managing and reporting risk are adequate and that the internal model fulfils the requirements of Paragraph 1.

(4) The decision to reject the application under Paragraph 1 shall state the respective reasons.

(5) The Deputy Chairperson may, by means of a decision stating the reasons, require an insurer, respectively reinsurer, that has received approval to use an internal model to provide an estimate of the Solvency Capital Requirement in accordance with the standard formula.

Specific provisions for the approval of a partial internal model

Article 185. (1) At the proposal of the Deputy Chairperson, the Commission shall give approval to a partial internal model if the requirements of Article 184 and the following additional conditions are fulfilled:

1. the reason for the limited scope of application of the model is properly justified by the insurer, respectively reinsurer;

2. the resulting Solvency Capital Requirement reflects more appropriately the risk profile of the insurer, respectively reinsurer, and complies with the principles set out in Section 1;

3. the design of the partial internal model is consistent with the principles set out in Section 1 so as to allow the partial internal model to be fully integrated into the Solvency Capital Requirement standard formula.

(2) In the process of review of an application for the use of a partial internal model which only covers certain sub-modules of a specific risk module, or some of the business units of the insurer, respectively reinsurer, with respect to a specific risk module, or parts of both, the Deputy Chairperson may require the applicant to submit a realistic transitional plan to extend the scope of the model. The transitional plan shall set out the manner in which insurer, respectively reinsurer, plans to extend the scope of the model to other sub-modules or business units, in order to ensure that the model covers a predominant part of its operations with respect to that specific risk module.

Policy for changing a full or partial internal model

Article 186. (1) As part of the initial approval process of an internal model, at the proposal of the Deputy Chairperson the Commission shall approve the policy for changing the model of the insurer, respectively reinsurer. The insurer, respectively reinsurer, may change its internal model only in accordance with that policy.

(2) The policy under Paragraph 1 defines the major and minor changes to the internal model.

(3) The major changes to the internal model, as well as policy changes under Paragraph 1, shall be subject to prior approval by the Commission, at the proposal of the Deputy Chairperson.

(4) Minor changes to the internal model shall not be subject to prior approval when they are developed in accordance with the policy under Paragraph 1.

Responsibility of the management bodies

Article 187. (1) The management body of the insurer, respectively reinsurer, shall approve the application for approval of an internal model, as well as the application for approval of any subsequent major changes thereto.

(2) The management body of the insurer, respectively reinsurer, shall have responsibility for putting in place systems which ensure that the internal model operates properly on a continuous basis.

Reversion to the standard formula

Article 188. After having received approval for use of a full or partial internal model, the insurer, respectively reinsurer, shall not revert to calculating the Solvency Capital Requirement in accordance with the standard formula, except in duly justified circumstances and subject to the approval of the Commission, at the proposal of the Deputy Chairperson.

Non-compliance of the internal model

Article 189. (1) If, having received approval for use of a full or partial internal model, the insurer, respectively reinsurer, ceases to comply with the requirements set out in Articles 176 to 181, it shall, without delay, either present to the Commission a plan to restore compliance with the model within a reasonable period or demonstrate that the effect of non-compliance is immaterial.

(2) In the event that the insurer, respectively reinsurer, fails to implement the plan under Paragraph 1, the Commission, at the proposal of the Deputy Chairperson, may require it to revert to calculating the Solvency Capital Requirement in accordance with the standard formula.

Significant deviations from the assumptions underlying the standard formula calculation

Article 190. Where it is inappropriate to calculate the Solvency Capital Requirement in accordance with the standard formula because the risk profile of the insurer or reinsurer concerned deviates significantly from the assumptions underlying the standard formula calculation, the Commission, at the proposal of the Deputy Chairperson, may, by means of a decision stating the reasons, require the person concerned to use an internal model to calculate the Solvency Capital Requirement or individual risk modules thereof.

Chapter XIV
MINIMUM CAPITAL REQUIREMENT

Definition

Article 191. The Minimum Capital Requirement is the floor to which the eligible basic own funds of the insurer or reinsurer shall correspond.

Calculation of the Minimum Capital Requirement

Article 192. (1) The Minimum Capital Requirement shall be calculated in accordance with the following principles:

1. to be calculated in a clear and simple manner ensuring that it can be audited;

2. to correspond to an amount of eligible basic own funds below which the insured and the beneficiaries would be exposed to an unacceptable level of risk if the insurer, respectively reinsurer, continues to operate;

3. the linear function referred to in Paragraph 3 used to calculate the Minimum Capital Requirement shall be calibrated to the Value-at-Risk of the basic own funds of the insurer or reinsurer subject to a confidence level of 85 % over a one-year period;

(2) The Minimum Capital Requirement shall not be less than the following floors:

1. BGN 5 million – for insurers, including captive insurers, with an insurance authorisation covering one or more of the classes of insurance under points 1 to 9 and points 16 to 18, Section II, letter "A" of Annex No 1, except in the cases under point 2, letter "b" where the floor set out therein shall apply;

2. BGN 7,4 million – for insurers with an insurance authorisation which covers one or more of the classes of insurance under:

a) Section I of Annex No 1;

b) points 10 – 15, Section II, letter "A" of Annex No 1;

3. BGN 7,2 million – for reinsurers;

4. BGN 2,4 million – for captive reinsurers;

5. the sum of the amounts under points 1 and 2 for insurers that operate simultaneously under Section I of Annex No 1 and under point 1 and/or 2, Section II, letter "A" of Annex No 1.

(3) Subject to Paragraph 4, the Minimum Capital Requirement shall be calculated as a linear function of a set or sub-set of the following variables: the technical provisions, written premiums, capital-at-risk, deferred tax and administrative expenses of the insurer, respectively reinsurer. The variables used shall be measured net of reinsurance.

(4) Notwithstanding Paragraph 2, the Minimum Capital Requirement shall not be less than 25 % and shall not exceed 45 % of the Solvency Capital Requirement calculated in accordance with the standard formula or using an internal model and including all capital add-ons imposed under Article 584.

(5) The insurer, respectively reinsurer, shall calculate the Minimum Capital Requirement at least quarterly and report the result of that calculation to the Commission. The insurers, respectively reinsurers, shall not be required to calculate the Solvency Capital Requirement on a quarterly basis in case of the limits under Paragraph 4.

(6) Where the Minimum Capital Requirement of an insurer or reinsurer is determined by any of the limits referred to in Paragraph 4, it shall provide to the Commission an explanation thereof.

(7) The methods for calculating the Minimum Capital Requirement shall be determined by an instrument of the European Commission.

Chapter XV
SUBMISSION OF INFORMATION TO THE SUPERVISORY AUTHORITY

Exemptions related to periodic submissions of information

Article 193. (1) The Deputy Chairperson may exempt an insurer or reinsurer from submitting the information under Article 127, Paragraph 2, point 1 when the submission period is shorter than one year, provided that:

1. the submission of that information would be overly burdensome administratively in relation to the nature, scale and complexity of the risks inherent in its business;

2. the information is submitted at least annually.

(2) Paragraph 1 shall not apply to the quarterly reporting of the result of the calculation of the Minimum Capital Requirement under Article 192, Paragraph 5, sentence 1.

(3) Paragraph 1 shall not apply to insurers or reinsurers that are part of a group within the meaning of Article 233, Paragraphs 1 or 2, unless they demonstrate to the satisfaction of the Deputy Chairperson that regular supervisory reporting with a frequency shorter than one year is inappropriate, given the nature, scale and complexity of the risks inherent in the business of the group.

(4) The exemption under Paragraph 1 shall be granted to insurers, respectively reinsurers, that do not represent more than 20 % of the life and non-life insurance or reinsurance market respectively, where the non-life market share is based on gross written premiums and the life market share is based on gross technical provisions.

(5) The smallest insurers, respectively reinsurers, shall take precedence with regard to the granting of the exemption under Paragraph 1.

Exemptions related to the submission of detailed information

Article 194. (1) The Deputy Chairperson may exempt an insurer or reinsurer from submitting detailed information (on an item-by-item basis) provided that:

1. the submission of the information would be overly burdensome administratively in relation to the nature, scale and complexity of the risks inherent in its business;

2. the submission of the information is not necessary for the effective supervision of the insurer or reinsurer;

3. the exemption does not undermine the stability of the financial systems concerned in the European Union;

4. The insurer, respectively reinsurer, can provide that information at any time upon request.

(2) Paragraph 1 shall not apply to an insurer or reinsurer that is part of a group within the meaning of Article 233, Paragraphs 1 or 2, unless it can demonstrate to the satisfaction of the Deputy Chairperson that the submission of detailed information (on an item-by-item basis) is inappropriate, given the nature, scale and complexity of the risks inherent in the business of the group and if the financial stability is not jeopardised.

(3) Article 193, Paragraph 4 and 5 shall apply to the exemption under paragraph 1.

Criteria for granting exemptions from submission of information

Article 195. (1) For the application of Articles 193 and 194 and as part of the supervisory review process, the Deputy Chairperson shall assess whether the submission of information would be overly burdensome administratively in relation to the nature, scale and complexity of the risks of the insurer or reinsurer, taking into account, at least:

1. the volume of its premiums, the technical provisions and assets;

2. the volatility of the claims and benefits;

3. the market risks that the investments give rise to;

4. the level of risk concentrations;

5. the total number of classes of life and non-life insurance for which authorisation is granted;

6. possible effects of the management of the assets on the financial stability;

7. the systems and structures of the insurer, respectively reinsurer, to provide information for supervisory purposes and the policy on the provision of information under Article 127, Paragraph 7;

8. the appropriateness of its system of governance;

9. the level of own funds covering the Solvency Capital Requirement and the Minimum Capital Requirement;

10. whether the person is a captive insurer or reinsurer only covering risks associated with the industrial or commercial group to which it belongs.

(2) In determining the market share under Article 193, Paragraph 4 and Article 194, Paragraph 3 in conjunction with Article 193, Paragraph 4, the Deputy Chairperson shall apply those guidelines adopted by the European Authority.

Chapter XVI
INVESTMENTS

Freedom of investment

Article 196. (1) The insurer, respectively reinsurer, shall not be obliged to invest in particular categories of assets.

(2) The investment decisions of an insurer, respectively reinsurer, or the persons managing its investment activity shall not be subject to prior approval or notification.

(3) The Commission may, by an ordinance, limit the assets or reference values to which insurance policies linked to investment funds may be related.

Localisation of assets and prohibition of pledging of assets

Article 197. (1) Assets held to cover the technical provisions with respect to risks situated in the European Union may be localised in any Member State, as well as in a third country.

(2) Paragraph 1 shall also apply to assets held to cover provisions for receivables from a reinsurer with head office in the Republic of Bulgaria, in another Member State or in a third country whose solvency regime is deemed to be equivalent.

(3) The Commission may not require pledging of assets to cover unearned premiums or outstanding claims provisions where the reinsurer is an insurer or reinsurer authorised in the Republic of Bulgaria or in another Member State.

TITLE IV
REQUIREMENTS TO THE FINANCIAL CONDITION OF INSURERS WITHOUT RIGHT OF ACCESS TO THE SINGLE MARKET
Chapter XVII
REQUIREMENTS TO TECHNICAL PROVISIONS AND ASSETS COVERING THEM

Additional rules for establishment of technical provisions

Article 198. (1) The technical provisions of an insurer without the right of access to the single market shall be calculated for each class of insurance under which it operates, without deducting the part of reinsurers, respectively retrocessionaires.

(2) Where the obligations under an insurance or reinsurance contract are denominated in a foreign currency or the contract contains a foreign currency indexation clause, the technical provisions shall be established in the same currency.

(3) Where the obligations under Paragraph 1 are not denominated in a particular currency, the technical provisions shall be established in BGN. In this case, the insurer may establish the provisions in the currency in which the premium is agreed if it can be reasonably concluded that the benefit will be paid in that currency.

(4) Where a payment is claimed in a currency other than the currency specified under Paragraph 1 or 2, the provision for outstanding claims shall be established in the currency of the claim.

(5) Where the amount of the claim is determined in a currency other than that specified under Paragraphs 1 to 3 and this is known to the insurer, it may establish the provision for outstanding claims in that currency.

General rules for coverage of technical provisions

Article 199. (1) An insurer without a right of access to the single market shall be required at all times to cover the gross amount of the technical provisions by corresponding assets under the provisions of this chapter.

(2) At the proposal of the Deputy Chairperson, the Commission may prohibit the free disposal of assets of an insurer under Paragraph 1 that does not fulfil the obligation under Paragraph 1 or under Article 200, Paragraph 3.

Types of assets to cover technical provisions

Article 200. (1) Only following assets may be used to cover technical provisions:

1. securities admitted to trading on a regulated securities market or multilateral trading facility in the Republic of Bulgaria or in another Member State, as well as shares, qualifying bonds and other qualifying debt instruments admitted to trading on internationally recognised and liquid regulated securities markets or multilateral trading facilities in a third country;

2. securities issued or guaranteed by the Republic of Bulgaria or by another Member State and qualifying debt instruments issued or guaranteed by third countries, their central banks or international organisations in which the Republic of Bulgaria or another Member State is a member, as well as negotiable debt instruments not issued as bonds underwritten by the Republic of Bulgaria or another Member State;

3. shares issued by collective investment schemes and shares of national investment funds under the Act on the Activities of Collective Investment Schemes and of other collective investment undertakings, and shares of collective investment schemes with a head office in another Member State;

4. right of ownership of land and buildings;

5. receivables from reinsurers, including the reinsurers' share in technical provisions, and from special purpose vehicles;

6. deposits and receivables from cedents;

7. receivables from insured persons and intermediaries arising from insurance and reinsurance contracts;

8. loans receivable against life insurance;

9. cash on hand and in current accounts or deposits in banks authorised to carry out banking operations in the Republic of Bulgaria or in another Member State;

10. deferred acquisition costs;

11. indisputably established receivables in relation to the refunding of tax liability.

(2) Qualifying debt securities within the meaning of Paragraph 1 are investment-grade debt securities graded by an internationally recognised rating agency.

(3) All assets shall be valued in accordance with the precautionary principle, taking account of the risk of non-redemption. The value of receivables recognised as cover for technical provisions shall be calculated in accordance with the precautionary principle, taking account of the risk of non-fulfilment.

(4) Derivative securities, including options, futures and swaps, related to assets to cover technical provisions shall be recognised as cover for technical provisions only if they contribute

to investment risk mitigation or facilitate efficient portfolio management. They shall be valued in accordance with the precautionary principle and may be taken into account in the valuation of underlying assets.

(5) Receivables from third parties shall be recognised as cover for technical provisions after deducting all reciprocal obligations to the third parties.

(6) The following shall not be recognised as cover for technical provisions:

1. property rights encumbered by pledges, mortgages or other encumbrances;

2. investments in subsidiaries;

3. receivables outstanding for more than three months after maturity.

(7) In exceptional circumstances and by means of a preliminary application stating the reasons by the insurer, the Commission may temporarily allow the use of other types of assets to cover technical provisions if the requirements of Article 124 are fulfilled.

General rules for diversification

Article 201. (1) An insurer without a right of access to the single market shall invest the gross amount of the established technical provisions in assets under Article 200, subject to the following limitations:

1. up to 20 % in real estate, but not more than 10 % in a single property or group of properties which can be considered as a single investment by virtue of their location;

2. up to 80 % in securities under Article 200, Paragraph 1 points 1 and 3, but not more than 30 % in assets other than qualifying bonds and other qualifying debt securities;

3. in assets under Article 200, Paragraph 1, point 2, without limitations;

4. up to 5 % in securities issued by a single issuer, with the limitation not applying to assets under Article 200, Paragraph 1, point 2;

5. up to 50 % in bank deposits, but not more than 25 % of the gross amount in a single bank;

6. up to three percent in cash on hand and in current accounts.

(2) The maximum amount of investments in real estate under Paragraph 1, point 1 may not exceed 30 % of the difference between the gross amount of the established technical provisions and receivables from reinsurers, converted in accordance with Article 202, Paragraphs 1 and 2.

(3) The maximum amount under Paragraph 1, point 4 may be 10 %, in the event that the insurer invests not more than 40 % of the gross amount of the technical provisions in securities of issuers to each of which it has an exposure of more than 5 % of its assets. The maximum amount under Paragraph 1 point 4 may be 20 %, in the event that the insurer invests the technical provisions in debt securities issued by a credit institution with a head office in a Member State and subject to special supervision in order to protect the holders of such securities. In particular, contributions received against the issuance of securities under sentence 2 shall be invested in accordance with the provisions of the law in assets that during the entire lifetime of the securities can cover receivables under those securities and that will be used preferentially, in the event of insolvency of the issuer, to satisfy receivables related to the principal and the accrued interest. Investments in shares of national investment funds shall not exceed 15 % of the gross amount of

the technical provisions, subject to the application of Paragraph 1, point 4 and the fulfilment of the requirements under Article 124.

(4) Assets under Paragraph 1 shall not be pledged, mortgaged and otherwise encumbered.

(5) Assets covering technical provisions shall be diversified and apportioned in such a manner that no single asset category, investment market or individual investment has a significant share.

(6) Investments in high-risk categories of asset due to their nature or the characteristics of the issuer and the share of assets with lower market liquidity covering technical provisions shall be limited to reasonable levels.

Investments in receivables

Article 202. (1) Receivables from a reinsurer, including the share of the reinsurer in the technical provisions, may be recognised as cover for technical provisions after deducting withheld deposits and liabilities to the respective reinsurer.

(2) Receivables, respectively a portion thereof under Paragraph 1, shall be recognised as cover for technical provisions up to:

1. the value converted under Paragraph 1, without limitation, if the reinsurer has been assigned an investment credit rating by at least one of the rating agencies specified by a decision of the Commission;

2. 50 % of the value converted under Paragraph 1, if the reinsurer has been assigned a non-investment grade credit rating by at least one of the rating agencies under point 1;

3. 20 % of the value converted under Paragraph 1, if the reinsurer has not been assigned a credit rating by any of the rating agencies under point 1.

(3) Insurers shall disclose to the Deputy Chairperson reinsurers with which they have entered into reinsurance contracts and shall provide information about their credit rating within 7 days of conclusion of the contract. The Deputy Chairperson may determine amounts as technical provision coverage other than those specified under Paragraph 2 for recognition of an amount recoverable from a particular reinsurer or recognition of the share of a particular reinsurer in the technical provisions, if there are circumstances enabling the formation of a different objective conclusion regarding the stability of the reinsurer. The Deputy Chairperson cannot prohibit the conclusion of a reinsurance contract with a reinsurer authorised under this Code or a reinsurer from a Member State.

(4) Deposits in cedents and receivables from cedents shall be recognised as cover for technical provisions to the amount of the established technical provisions in connection with reinsurance contracts concluded with the relevant cedent.

(5) Receivables from insured persons arising from insurance contracts shall be recognised as cover for technical provisions up to the amount of the difference between the gross amount of the established provision for unearned premiums, mathematical provision or capitalised value of pensions and the share of the reinsurer therein, converted as set out in Paragraphs 1 and 2. Receivables from insurance intermediaries arising from insurance contracts shall be recognised as cover for technical provisions up to 20 % of the difference between the gross amount of the established provision for unearned premiums, mathematical provision or capitalised value of pensions and the share of the reinsurer therein, converted as set out in Paragraphs 1 and 2.

(6) Receivables from loans provided under life insurance policies shall be recognised as cover for technical provisions up to the amount of the surrender value of the respective policies under which the loans are provided.

(7) Paragraphs 1 to 3 shall also apply to receivables from reinsurance contracts, respectively to the share of the technical provisions of insurers that pursue the business of inward reinsurance.

Receivables from special purpose vehicles

Article 203. (1) Receivables from a special purpose vehicle may be recognised as cover for technical provisions after deducting the liabilities to the respective special purpose vehicle and provided that it is authorised in the Republic of Bulgaria or in another Member State and fulfils the requirements of Directive 2009/138/EC.

(2) Receivables shall be recognised as cover for technical provisions up to:

1. 80 % of the converted value under Paragraph 1, if the vehicle has been assigned an investment credit rating by at least one of the rating agencies under Article 202, Paragraph 2, point 1;

2. 40 % of the value converted under Paragraph 1, if the vehicle has been assigned a non-investment grade credit rating by at least one of the rating agencies under Article 202, Paragraph 2, point 1;

3. two percent of the value converted under Paragraph 1, if the scheme has not been assigned a credit rating by any of the rating agencies under Article 202, Paragraph 2, point 1.

(3) Insurers shall disclose to the Deputy Chairperson special purpose vehicles with which they have entered into contracts and information about their credit rating within 7 days of conclusion of the contract. The Deputy Chairperson may determine amounts as technical provision coverage other than those specified under Paragraph 2 for recognition of an amount recoverable from a particular special purpose vehicle if there are circumstances enabling the formation of a different objective conclusion regarding the stability of the vehicle. The Deputy Chairperson may also allow technical provisions to be covered with Receivables from a special purpose vehicle authorised in a third country when it fulfils requirements similar to the requirements under Paragraph 1 and when an objective conclusion regarding its stability and solvency can be drawn.

Deferred acquisition costs

Article 204. Deferred acquisition costs reduced by the related reinsurance commissions deferred for a further period shall be recognised as cover for the gross amount of technical provisions.

Rules for territorial distribution

Article 205. (1) Technical provisions shall be covered by assets situated in the territory of the Republic of Bulgaria or in the territory of a Member State. With a permission by the Deputy Chairperson granted on a case-by-case basis, the technical provisions may also be covered by assets situated in the territory of a third country.

(2) The requirement for territorial distribution of the assets under Paragraph 1 shall not apply to the cases where the technical provisions are covered by investments in receivables from reinsurers in the ratio specified in Article 202.

(3) The location of the assets shall be:

1. for rights of ownership of real estate – the location of the real estate;

2. for securities:

a) the head office of the issuer;

b) the head office of the bank – if the securities are guaranteed by a bank;

c) the head office of the depositary – if the securities are dematerialised;

3. for deposits – the place where the deposit contract is concluded;

4. for other receivables – the head office of the debtor;

5. for shares in investment funds – the location of the majority of the assets contained in the fund, determined in compliance with the terms of points 1 to 4.

Currency matching rules

Article 206. (1) Where the coverage under an insurance contract is denominated in a given currency, the liabilities of the insurer shall be reported as payable in the same currency. Assets covering technical provisions shall be in the same currency as the liabilities arising from contracts under which technical provisions are established.

(2) The insurer may choose not to apply Paragraph 1 for coverage of the technical provisions, including the mathematical provisions, by assets, if the application of this principle would result in asset holdings in that currency amounting to not more than 7 % of the assets in other currencies.

(3) Paragraph 1 shall not apply to the coverage of technical provisions in currencies other than BGN or the currency of one of the Member States if investments in that currency are regulated, it is subject to transfer restrictions or is not suitable for coverage of technical provisions for any other similar reason.

(4) Up to 20 % of the total amount of the technical provisions can be covered by assets in a currency other than that in which they are established, provided that the total amount of assets to cover the technical provisions in all currencies is at least equal to the total amount of the liabilities in all currencies.

(5) Where technical provisions are established in BGN, EUR or another currency of a Member State, the assets covering them may be in EUR.

Special rules for coverage of provisions for life insurance linked to investment funds

Article 207. (1) Articles 201, 202 and 206 shall not apply to assets to cover provisions for life insurance linked to investment funds; Article 124 shall apply.

(2) When under a life insurance linked to an investment fund a portion of the insurer's liabilities are guaranteed, the technical provisions representing their value shall be covered by assets in accordance with the general rules.

Chapter XVIII
OWN FUNDS. SOLVENCY MARGIN. CAPITAL GUARANTEE

Own funds

Article 208. (1) The own funds of an insurer without a right of access to the single market, reduced by the intangible items, shall be equal at all times at least to the solvency margin or the floor of the capital guarantee, when it is higher than the solvency margin.

(2) The own funds of the person under Paragraph 1 shall comprise of its assets free of any foreseeable liabilities. The items to be included in the calculation of the amount of the own funds shall be determined by an ordinance of the Commission.

(3) An insurer without a right of access to the single market that is a mutual association shall maintain own funds in the amount of the solvency margin and the minimum capital guarantee under Article 210, when it is higher than the solvency margin.

Solvency margin

Article 209. (1) The solvency margin shall be the floor to which are equal the own funds of an insurer without a right of access to the single market, reduced by the intangible items necessary to ensure the performance of the contractual obligations of the person in the long term in accordance with the total volume of its business.

(2) An insurer without a right of access to the single market shall maintain own funds as necessary to ensure the fulfilment of its contractual obligations in the long term in accordance with the total volume of its business.

(3) The solvency margin and the methods by which it is calculated shall be determined by the ordinance under Article 208, Paragraph 2.

Capital guarantee

Article 210. The capital guarantee shall constitute one-third of the solvency margin but shall not be less than:

1. BGN 4.6 million – for insurers with an insurance authorisation covering classes of insurance under points 1 to 9 and 16 to 18, Section II, letter "A" of Annex No 1;

2. BGN 7 million – for insurers with an insurance authorisation covering classes of insurance under Section I of Annex No 1;

3. the sum of the amounts under points 1 and 2 for insurers that operate simultaneously under Section I of Annex No 1 and under point 1 and/or 2, Section II, letter "A" of Annex No 1.

Chapter XIX
ADDITIONAL REQUIREMENTS TO THE SOLVENCY OF INSURERS WHICH ARE PART OF A GROUP

Information on transactions within an insurance group

Article 211. (1) The transactions of insurers without a right of access to the single market which are part of a group with the following persons shall be subject to supervision:

1. a company related to it;

2. a company with shareholdings in it;

3. a company related to a company with shareholdings in it;

4. a natural person with shareholdings in an insurer which is part of an insurance group, or shareholdings in a company related to it;

5. a natural person with shareholdings in a company with shareholdings in an insurer which is part of insurance group;

6. a natural person with shareholdings in a company related to a company with shareholdings in an insurer which is part of an insurance group.

(2) The transactions under Paragraph 1 shall include:

1. loans and other types of borrowing;

2. guarantees and off-balance sheet transactions;

3. transactions with own funds used to cover the solvency margin;

4. investments;

5. reinsurance operations;

6. allocation of costs;

7. others.

(3) The procedures for risk management, internal control and accounting reporting of an insurer which is part of a group shall ensure conditions for monitoring, assessment and control of the transactions under Paragraph 1. The Deputy Chairperson may prescribe amendments and supplements to these procedures when they do not sufficiently guarantee the solvency of an insurer which is part of a group.

(4) An insurer which is part of a group shall submit a report of significant transactions under Paragraph 1 together with the quarterly records.

(5) If based on review of the procedures under Paragraph 3 or on the information submitted under Paragraph 4, at the proposal of the Deputy Chairperson, the Commission considers that there is a solvency threat, the Deputy Chairperson shall apply the following measures:

1. order the drawing up of a plan under Article 215, and/or

2. impose a coercive administrative measure under Article 587.

Adjusted solvency of insurers within a group

Article 212. (1) The adjusted solvency of an insurer which has shareholdings in at least one insurer shall be calculated using methods specified by an ordinance of the Commission.

(2) In calculating the adjusted solvency in accordance with Paragraph 1, the following companies shall be included:

1. companies related to an insurer with shareholdings under Paragraph 1;

2. companies having shareholdings in an insurer with shareholdings under Paragraph 1, and

3. companies related to companies having shareholdings in an insurer with shareholdings under Paragraph 1.

(3) If the adjusted solvency margin calculated in accordance with Paragraph 1 is negative, at the proposal of the Deputy Chairperson, the Commission shall apply the measures under Article 211, Paragraph 5 to an insurer with shareholdings under Paragraph 1.

Supplementary supervision of an insurer whose parent undertaking is an insurance holding company or a mixed-activity financial holding company

Article 213. (1) With regard to insurers whose parent undertakings are insurance holding companies or mixed-activity financial holding companies, a supplementary supervision method determined by an ordinance of the Commission shall be applied.

(2) The activities of all companies which are related to the insurance holding company, respectively the mixed-activity financial holding company, shall be taken into account in the application of the method under Paragraph 1.

(3) If as a result of the applied method under Paragraph 1 the solvency of the insurer is or may be jeopardised, at the proposal of the Deputy Chairperson, the Commission shall impose to the insurer the measures under Article 211, Paragraph 5.

TITLE V
REORGANISATION MEASURES
Chapter XX
FINANCIAL CONDITION REHABILITATION MEASURES

Identification and notification of deteriorating financial conditions

Article 214. (1) The insurer, respectively reinsurer, shall adopt and implement procedures to identify deteriorating financial conditions and immediately notify the Commission of such deterioration.

(2) The insurer shall inform the Commission in the event that it establishes that:

1. it has no sufficient eligible own funds to cover the solvency margin, the Solvency Capital Requirement respectively (non-compliance with the Solvency Capital Requirement) – not later than three business days after establishment;

2. it has no sufficient eligible basic own funds to cover the capital guarantee, respectively the Minimum Capital Requirement (non-compliance with the Minimum Capital Requirement) – not later than three business days after establishment;

3. there is a risk of non-compliance under points 1 or 2 in the following three months – not later than 5 business days after establishment.

Plan to restore solvency and short-term plan

Article 215. (1) Within two months of the establishment of non-compliance with the Solvency Capital Requirement, respectively the solvency margin, the insurer, respectively reinsurer, shall prepare and submit for approval by the Commission, at the proposal of the Deputy Chairperson, a realistic plan to achieve solvency, which ensures within a term not longer than 6 months from the date of establishment of the non-compliance:

1. re-establishment of the eligible own funds at the level ensuring the coverage of the Solvency Capital Requirement, respectively the solvency margin, and/or

2. reduction of its risk profile to ensure compliance of the available eligible own funds with the Solvency Capital Requirement.

(2) Within one month of the establishment of non-compliance with the Minimum Capital Requirement, respectively the capital guarantee, the insurer, respectively reinsurer, shall prepare

and submit for approval by the Commission, at the proposal of the Deputy Chairperson, a realistic short-term plan that ensures within a term not shorter than three months from the date of establishment of the non-compliance:

1. e-establishment of the eligible basic own funds at the level ensuring the coverage of the Minimum Capital Requirement, respectively the capital guarantee, and/or

2. reduction of its risk profile to ensure compliance of the available eligible own funds with the Minimum Capital Requirement.

(3) Where the circumstances under Paragraph 1 or 2 are established by the Deputy Chairperson, the Deputy Chairperson shall immediately order the insurer or reinsurer to draw up the respective plan and shall set a deadline for its completion which shall not be longer than the terms under Paragraph 1, respectively Paragraph 2.

(4) The plans under Paragraph 1 and 2 shall also incorporate data or evidence of:

1. an estimate of acquisition, administrative and other management costs, including the commissions of insurance or reinsurance intermediaries;

2. an estimate of the income and cost regarding direct insurance, inward reinsurance and outward reinsurance;

3. a forecast balance sheet;

4. an estimate of the financial resources intended to cover technical provisions, the Solvency Capital Requirement, respectively the solvency margin and the Minimum Capital Requirement, respectively the capital guarantee;

5. the overall reinsurance policy;

6. measures to reduce the risk profile, where such are provided for, and the manner in which they affect the capital requirements;

7. other specific measures to achieve compliance with the requirements of the Code;

8. sources of the funds for implementation of the plan;

9. additional requirements determined by an instrument of the European Commission in respect of insurers applying Title III and reinsurers.

(5) At the proposal of the Deputy Chairperson, the Commission shall pass a decision within 30 days of submission of the plan and shall refuse to approve it when the requirements under Paragraphs 1, 2 or 4 are not fulfilled and when the proposed measures are not realistic or do not sufficiently guarantee the solvency of the insurer, the interests of the insured or the fulfilment of the obligations arising out of reinsurance contracts or if other mandatory provisions of the law are not complied with.

Extension of terms for implementation of the plan to restore the solvency

Article 216. (1) At the proposal of the Deputy Chairperson, the Commission may extend the 6-month period under Article 215, Paragraph 1 by not more than three months if it considers it necessary for the purposes of the reorganisation of the insurer, respectively reinsurer, provided that the interests of the insured or the fulfilment of the obligations arising from reinsurance contracts are not endangered.

(2) In case of an extremely adverse situation as established by the European Authority, and if necessary – after consultation with the European Systemic Risk Board, affecting insurers and reinsurers representing a significant share of the market or of the affected types of activities, the Commission may extend, with regard to the persons concerned, the period under Paragraph 1 by not more than 7 years, taking into account all relevant factors, including the average duration of the technical provisions.

(3) An insurer, respectively reinsurer, that benefits from an extension under Paragraph 2, shall submit a progress report to the Commission on a quarterly basis. The report shall be submitted not later than 15 days after the end of the respective quarter and shall set out the measures taken and the progress made to re-establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce the risk profile to ensure compliance with the Solvency Capital Requirement.

(4) The Commission shall withdraw the extension referred to in Paragraph 2 where that progress report shows that there was no significant progress in achieving the re-establishment of the level of eligible own funds covering the Solvency Capital Requirement or the reduction of the risk profile to ensure compliance with the Solvency Capital Requirement between the date of the observation of non-compliance of the Solvency Capital Requirement and the date of the submission of the progress report.

(5) The Commission may request that the European Authority confirm an adverse situation under Paragraph 2 when:

1. insurers or reinsurers representing a significant share of the market or of the affected types of activities are not able to overcome the non-compliance of the Solvency Capital Requirement within the term under Article 215, Paragraph 1, respectively within the term under Paragraph 1;

2. one or more of the following market circumstances has occurred:

(a) a fall in financial markets which is unforeseen, sharp and steep;

(b) a persistent low interest rate environment;

(c) a high-impact catastrophic event;

d) another circumstance specified by an instrument of the European Commission.

(6) After the adverse situation under Paragraph 2 has been established, the Commission shall assist the European Authority to provide an on-going assessment of whether the prerequisites for establishment of the adverse situation continue to exist and shall inform it when they cease to exist.

Failure to comply with capital requirements

Article 217. At the proposal of the Deputy Chairperson, the Commission may prohibit the free disposal of assets of the insurer, respectively reinsurer, when a non-compliance is established with:

1. the Minimum Capital Requirement, respectively the capital guarantee;

2. the Solvency Capital Requirement, respectively the solvency margin, and if the Deputy Chairperson considers that there is a risk that the financial condition of the insurer or reinsurer may deteriorate further.

Additional enforcement measures

Article 218. (1) Where despite the measures under Article 215, the financial condition of the insurer, respectively reinsurer, continues to deteriorate, the Deputy Chairperson and the Commission may impose other coercive administrative measures to safeguard the interests of the beneficiaries of insurance services and to ensure that the obligations under reinsurance contracts are fulfilled.

(2) The measures under Paragraph 1 shall correspond to the severity of the financial difficulties of the insurer, respectively reinsurer, and their duration in time.

TITLE VI
TRANSFER OF PORTFOLIO. REORGANISATION
Chapter XXI
TRANSFER OF INSURANCE AND/OR REINSURANCE PORTFOLIO

Transfer of portfolio

Article 219. (1) An insurer (transferring insurer) may transfer part or all of its portfolio of insurance contracts to another insurer (acquiring insurer) after a written permission by the Deputy Chairperson.

(2) Transfer of insurance portfolio shall be allowed where:

1. the acquiring insurer has authorisation for the classes of insurance and their risks, included in the insurance portfolio that is subject to transfer;

2. the acquiring insurer is entitled to cover the risks under the contracts included in the insurance portfolio in the countries where those risks are situated;

3. after the transfer, the acquiring insurer will have the necessary eligible own funds to cover the Solvency Capital Requirement, respectively the solvency margin;

4. the acquiring insurer is not implementing financial condition rehabilitation measures;

5. the transfer of the insurance portfolio does not affect the interests of the insured.

Application for authorisation for transfer of insurance portfolio

Article 220. (1) For the issuance of an authorisation for transfer of an insurance portfolio, an application shall be filed, with which the following shall be enclosed:

1. a written contract for transfer of the insurance portfolio, which contains a list of the transferred insurance contracts or a clear definition of the transferred insurance contracts, including the classes of insurance and the risks under them, and the territorial distribution of the covered risks by country;

2. data on the acquiring insurer, when they are not evident from the contract for transfer of the portfolio, and when the acquiring insurer does not have a head office in the Republic of Bulgaria – data on the Member States in which it is authorised to cover risks;

3. statement of the technical provisions and written premiums corresponding to the contracts subject of transfer;

4. the primary input data on the technical provisions corresponding to the contracts subject of transfer; the primary input data on the technical reserves shall be provided in the form of an electronic document signed with a qualified electronic signature, in the format and with content laid down by an order of the Deputy Chairperson;

5. a list of assets to be transferred, to individualisation as well as evidence of ownership of such assets;

6. data on guarantees provided by the transferring insurer or a third party in case of a possible increase of the provisions and payments under insurance contracts included in the portfolio subject to transfer;

7. an actuarial report and a declaration by the responsible actuary of the transferring company on the sufficiency of the technical provisions corresponding to the transferred insurance contracts;

8. a forecast of the size of the Solvency Capital Requirement, respectively the solvency margin, and the eligible own funds of the acquiring insurer after the transfer of the portfolio;

9. a forecast of the size of the Solvency Capital Requirement, respectively the solvency margin, and the eligible own funds of the transferring insurer after the transfer of the portfolio;

10. appropriate information on management and organisational structure of the acquiring insurer evidencing its ability to service the beneficiaries of insurance services under the transferred insurance contracts.

(2) After receiving the documents and data under Paragraph 1, the Deputy Chairperson may require the submission of other data and evidence to clarify the financial stability of the acquiring insurer and its ability to service the beneficiaries of insurance services under transferred insurance contracts after the transfer.

(3) The Deputy Chairperson shall pass a decision on the application for transfer of the insurance portfolio within two months of its receipt. Article 34, Paragraphs 2, 4 and 5 shall apply, and the term to remedy irregularities or provide additional information shall not be shorter than 14 days.

(4) The Deputy Chairperson shall refuse to grant an authorisation if the requirements of this Code and its implementing instruments are not fulfilled or if the interests of the insured are not protected.

Notification of stakeholders. Right to terminate the contract

Article 221. (1) The acquiring insurer shall inform the insured in writing about the transfer of the insurance portfolio and its conditions within 14 days of the transfer under Article 222, Paragraph 1. The notification shall be regarded as effected if published on the Internet pages of the transferring and the acquiring insurers and in at least two national daily newspapers. Upon transfer of a portfolio of insurances under Section I of Annex No 1, the publication on the Internet page of the transferring and the acquiring insurers shall be maintained until lapse of the prescription under each of the transferred contracts.

(2) The insured shall have the right to terminate the contract by notifying the acquiring insurer in writing within 60 days of receipt of the notification, respectively the date of the last publication in a national daily newspaper under Paragraph 1, sentence 2.

(3) Insured persons holding life insurance policies shall be entitled to receive the surrender value which corresponds to the insurance contract at the date of transfer, and insured persons under other types of insurance shall be entitled to the respective part of the premium for the unexpired term of the contract, provided that no claim has been paid or is forthcoming.

Effect of the transfer

Article 222. (1) The transfer of an insurance portfolio shall become effective from the effective date of the authorisation under Article 219, Paragraph 1, provided that the assets covering technical provisions are transferred simultaneously with the transfer of the insurance contracts.

(2) In the event that the insured has not exercised the right under Article 221, Paragraph 2, the transfer shall become effective in respect of all persons that have rights or obligations under the same insurance contract.

(3) After the transfer under Paragraph 1, the transferring insurer shall be released from its obligations under the transferred insurance contracts.

Transfer of insurance portfolio within the European Union

Article 223. (1) An insurer may transfer part or all of its portfolio of insurance contracts, including contracts concluded under the right of establishment or the freedom to provide services, to an acquiring insurer with a head office in another Member State, after an authorisation by the Deputy Chairperson, whereby Articles 219 – 222 shall apply accordingly.

(2) The Deputy Chairperson shall grant an authorisation after receiving from the competent authority of the Member State of the acquiring insurer a document certifying that after the transfer the acquiring insurer will have the necessary eligible own funds to cover the Solvency Capital Requirement.

(3) Where the insurer transfers insurance contracts concluded through its branch, the Deputy Chairperson shall request the opinion of the competent authority of the Member State of the branch.

(4) In the cases under Paragraphs 1 and 3, the Deputy Chairperson shall grant an authorisation after receiving the consent of the competent authorities of the Member States where insurance contracts were concluded under the right of establishment or the freedom to provide services.

(5) If within three months of the request of an opinion the Deputy Chairperson has not received a response from the competent authorities under Paragraphs 2 to 4, it shall be considered that a positive opinion, respectively a tacit consent, has been provided.

(6) In the cases under Paragraphs 1 and 3, the acquiring insurer shall publish a notice of the transfer of the insurance portfolio in compliance with the law of the Member State where the risk is situated.

Transfer of an insurance portfolio from a branch of an insurer from a third country within the European Union

Article 224. (1) A branch of an insurer from a third country registered in the Republic of Bulgaria may transfer part or all of its insurance portfolio to an acquiring insurer with a head office in the Republic of Bulgaria or in another Member State, after an authorisation by the Deputy Chairperson. In this case, Articles 219 to 222 shall apply accordingly.

(2) Upon transfer of an insurance portfolio to an acquiring insurer from another Member State, the Deputy Chairperson shall grant an authorisation after receiving from the competent authority of the home Member State of the acquiring insurer a document certifying that after the transfer the insurer will have the necessary eligible own funds to cover the Solvency Capital Requirement.

(3) Upon transfer of an insurance portfolio to an acquiring insurer from a third country through a branch registered in the Republic of Bulgaria, the Deputy Chairperson shall grant an authorisation if after the transfer the branch will have the necessary eligible own funds to cover the Solvency Capital Requirement. When the branch of the acquiring insurer from a third country is subject to supervision by a competent authority under Article 62, Paragraph 3 of another Member State, the Deputy Chairperson shall grant an authorisation after receiving a document from the relevant authority certifying that after the transfer the insurer will have the necessary eligible own funds to cover the Solvency Capital Requirement. In cases where the insurance portfolio is transferred to a branch of an insurer from a third country established in the territory of another Member State, the Deputy Chairperson shall grant an authorisation after receiving a document from the competent authority of the Member State of the branch or, if necessary, from the competent authority under Article 62, Paragraph 3, certifying that after the transfer the acquiring insurer will have the necessary eligible own funds to cover the Solvency Capital Requirement, the law of the Member State of the branch allows such a transfer and the competent authority has consented to the transfer.

(4) In the cases under Paragraphs 1 to 3, the Deputy Chairperson shall grant an authorisation after receiving the consent of the competent authority of the Member State where the risk is situated, when that country is not the Republic of Bulgaria.

(5) If within three months of the request of an opinion the Deputy Chairperson has not received a response from the competent authorities under Paragraphs 2 to 4, it shall be considered that a positive opinion, respectively a tacit consent, has been provided.

(6) In the cases under Paragraphs 1 – 3, the acquiring insurer shall publish a notice of the transfer of the insurance portfolio in compliance with the law of the Member State where the risk is situated.

(7) The transfer of an insurance portfolio which contains insurance contracts covering risks situated in the Republic of Bulgaria of a branch of an insurer from a third country with a head office in another Member State shall not be allowed.

Consent for transfer of insurance portfolio within the European Union

Article 225. (1) Upon transfer of an insurance portfolio within the European Union which includes insurance contracts under which the Republic of Bulgaria is the Member State where the risk is situated, the Deputy Chairperson shall give consent for the transfer within three months of receipt of the request to the authority competent to grant the authorisation for transfer, if the interests of the insured are protected.

(2) Upon transfer of an insurance portfolio within the European Union which includes insurance contracts under which the Republic of Bulgaria is the Member State where the head office of a branch of a transferring insurer from another Member State is located, the Deputy Chairperson shall give consent for the transfer within three months of receipt of the request to the authority competent to grant the authorisation for transfer, if the interests of the insured are protected.

(3) If no response is received within the term under Paragraph 1, respectively under Paragraph 2, it shall be considered that a tacit consent has been provided.

(4) The Deputy Chairperson shall refuse to give consent when insurance contracts which cover risks situated in the Republic of Bulgaria will be transferred to:

1. a branch of an insurer from a third country with a head office in another Member State;

2. an insurer from a Member State that is not authorised to cover risks in the territory of the Republic of Bulgaria.

Certification of the Solvency Capital Requirement of an insurer with a head office in the Republic of Bulgaria upon transfer of insurance portfolio by an insurer from another Member State

Article 226. (1) Within three months of receipt of a request by the respective competent authority of the home Member State of the transferring insurer that intends to transfer an insurance portfolio of contracts concluded under the right of establishment or the freedom to provide services to an insurer with a head office in the Republic of Bulgaria, the Deputy Chairperson shall issue a document certifying that after the transfer the acquiring insurer will have the necessary eligible own funds to cover the Solvency Capital Requirement.

(2) For the purposes of issuing the certificate under Paragraph 1, the Deputy Chairperson shall require from an insurer with a head office in the Republic of Bulgaria the documents under Article 220, Paragraph 1, points 1, 3, 5 to 8 and 10.

(3) The Deputy Chairperson shall refuse to issue a document under Paragraph 1 if the acquiring insurer is not authorised to cover the risks under the contracts included in the insurance portfolio in any of the countries where those risks are situated, and also if after the transfer the acquiring insurer will not have the necessary eligible own funds to cover the Solvency Capital Requirement, and also when the acquiring insurer is implementing a reorganisation plan and therefore the interests of the insured are jeopardised.

Certification of the Solvency Capital Requirement of an insurer with a head office in the Republic of Bulgaria upon transfer of insurance portfolio by an insurer from a third country situated in a Member State through a branch

Article 227. (1) Within three months of receipt of the request of the relevant competent authority of the Member State of the branch of an insurer from a third country that intends to transfer an insurance portfolio to an insurer with a head office in the Republic of Bulgaria or of a branch of the insurer from a third country registered in the Republic of Bulgaria, as well as in cases where the Commission is the competent authority under Article 62, Paragraph 3, the Deputy Chairperson shall issue a document certifying that after the transfer the insurer will have the necessary eligible own funds to cover the Solvency Capital Requirement.

(2) For issuance of the document under Paragraph 1, the Deputy Chairperson shall require from the insurer, respectively the branch of an insurer from a third country with a head office in the Republic of Bulgaria, the documents under Article 220, Paragraph 1, points 1, 3, 5 to 8 and 10.

(3) The Deputy Chairperson shall refuse to issue a document under Paragraph 1 if after the transfer the acquiring insurer, respectively the branch of an insurer from a third country registered in the Republic of Bulgaria, will not have the necessary eligible own funds to cover the Solvency Capital Requirement and therefore the interests of the insured are jeopardised.

(4) The Deputy Chairperson shall also refuse to issue a document under Paragraph 1 when as a result of the transfer, a branch of an insurer from a third country with a head office in the Republic of Bulgaria will accept a portfolio of contracts covering risks situated in other Member States.

Special rules for transfer of reinsurance portfolio

Article 228. This Chapter, with the exception of Article 219, Paragraph 2, point 5, Article 223, Paragraphs 3 to 6 and Articles 224 and 225, shall apply to the transfer of portfolios of reinsurance contracts between reinsurers, between insurers or between an insurer and a reinsurer.

Chapter XXII
REORGANISATION OF INSURERS OR REINSURERS

Conditions for reorganisation of an insurer or reinsurer

Article 229. (1) A reorganisation of an insurer, respectively reinsurer, shall be carried out with the permission of the Commission, provided that:

1. the rights of the beneficiaries of insurance services, respectively the fulfilment of obligations under reinsurance contracts are guaranteed;

2. after the reorganisation, the person will have the necessary eligible own funds to cover the Solvency Capital Requirement, respectively the solvency margin.

(2) To the extent that this Chapter does not provide for otherwise, the provisions of the Commerce Act or the Cooperatives Act shall apply accordingly. Reorganisation through changing the legal form and through changing the subject of activity shall not be allowed.

(3) Reorganisation through merger or acquisition shall be carried out only between insurers in compliance with the requirement of Article 24, Paragraph 1, respectively between reinsurers.

(4) Upon reorganisation through division or separation, the newly-established companies shall also be insurers, respectively reinsurers.

Authorisation for reorganisation of an insurer or reinsurer

Article 230. (1) For the issuance of an authorisation under Article 229, Paragraph 1, an application shall be submitted, with which the following shall be enclosed:

1. the decision of the competent body of each acquiring and/or reorganising company for implementation of the reorganisation;

2. a reorganisation contract or plan;

3. a report of the management body of each of the reorganising and acquiring companies under Article 262i of the Commerce Act, including a statement of the reasons necessitating the reorganisation;

4. an estimate the size of the Solvency Capital Requirement, respectively solvency margin, and the eligible own funds of each company involved in the reorganisation at the time of the decision to reorganise;

5. an estimate the size of the Solvency Capital Requirement, respectively solvency margin, and the eligible own funds to each company deriving from the reorganisation;

6. the balance sheet and income statement of each company involved in the reorganisation as of the end of the month preceding the date of submission of the application;

7. the authorisation of the Commission for Protection of Competition – in case of reorganisation through merger or acquisition;

8. the appendices under Article 31, Paragraph 1, points 1, 2 and 5 to 9 – for each insurer, respectively reinsurer, deriving from the reorganisation, and for each acquiring insurer, respectively reinsurer, with reported changes resulting from the reorganisation;

9. the appendices under Article 31, Paragraph 1, points 5 – 9 and Paragraph 3, points 1 and 2 – for each mutual association deriving from the reorganisation and for each acquiring association, with reported changes resulting from the reorganisation;

10. other documents relevant to the establishment of the circumstances under Article 229, Paragraph 1, at the request of the Commission.

(2) The Commission shall pass a decision on the reorganisation application within 4 months of receipt of the application. If irregularities are found or if additional information is needed, respectively Article 34, Paragraphs 2, 4 and 5 shall apply, where the term to remedy the irregularities or provide additional information shall not be shorter than 15 days. The application under Paragraph 1 shall be reviewed after payment of a fee for document processing.

(3) The Commission shall grant an authorisation for the reorganisation simultaneously with the issuance of an authorisation to pursue to business of insurance, respectively reinsurance, of the newly-established companies.

(4) The Commission shall refuse to grant an authorisation if the requirements of this Code are not fulfilled, the interests of the insured are not protected or the fulfilment of obligations under reinsurance contracts is not guaranteed.

(5) The insurers participating in the reorganisation shall notify the insured of the implemented reorganisation in compliance with Article 221 and Articles 223 – 228, respectively.

TITLE VII
INSURERS AND REINSURERS WHICH ARE PART OF A GROUP AND THEIR SUPERVISION
Chapter XXIII
GENERAL RULES

General provisions

Article 231. This Title shall govern:

1. supervision of insurers and reinsurers which are part of a group;

2. the powers of the Commission and the Deputy Chairperson in connection with group supervision.

Group supervision

Article 232. (1) Insurers, respectively reinsurers, which are part of a group shall be subject to supervision at group level in accordance with this Title.

(2) An insurer, respectively reinsurer, with a head office in the Republic of Bulgaria, which is part of a group shall retain all individual obligations and shall be subject to supervision under this Code, unless this Title provides for otherwise.

(3) Insurers with a head office in the Republic of Bulgaria which are part of a group and which apply Title IV shall be subject to supervision at group level under Title IV.

(4) Where the Commission is a group supervisor, the group supervisory powers shall be exercised by the Deputy Chairperson, unless this Code provides otherwise.

(5) The Commission shall adopt an ordinance on the implementation of this Title in order to implement 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 group also includes the undertakings in which the participating undertaking or its subsidiary undertakings hold participations, or undertakings which are under joint management under a contract or under their articles of association or statutes, or undertakings in which more than half of the members of the management or controlling bodies are the same persons for the respective financial year and as of the date of the consolidated financial statements.

(2) A group is also a group of undertakings that is based on the establishment, contractually or otherwise, of strong and sustainable financial relationships among those undertakings, and that may include mutual or mutual-type associations, provided that:

1. one of those undertakings effectively exercises, through centralised coordination, a dominant influence over the decisions, including financial decisions, of the other undertakings that are part of the group; and

2. the establishment and dissolution of such relationships for the purposes of group supervision are subject to prior approval by the group supervisor,

(3) The undertaking under Paragraph 2, exercising the centralised coordination, shall be considered as the parent undertaking, and the other undertakings under Paragraph 2 shall be considered as subsidiaries.

(4) A participating undertaking is:

1. a parent undertaking;

2. an undertaking which, directly or through exercised control, holds 20 % or more than 20 % of the capital or voting rights of another undertaking;

3. an undertaking related to another undertaking by means of joint management, pursuant to a contract or articles of association or statutes;

4. an undertaking of which more than half the members of the management or controlling body are at the same time more than half of the members of the management or controlling body of another undertaking for the respective financial year and as of the date of the consolidated financial statements.

(5) A related undertaking is a subsidiary undertaking, an undertaking in which it holds a participation within the meaning of Paragraph 4, point 2 or an undertaking related to another undertaking under the provisions of Paragraph 4, points 3 and 4;

(6) For the purposes of group supervision and for the purposes of group identification, the Commission, Deputy Chairperson or another authority of a Member State which exercises supervision over a group shall consider as:

1. a parent undertaking – any undertaking which they determine to effectively exercise a dominant influence over another undertaking;

2. a subsidiary undertaking – any undertaking over which they determine that a parent undertaking effectively exercises a dominant influence;

3. a participation – the holding, directly or indirectly, of voting rights or capital in an undertaking over which they determine that effective significant influence is exercised.

(7) Undertakings are commercial companies, legal persons that are not commercial companies and unincorporated entities pursuing business in the Republic of Bulgaria and abroad.

(8) An insurance holding company is a parent undertaking which is not a mixed financial holding and whose main activity is the acquisition and holding of participations exclusively or predominantly in subsidiaries that are insurers or reinsurers, including insurers or reinsurers from a Member State or a third country, where at least one of these subsidiaries is an insurer or reinsurer with a head office in the Republic of Bulgaria or in another Member State.

(9) A mixed insurance holding company is a parent undertaking, other than an insurer, insurer from a third country, reinsurer, reinsurer from a third country, insurance holding company or mixed financial holding company, where at least one of its subsidiaries is an insurer or reinsurer with a head office in the Republic of Bulgaria or in another Member State.

(10) A mixed financial holding is a mixed financial holding within the meaning of § 1, point 14 of the Additional Provisions of the Supplementary Supervision of Financial Conglomerates Act.

Exercising group supervision

Article 234. (1) Supervision at group level shall apply to:

1. an insurer, respectively reinsurer, which is a participating undertaking in at least one insurer or reinsurer, insurer or reinsurer from a third country, where the group supervision shall be exercised in compliance with Chapters XXIV and XXV;

2. an insurer or reinsurer the parent undertaking of which is an insurance holding company or a mixed financial holding company with a head office in a Member State, where the group supervision shall be exercised in compliance with Chapters XXIV and XXV;

3. an insurer or reinsurer the parent undertaking of which is an insurance holding company or a mixed financial holding company with a head office in a third country or an insurer or reinsurer from a third country, where the group supervision shall be exercised in compliance with Chapter XXVI, Section I;

4. an insurer or reinsurer the parent undertaking of which is a mixed insurance holding company, where the group supervision shall be exercised in compliance with Chapter XXVI, Section II.

(2) In the cases under Paragraph 1, points 1 or 2, where the participating insurer or reinsurer or the insurance holding company or mixed financial holding company with a head office in a Member State is either a related undertaking of a supervised person or is itself a supervised person or a mixed financial holding which is subject to supplementary supervision under the

Supplementary Supervision of Financial Conglomerates Act, the Deputy Chairperson may, after consulting the other supervisory authorities concerned, decide not to exercise at the level of that participating insurer or reinsurer, or insurance holding company or mixed financial holding company, the supervision of risk concentration referred to in Article 263, the supervision of intra-group transactions referred to in Article 264, or both types of supervision.

(3) Where a mixed financial act is affected by equivalent provisions under this Code and under the Supplementary Supervision of Financial Conglomerates Act in the field of risk-based supervision and where the Commission is a group supervisor, the Deputy Chairperson, after consultation with the other supervisory authorities concerned, may apply only the relevant provisions of the Supplementary Supervision of Financial Conglomerates Act.

(4) Where a mixed financial act is affected by equivalent provisions under this Code and under the Credit Institutions Act in the field of risk-based supervision and where the Commission is a group supervisor, the Deputy Chairperson, after consultation with the consolidating banking and investment supervisor, may apply only the relevant provisions applicable to the most significant sector within the meaning of Article 3, Paragraphs 1 to 4 of the Supplementary Supervision of Financial Conglomerates Act.

(5) Where the Commission is a group supervisor, the Deputy Chairperson shall inform 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 shall not be mutually exclusive and the Deputy Chairperson may apply more than one supervisory approach under Paragraph 1 in respect of the same group.

Scope of group supervision

Article 235. (1) The exercise of group supervision in accordance with Article 234 shall not include an obligation for the supervisory authority to exercise a supervisory role at the individual level in respect of an insurer or reinsurer from a third country, an insurance holding company, a mixed financial holding company and a mixed insurance holding company separately, with the exception of the powers under Article 82 regarding insurance holding companies and mixed financial holding companies.

(2) Where the Commission is a group supervisor, the Commission, at the proposal of the Deputy Chairperson, may decide on a case-by-case basis not to include in the supervision of a group under Article 234 any undertaking that is part thereof where:

1. the undertaking is in a third country where there are legal impediments to providing the necessary information, in which case the rules for the calculation of own funds under Article 250 shall apply;

2. the undertaking which has to be included is of negligible interest with respect to the objectives of group supervision;

3. the inclusion of the undertaking would be inappropriate or misleading with respect to the objectives of group supervision.

(3) Where several undertakings of the same group, taken individually, may be excluded pursuant to Paragraph 2, point 2, they shall be included where, collectively, they are of non-negligible interest with respect to the objectives of group supervision.

(4) Before making a decision under Paragraph 2, points 2 or 3, the Deputy Chairperson shall request the opinion of the other supervisory authorities concerned.

(5) Paragraphs 2 to 4 shall also apply where the Commission is the supervisor of a group headed by an insurer, reinsurer, insurance holding company or mixed financial holding company with a head office in another Member State.

(6) Where on the grounds of Paragraph 2, points 2 or 3, a group supervisor, other than the Commission, does not include local insurers or reinsurers in the scope of group supervision, the Deputy Chairperson may require from the person at the head of the group any information which is necessary for the supervision of the insurer or reinsurer. If under Paragraph 2, points 2 or 3, the Commission does not include an insurer or reinsurer in the group supervision, the supervisory authority of the Member State in which the head office of the insurer or reinsurer is located may require from the person at the head of the group in the Republic of Bulgaria any information which is necessary for the supervision of the insurer or reinsurer.

Ultimate parent undertaking with a head office in the European Union

Article 236. (1) Where a participating insurer or reinsurer, or insurance holding company or mixed financial holding company under Article 234, Paragraph 1, point 1 or 2 is a subsidiary undertaking of another insurer, reinsurer, insurance holding company or mixed financial holding company with a head office in a Member State, Chapters XXIV and XXV shall apply only at the level of the ultimate parent undertaking – insurer, reinsurer, insurance holding company or mixed financial holding company with a head office in a Member State.

(2) Where the ultimate parent undertaking – insurer or reinsurer, or insurance holding company or mixed financial holding company which has its head office in a Member State under Paragraph 1 is a subsidiary of an undertaking subject to supplementary supervision in accordance with Article 5, Paragraph 2 of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council, the Deputy Chairperson may, after consultation with the other supervisory authorities concerned, decide not to carry out the supervision of risk concentration referred to in Article 263, the supervision of intra-group transactions referred to in Article 264, or both, at the level of that ultimate parent undertaking or holding.

Ultimate parent undertaking at national level

Article 237. (1) At the proposal of the Deputy Chairperson, the Commission may exercise group supervision of a local insurer, reinsurer, insurance holding company or mixed financial holding company at the head of a group within the meaning of Article 234, Paragraph 1, point 1 or 2, where the ultimate parent undertaking has its head office in another Member State, after consultation with the supervisor of the group and with the ultimate parent undertaking in the other Member State. The decision shall be explained to the group supervisor and to the ultimate participating undertaking in another Member State. Where the Commission is a group supervisor and has received a decision within the meaning of sentence 2 from another supervisory authority, it shall inform the other members of the college of supervisors to that effect.

(2) Paragraph 1 shall not apply where the ultimate parent undertaking at national level is a subsidiary of a parent undertaking from another Member State which has received authorisation to apply Chapter XXIV, Section I, Subsection VI to that subsidiary.

(3) At the proposal of the Deputy Chairperson, the Commission may limit the supervision at the parent undertaking level in the Republic of Bulgaria to one or several sections of Chapter XXIV.

(4) Where at the proposal of the Deputy Chairperson, the Commission decides to apply Chapter XXIV, Section I at the level of the ultimate parent undertaking at national level, it shall recognise as determinative and apply the method for group solvency calculation selected by the supervisor of the group in respect of the parent undertaking from another Member State.

(5) Where at the proposal of the Deputy Chairperson, the Commission decides to apply Chapter XXIV, Section I at the level of the ultimate parent undertaking at national level, it shall recognised as determinative and apply the decision for approval of an internal model approved at the level of the ultimate parent undertaking for calculation of the Solvency Capital Requirement of the group and of the Solvency Capital Requirement of insurers and reinsurers that are part of it.

(6) Where in the case of Paragraph 5, at the proposal of the Deputy Chairperson, the Commission considers that the risk profile of the ultimate parent undertaking at national level deviates significantly from the internal model approved at group level and if that parent undertaking does not comply with the instructions of the Commission, it may:

1. impose a capital add-on to the Solvency Capital Requirement of the group calculated according to the internal model, or

2. in exceptional cases, where a capital add-on under point 1 would not be appropriate, to require that undertaking to calculate its group Solvency Capital Requirement on the basis of the standard formula.

(7) The decision of the Commission under Paragraph 6 shall be explained to the group supervisor and to the ultimate participating undertaking in the other Member State. Where the Commission is a group supervisor and has received a decision within the meaning of sentence 1 from another supervisory authority in respect of a group whose ultimate participating undertaking is located in the Republic of Bulgaria, the Commission shall inform the other members of the college of supervisors to that effect.

(8) Where at the proposal of the Deputy Chairperson, the Commission decides to apply Chapter XXIV, Section I at the level of the ultimate parent undertaking at national level, that undertaking cannot submit an application for the application of Chapter XXIV, Section I, Subsection VI to its subsidiary undertakings.

(9) With regard to the supervision of a group headed by a ultimate parent undertaking at national level, Chapters XXIV and XXV shall apply accordingly, except where Paragraphs 2 to 8 provide for otherwise.

Parent undertaking covering several Member States

Article 238. (1) The Commission may conclude an agreement with the supervisory authority of another Member State where another related ultimate parent undertaking is located in order to exercise group supervision at the level of a subgroup covering several Member States.

(2) Where the Commission has concluded an agreement under Paragraph 1, group supervision at the level of the ultimate parent undertaking within the meaning of Article 237 cannot be applied to an ultimate parent undertaking in a Member State other than the Member State where the subgroup under Paragraph 1 is located.

(3) The reasons for the conclusion of the agreement under Paragraph 1 shall be explained to the supervisor of the group. Where the Commission is a group supervisor and has been supplied with reasons for an agreement by other supervisory authorities, the Deputy Chairperson shall inform the other members of the college of supervisors to that effect.

(4) Article 237, Paragraphs 2 to 9 shall apply accordingly.

(5) The conditions for making a decision for the conclusion of an agreement under Paragraph 1 shall be determined by an instrument of the European Commission.

Chapter XXIV
FINANCIAL POSITION
Section I
Group solvency
Subsection I
General provisions

Group solvency supervision

Article 239. (1) Paragraphs 2 and 3, Article 265 and Chapter XXV shall apply to the exercise of group solvency supervision.

(2) In the cases under Article 234, Paragraph 1, point 1, the participating undertaking – insurer, respectively reinsurer – shall ensure that the eligible own funds available in the group are always at least equal to the Solvency Capital Requirement of the group calculated as in accordance with Subsections II, III and IV.

(3) In the case of Article 234, Paragraph 1, point 2, the insurers and reinsurers in the group shall ensure that eligible own funds available in the group are always at least equal to the Solvency Capital Requirement of the group calculated in accordance with Subsection V.

(4) Where the Commission is a group supervisor, the Deputy Chairperson shall perform a supervisory review of the compliance with the requirements under Paragraphs 2 and 3 in accordance with Chapter XXV. In this case, Article 214, Paragraph 1, Paragraph 2, points 1 and 3, Article 215, Paragraph 1 and Paragraphs 3 to 5 and Article 216 shall apply accordingly.

(5) Where the Commission is a group supervisor, the Deputy Chairperson shall immediately notify the other authorities – members of the college of supervisors, where an undertaking at the head of the group, regardless of whether local or not, has notified the Commission of non-compliance with the Solvency Capital Requirement of the group or a risk of such non-compliance in the following three months. The college of supervisors shall analyse the situation in the group.

Frequency of calculation of the Solvency Capital Requirement of a group

Article 240. (1) At least once a year, a local insurer or reinsurer which is a participating undertaking shall calculate its Solvency Capital Requirement of the group and shall report the result and relevant data for the calculation to the group supervisor.

(2) At least once a year, a local insurance holding company or a mixed financial holding company shall calculate the Solvency Capital Requirement of the group and shall report the result and relevant data for the calculation to the group supervisor. The group supervisor may, after consultation with other supervisory authorities concerned and with the group itself, determine an insurer or reinsurer from the group to report the information under sentence 1.

(3) A local insurer, respectively reinsurer, which is a participating company or a local insurance holding company, respectively mixed financial holding company, shall continuously monitor the Solvency Capital Requirement of the group. Where the risk profile of the group deviates significantly from the assumptions underlying the last reported Solvency Capital Requirement, the person under sentence 1 shall immediately recalculate the Solvency Capital Requirement of the group and report it to the group supervisor. The group supervisor may require recalculation of Solvency Capital Requirement of the group if its risk profile has changed substantially since the last reporting date of its Solvency Capital Requirement.

(4) Where the Commission is a group supervisor, the Deputy Chairperson shall have:

1. the power under Paragraph 2, sentence 2 and where the head office of the insurance holding, respectively the mixed financial holding company at the head of the group is not located in the Republic of Bulgaria;

2. the power under Paragraph 3, sentence 3 and where the head office of the insurer or reinsurer, or of the insurance holding company or financial holding company at the head of the group is not located in the Republic of Bulgaria.

Subsection II
Methods for calculation of the Solvency Capital Requirement of a group and general principles

Choice of calculation method

Article 241. (1) The calculation of the solvency at group level by insurers and/or reinsurers under Article 234, Paragraph 1, point 1 shall be carried out in accordance with the technical principles and one of the following methods:

1. Accounting consolidation-based method – method 1 (main method);

2. Deduction and aggregation method – method 2 (alternate method).

(2) A local insurer or reinsurer which is a participating undertaking under Article 234, Paragraph 1, point 1 shall calculate the solvency of the group using method 1. Where the Commission is a group supervisor, the Deputy Chairperson shall also require the application of sentence 1 where the insurer or reinsurer which is a participating undertaking under Article 234, Paragraph 1, point 1 is from another Member State.

(3) A local insurer or reinsurer which is a participating undertaking may, with the authorisation of the group supervisor, calculate the solvency of the group using method 2 or a combination of method 1 and method 2, where the exclusive application of method 1 would not be appropriate. Where the Commission is a group supervisor, the Deputy Chairperson shall make decisions under sentence 1 after prior consultation with the concerned supervisory authorities from the other Member States and with the group. Sentence 2 shall also apply where the Commission is the supervisor of a group headed by an insurer, respectively reinsurer, from another Member State.

Inclusion of proportional share

Article 242. (1) The calculation of the group solvency shall take account of the proportional share held by the participating undertaking in its related undertakings.

(2) For the purposes of Paragraph 1, the proportional share shall comprise either of the following:

1. where method 1 is used, the percentages used for the establishment of the consolidated accounts; or

2. where method 2 is used, the proportion of the subscribed capital that is held, directly or indirectly, by the participating undertaking.

(3) Regardless of the method used, where the related undertaking is a subsidiary undertaking and does not have sufficient eligible own funds to cover its Solvency Capital Requirement, the total solvency deficit of the subsidiary shall be taken into account.

(4) Where in the opinion of the supervisory authorities, the responsibility of the parent undertaking owning a share of the capital is strictly limited to that share of the capital, the Deputy Chairperson exercising the functions of a group supervisor, respectively a supervisor from another Member State exercising that function, may nevertheless allow for the solvency deficit of the subsidiary undertaking to be taken into account on a proportional basis.

(5) The Deputy Chairperson exercising the functions of a group supervisor, respectively a supervisor from another Member State exercising that function, shall determine, after consulting the other supervisory authorities concerned and the group itself, the proportional share which shall be taken into account in the following cases where:

1. there are no capital ties between some of the undertakings in a group;

2. a supervisory authority has determined that the holding, directly or indirectly, of voting rights or capital in an undertaking qualifies as a participation because, in the opinion of the supervisory authority, a significant influence is effectively exercised over that undertaking;

3. a supervisory authority has determined that an undertaking is a parent undertaking of another because, in the opinion of that supervisory authority, it effectively exercises a dominant influence over that other undertaking.

Elimination of double use of eligible own funds

Article 243. (1) The double use of own funds eligible for the Solvency Capital Requirement among the different insurers or reinsurers taken into account in that calculation shall not be allowed.

(2) For that purpose, when calculating the group solvency and where the methods described in Subsection IV do not provide for it, the following amounts shall be excluded:

1. the value of any asset of the participating undertaking – insurer or reinsurer, which represents the financing of own funds eligible for the Solvency Capital Requirement of any of its related undertakings – insurers or reinsurers;

2. the value of any asset of the related undertaking – insurer or reinsurer, of a participating undertaking – insurer or reinsurer, which represents the financing of own funds eligible for the Solvency Capital Requirement of that participating undertaking – insurer or reinsurer;

3. the value of any asset of the related undertaking – insurer or reinsurer, of a participating undertaking – insurer or reinsurer, which represents the financing of own funds eligible for the Solvency Capital Requirement of any other related undertaking – insurer or reinsurer, of that participating undertaking – insurer or reinsurer;

(3) Without prejudice to Paragraphs 1 and 2, the following may be included in the calculation only in so far as they are eligible for covering the Solvency Capital Requirement of the related undertaking concerned:

1. surplus funds arising in a related undertaking – life insurer or life reinsurer of the participating undertaking – insurer or reinsurer for which the group solvency is calculated;

2. any subscribed but not paid-up capital of a related undertaking – insurer or reinsurer of the participating undertaking – insurer or reinsurer – for which the group solvency is calculated.

(4) Notwithstanding Paragraph 3, the following shall in any event be excluded from the calculation:

1. subscribed but not paid-up capital which represents a potential obligation on the part of the participating undertaking;

2. subscribed but not paid-up capital of the participating undertaking – insurer or reinsurer – which represents a potential obligation on the part of a related undertaking – insurer or reinsurer;

3. subscribed but not paid-up capital of the related undertaking – insurer or reinsurer – which represents a potential obligation on the part of another related undertaking – insurer or reinsurer of the same participating undertaking – insurer or reinsurer.

(5) Where the Deputy Chairperson or a supervisory authority from another Member State considers that certain own funds eligible for the Solvency Capital Requirement of a related undertaking – insurer or reinsurer other than those referred to in Paragraphs 3 and 4 cannot effectively be available to cover the Solvency Capital Requirement of the participating undertaking – insurer or reinsurer – for which the group solvency is calculated, those own funds may be included in the calculation only in so far as they are eligible for covering the Solvency Capital Requirement of the related undertaking.

(6) The sum of the own funds referred to in Paragraphs 3, 4 and 5 shall not exceed the Solvency Capital Requirement of the related undertaking – insurer or reinsurer.

(7) Any ancillary eligible own funds of a related undertaking – insurer or reinsurer of the participating undertaking – insurer or reinsurer for which the group solvency is calculated that are subject to prior authorisation from a supervisory authority shall be included in the calculation insofar as they have been duly authorised by the supervisory authority responsible for the supervision of that related undertaking.

Elimination of the intra-group creation of capital

Article 244. (1) When calculating group solvency, no account shall be taken of any own funds eligible for the Solvency Capital Requirement arising out of reciprocal financing between the participating undertaking – insurer or reinsurer – and any of the following:

1. a related undertaking;

2. a participating undertaking;

3. another related undertaking of any of its participating undertakings.

(2) When calculating group solvency, no account shall be taken of any own funds eligible for the Solvency Capital Requirement of a related undertaking – insurer or reinsurer of the participating undertaking – insurer or reinsurer for which the group solvency is calculated where the relevant own funds arise out of reciprocal financing with any other related undertaking of that participating undertaking – insurer or reinsurer.

(3) Reciprocal financing shall be deemed to exist at least where an insurer or reinsurer, or any of its related undertakings, holds shares in, or makes loans to, another undertaking which, directly or indirectly, holds own funds eligible for the Solvency Capital Requirement of the first undertaking.

Valuation

Article 245. The valuation of assets and liabilities shall be carried out in accordance with Article 152.

Subsection III
Application of the calculation methods

Related undertakings – insurers and reinsurers

Article 246. (1) Where an insurer or reinsurer has more than one related company – insurer or reinsurer –the group solvency shall be calculated by including each related undertaking – insurer or reinsurer.

(2) Where the head office of a related undertaking – insurer or reinsurer of the insurer or reinsurer for which group solvency is calculated, is in a Member State other than the Republic of Bulgaria, the calculation shall take account, in respect of the related undertaking, of the Solvency Capital Requirement and the own funds eligible for that requirement, as provided for in the other Member State.

Intermediate insurance holding companies

Article 247. (1) When calculating the group solvency of an insurer or reinsurer which holds a participation in a related undertaking which is an insurer, reinsurer, a third-country insurer or a third-country reinsurer through an insurance holding company or a mixed financial holding company, the situation of such an intermediate insurance holding company or mixed financial holding company shall be taken into account.

(2) For the purposes of this calculation, the intermediate insurance holding company or a mixed financial holding company shall be treated as an insurer or reinsurer to whom the rules in Chapter XIII in respect of the Solvency Capital Requirement and Chapter XII in respect of the own funds eligible for the Solvency Capital Requirement shall apply.

(3) In cases where an intermediate insurance holding company or mixed financial holding company holds subordinated debt or other eligible own funds subject to limitation, they shall be recognised as eligible own funds up to the amounts calculated by application of the limits set out in the ordinance under Article 168 to the total eligible own funds outstanding at group level as compared to the Solvency Capital Requirement at group level.

(4) The ancillary eligible own funds of an intermediate insurance holding or a mixed financial holding which would require prior authorisation by the supervisory authority under Article 167 if they were held by an insurer or reinsurer, may be included in the calculation of the group solvency only in so far as they have been approved by the group supervisor. For the

purposes of sentence 1, the subscribed but not paid-up capital of an intermediate insurance holding or a mixed financial holding may be recognised as ancillary own funds.

Third-country insurers and regime equivalence in connection with third-country insurers

Article 248. (1) Where the solvency of a group of an insurer or reinsurer which is a participating undertaking in an insurer from a third country is calculated in accordance with Article 255, the third-country insurer shall, solely for the purposes of that calculation, be treated as a related undertaking – local insurer or reinsurer.

(2) Where the third country where the head office of the insurer, respectively reinsurer, under Paragraph 1 requires that it is subject to authorisation and a solvency regime that is at least equivalent to the regime under Title IV, in the calculation of the solvency of the group as regards that insurer or reinsurer, the Solvency Capital Requirement and the own funds eligible for to satisfy that requirement shall be taken into account as laid down by the third country concerned.

(3) In cases where the European Commission has adopted an act on equivalence or temporarily equivalence of the supervisory regime in a third country under Article 227, Paragraph 4 or 5 of Directive 2009/138/EC, the regime in that third country shall be considered as equivalent to the regime under Title IV.

(4) Where no act of equivalence under Paragraph 3 has been adopted and the Commission is the group supervisor, the assessment of equivalence shall be performed by the Commission in cooperation with the European Authority and after consultation with the other concerned supervisory authorities of the Member States. Where in respect of that same third country an earlier decision has been adopted on the equivalence of the supervisory regime by a supervisory authority in another Member State, the Commission cannot make a different decision, unless where significant changes in the regime under Title IV, respectively in the supervisory regime of the third country, have occurred and have to be taken into account.

(5) The assessment of the equivalence of the supervisory regime in a third country shall be made according to criteria adopted by an instrument of the European Commission.

(6) Where the Commission is not a group supervisor, in case of disagreement with a decision on the equivalence of the supervisory regime in a third country adopted by another group supervisor, the Commission may, within three months of notification of the decision made, refer the matter to the European Authority for review in accordance with Article 19 of Regulation (EU) No 1094/2010.

Credit institutions, investment firms and financial institutions

Article 249. (1) When calculating the solvency of a group of an insurer or reinsurer – participating undertaking in a credit institution, investment firm or financial institution, the participating undertaking – local insurer or reinsurer – may apply method 1 or 2 respectively for the calculation of the additional capital adequacy in accordance with the appendix to Article 6 and 7 of the Supplementary Supervision of Financial Conglomerates Act. Method 1 shall be applied only where the group supervisor is satisfied as to the level of integrated management and internal control regarding the companies that are included in the scope of consolidation. The method chosen shall be applied in a consistent manner over time.

(2) Where the Commission is a group supervisor, 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 to cover the solvency of the group of the participating undertaking.

Non-availability of the necessary information

Article 250. (1) Where the information necessary for calculating the group solvency of the group concerning a related undertaking with its head office in a Member State or a third country, is not available, the book value of that undertaking shall be deducted from the own funds eligible for the group solvency.

(2) In that case, the unrealised gains connected with the participation in that undertaking shall not be recognised as own funds eligible for the group solvency.

Subsection IV
Calculation methods

Accounting consolidation-based method – method 1 (main method)

Article 251. (1) According to the accounting consolidation-based method, a local insurer, respectively reinsurer, at the head of the group shall calculate the solvency of the group on the basis of the consolidated accounts.

(2) The solvency of the group of a local insurer, respectively reinsurer, at the head of a group shall be equal to the difference between the eligible own funds to cover the Solvency Capital Requirement calculated on the basis of consolidated data and the Solvency Capital Requirement at group level calculated on the basis of consolidated data.

(3) The eligible own funds and the Solvency Capital Requirement shall be calculated in accordance with Chapter XII and Chapter XIII at group level on the basis of consolidated data.

(4) The Solvency Capital Requirement on the basis of consolidated data (consolidated Solvency Capital Requirement for a group) shall be calculated either in accordance with the standard formula in compliance with the principles of Chapter XIII, Sections I and II or in accordance with an approved internal model in compliance with the principles of Chapter XIII, Sections I and III.

(5) The consolidated Solvency Capital Requirement for a group cannot be less than the amount of the minimum Solvency Capital Requirement of the insurer or reinsurer at the head of the group and the proportional share of the Minimum Capital Requirement of the related insurers and reinsurers.

(6) The floor of the consolidated group Solvency Capital Requirement shall be covered by eligible basic own funds as determined in accordance with the ordinance under Article 168. For the purposes of determining whether such eligible own funds qualify to cover the minimum consolidated group Solvency Capital Requirement, the principles set out in Subsection III shall apply. Article 214, Paragraph 2, points 2 and 3 and Article 215, Paragraphs 2 to 5 shall apply accordingly.

Group internal model

Article 252. (1) A local insurer or reinsurer which is a participating undertaking, together with its related insurers and reinsurers, as well as the related insurers of a local insurance holding or a local mixed financial holding may submit an application to the competent group supervisor for authorisation to calculate the consolidated capital requirement of the group, as well as the solvency capital requirements of the insurers and reinsurers in the group on the basis of an internal model. Where an insurer or reinsurer with a head office in the Republic of Bulgaria is a related undertaking within a group, it shall be entitled to participate in an application under

sentence 1 at the initiative of the participating insurer or reinsurer, respectively another insurer or reinsurer which is a related undertaking of an insurance holding or mixed financial holding.

(2) Where the Commission is a group supervisor and receives an application under Paragraph 1, it shall inform the supervisory authorities participating in the college of supervisors and shall immediately send them the application together with all attached documents.

(3) In case of an application under Paragraph 1 or 2, the Commission, in the capacity of a group supervisor or a member of the college of supervisors, shall collaborate with the other members of the college of supervisors in order to make a joint decision, within 6 months of receipt of the application together with all documents from the group supervisor, on granting or refusing authorisation to use an internal model, as well as the potential conditions under which the authorisation may be granted.

(4) When a joint decision is made regarding an application for approval of an internal model of a group, the Commission, respectively the other supervisory authority acting as a group supervisor, shall provide it to the applicant together with the comprehensive reasons therefor.

(5) In the absence of such a joint decision within the term under Paragraph 3, the Commission, in the capacity of group supervisor, shall make its own decision on the application for approval of an internal model of the group, taking account of the opinions and objections of the other supervisory authorities provided within the 6-month term. The Commission's own decision, together with the reasons therefor, shall be provided to the other members of the college of supervisors and to the applicant. The decision shall be regarded as final and subject to implementation. Sentences 1, 2 and 3 shall apply respectively where the Commission is not a group supervisor.

(6) Where no joint decision has been reached and the term under Paragraph 3 has not expired, the Commission may refer the matter to the European Authority pursuant to Article 19 of Regulation (EU) No 1094/2010. Where the Commission is a group supervisor and the matter has been referred to the European Authority pursuant to Article 19 of Regulation (EU) No 1094/2010, the Commission shall postpone making a decision until the ruling of the European Authority and shall make a decision in accordance with such ruling. The decision of the Commission, respectively of another group supervisor, on an application for approval of an internal group model made in accordance with the ruling of the European Authority pursuant to Article 19, Paragraph 3 of Regulation (EU) No 1094/2010, shall be regarded as final and subject to implementation.

(7) If, in accordance with Article 41, Paragraphs 2 and 3 and Article 44, Paragraphs 1 and 3 of Regulation (EU) No 1094/2010, the decision proposed by the panel is rejected, the Commission, respectively the other group supervisor, shall make a final decision on the approval of an internal group model. That decision shall be regarded as final and subject to implementation. The six-month period shall be deemed the conciliation period within the meaning of Article 19, Paragraph 2 of Regulation (EU) No 1094/2010.

(8) The uniform conditions for a process of joint decision-making shall be determined by an instrument of the European Commission.

Deviations from the assumptions underlying the internal group model at the level of the individual insurer or reinsurer

Article 253. (1) Where at the proposal of the Deputy Chairperson, the Commission considers that the risk profile of a local insurer or reinsurer deviates significantly from the internal model approved at group level under Article 252 and if that person does not comply with the instructions of the Commission, it may:

1. impose a capital add-on to its Solvency Capital Requirement calculated according to the internal model, or

2. in exceptional cases, where a capital add-on under point 1 is not appropriate, to require a calculation of its Solvency Capital Requirement on the basis of the standard formula.

(2) In the case of Paragraph 1, point 2, at the proposal of the Deputy Chairperson, the Commission may impose a capital add-on pursuant to Article 584, Paragraph 1, point 1 or 3 and to the Solvency Capital Requirement of that person calculated on the basis of the standard formula.

(3) The decision to impose measures under Paragraph 1 or 2 shall include reasons and shall be provided to the insurer, respectively reinsurer, as well as to the other members of the college of supervisors.

Group capital add-on

Article 254. (1) Where the Commission is a group supervisor, the Deputy Chairperson shall monitor on an on-going basis whether the consolidated Solvency Capital Requirement appropriately reflects the risk profile of the group and in particular shall monitor whether any of the conditions under Article 584, Paragraph 1 has occurred, especially in cases where:

1. a specific risk existing at group level is not sufficiently covered by the standard formula or the internal model used, because it is difficult to quantify;

2. a capital add-on to the Solvency Capital Requirement of one or more related insurers or reinsurers is imposed by the supervisory authorities concerned.

(2) Where in the cases under Paragraph 1 it is found that the risk profile of the group is not adequately reflected, at the proposal of the Deputy Chairperson, the Commission may impose a capital add-on to the consolidated group Solvency Capital Requirement, accordingly in compliance with Article 584.

Deduction and aggregation method – method 2 (alternate method)

Article 255. (1) Under the deduction and aggregation method, a local insurer, respectively reinsurer, that is a participating undertaking shall calculate its solvency as the difference between:

1. the aggregated group eligible own funds, as provided for in Paragraph 2, and

2. the value in the related insurers and reinsurers in the local insurer or reinsurer that is a participating undertaking and the aggregated group Solvency Capital Requirement, as provided for in Paragraph 3.

(2) The aggregated group eligible own funds are the sum of the following:

1. the own funds eligible for the Solvency Capital Requirement of the local insurer or reinsurer that is a participating undertaking;

2. the proportional share of the local insurer or reinsurer that is a participating undertaking in the own funds eligible for the Solvency Capital Requirement of the related insurers or reinsurers.

(3) The aggregated group Solvency Capital Requirement is the sum of the following:

1. the Solvency Capital Requirement of the local insurer or reinsurer that is a participating undertaking;

2. the proportional share of the Solvency Capital Requirement of the related insurers or reinsurers.

(4) Where the participation in the related insurers or reinsurers consists, wholly or in part, of an indirect ownership, the value in the local insurer or reinsurer that is a participating undertaking shall incorporate the value of such indirect ownership, taking into account the relevant successive interests, and the items referred to in:

1. Paragraph 2, point 2 shall include the corresponding proportional shares, respectively, of the own funds eligible for the Solvency Capital Requirement of the related insurers or reinsurers, respectively referred to in,

2. Paragraph 3, point 2 shall include the corresponding proportional shares of the Solvency Capital Requirement of the related insurers and reinsurers.

(5) In the case of an application for permission to calculate the Solvency Capital Requirement of insurers and reinsurers in the group on the basis of an internal model, submitted by an insurer or reinsurer which is a participating undertaking, together with its related insurers and/or reinsurers, or jointly by the related insurers of a local insurance holding or a local mixed financial holding, Articles 252 and 253 shall apply accordingly.

(6) Where the Commission is group supervisor, at the proposal of the Deputy Chairperson, the Commission shall determine whether the aggregated Solvency Capital Requirement appropriately reflects the risk profile of the group and shall in particular assess any specific risks existing at group level which are not sufficiently covered, because they are difficult to quantify.

(7) Where it is determined that the risk profile of the group deviates significantly from the assumptions underlying the aggregated group Solvency Capital Requirement, at the proposal of the Deputy Chairperson, the Commission may impose a capital add-on to the aggregated group Solvency Capital Requirement, accordingly in compliance with Article 584.

Subsection V
Group solvency supervision for insurers and reinsurers which are subsidiaries of an insurance holding company or a mixed financial holding company

Group solvency of an insurance holding company or a mixed financial holding company

Article 256. (1) Where insurers or reinsurers are subsidiaries of an insurance holding company or a mixed financial holding company, the calculation of the solvency of the group shall be carried out at the level of the insurance holding or mixed financial holding company, applying Article 241, Paragraphs 2 and 3 and Articles 242 to 255.

(2) For the purposes of that calculation, the parent undertaking shall be treated as an insurer or reinsurer that has the obligation to calculate the Solvency Capital Requirement under Chapter XIII. The eligible own funds to cover the Solvency Capital Requirement of the parent undertaking shall be determined in accordance with Chapter XII.

Subsection VI
Supervision of group solvency for groups with centralised risk management

Group with centralised risk management

Article 257. (1) A group with centralised risk management is a group consisting of an insurer, reinsurer, insurance holding or mixed financial holding and their respective subsidiary insurers and reinsurers, each of which is authorised under Article 258. This subsection shall apply accordingly to groups with centralised risk management headed by an insurance holding company or a mixed financial holding company.

(2) A local insurer or reinsurer which is a subsidiary of another insurer or reinsurer can be included in the scope of groups with centralised risk management if it meets all of the following conditions:

1. the subsidiary is included in the scope of group supervision carried out by the group supervisor at the level of the parent company in accordance with this Title and if that authority has not made a decision under Article 235, Paragraph 2 with regard to that subsidiary;

2. the risk-management processes and internal control mechanisms of the parent undertaking fulfil the requirements of the supervisory authorities concerned regarding the prudent management of the subsidiary;

3. the parent undertaking has received the consent referred to in Article 265, Paragraph 7 of the competent group supervisor;

4. the parent undertaking has received the consent referred to in Article 276, Paragraph 2 of the competent group supervisor;

5. the parent undertaking has submitted an application for authorisation to have the subsidiary subject to the regime under this subsection and the authorisation has been granted in accordance with the procedure set out in Article 258.

Decision on the application

Article 258. (1) An application under Article 257, Paragraph 2, point 5 with regard to a local insurer or reinsurer shall be submitted to the Commission. The Commission shall immediately inform the other members of the college of supervisors and submit to them the application together with all attachments thereto.

(2) The decision on the application shall be made jointly or with the agreement of all participants in the college of supervisors, or by the group supervisor of the group where an agreement has not been reached. The Commission shall collaborate with other members of the college of supervisors in order to make a joint decision, within three months of the date of receipt of the application together with all attachments by all members of the college, on granting or refusing the issuance of the applied for authorisation, as well as on the potential conditions under which the authorisation may be granted.

(3) When a joint decision is made regarding the application, it shall be provided to the applicant together with the reasons therefor. The decision shall be regarded as final with regard to the relationship between supervisory authorities and shall be subject implementation.

(4) In the absence of such a joint decision within the term under Paragraph 2, the group supervisor shall make its own decision on the application, taking account of the opinions and objections of the other supervisory authorities provided within the three-month term. The decision shall include comprehensive reasons and an explanation in case that the opinions objections of the other supervisory authorities have not been accepted. The decision, together with the reasons therefor, shall be provided to the other members of the college of supervisors and to the applicant. The decision shall be regarded as final with regard to the relationship between supervisory authorities and shall be subject implementation. Sentences 1, 2, 3 and 4 shall also apply where the Commission is a group supervisor and it has ruled independently on an application under Article 257, Paragraph 2, point 5.

(5) Where no joint decision has been reached and the term under Paragraph 2 has not expired, the Commission may refer the matter to the European Authority pursuant to Article 19 of Regulation (EU) No 1094/2010. Where the Commission is a group supervisor and the matter has been referred to the European Authority pursuant to Article 19 of Regulation (EU) No 1094/2010, the Commission shall postpone making a decision until the ruling of the European Authority and shall make a decision in accordance with such ruling. The decision of the Commission, respectively of another authority in its capacity of a group supervisor, made in accordance with the ruling of the European Authority pursuant to Article 19, Paragraph 3 of Regulation (EU) No 1094/2010, shall be regarded as final in the relationship between the supervisory authorities and shall be subject to implementation.

(6) If, in accordance with Article 41, Paragraphs 2 and 3 and Article 44, Paragraphs 1 and 3 of Regulation (EU) No 1094/2010, the decision proposed by the panel is rejected, the decision on the application under Article 257, Paragraph 2, point 5 shall be made by the Commission, at the proposal of the Deputy Chairperson, if it is the group supervisor, respectively by another group supervisor. The decision shall be regarded as final with regard to the relationship between supervisory authorities and shall be subject implementation. The three-month period shall be deemed the conciliation period within the meaning of Article 19, Paragraph 2 of the same Regulation.

(7) The uniform conditions for a process of joint decision-making shall be determined by an instrument of the European Commission.

(8) Paragraphs 4 to 7 shall apply in all cases where the Commission is a group supervisor and it has the authority to rule on the application in connection with an insurer without a head office in the Republic of Bulgaria.

Determining the Solvency Capital Requirement of subsidiaries of a group with centralised risk management

Article 259. (1) To calculate the Solvency Capital Requirement of an insurer or reinsurer that is a subsidiary in a group with centralised risk management, Paragraphs 2 – 9 shall apply regardless of the provisions of Articles 252 and 253.

(2) Where the Solvency Capital Requirement of a local insurer or reinsurer under Paragraph 1 is determined according to an internal model approved at group level under Article 252 and at the proposal of the Deputy Chairperson, the Commission considers that its risk profile deviates significantly from that internal model, and if that person does not comply with the instructions of the Commission, it may propose:

1. a capital add-on to its Solvency Capital Requirement, calculated according to the internal model, or

2. in exceptional cases, where a capital add-on under point 1 is not appropriate, to require a calculation of the Solvency Capital Requirement on the basis of the standard formula.

(3) Where the Solvency Capital Requirement of a local insurer or reinsurer under Paragraph 1 is determined on the basis of the standard formula and at the proposal of the Deputy Chairperson, the Commission considers that its risk profile deviates significantly from the assumptions underlying the standard formula, and if that person does not comply with the instructions of the Commission, it may, in exceptional cases, propose:

1. that the person replace a part of the parameters used in the calculation according to the standard formula by parameters specific to it when calculating the life, non-life and health underwriting risk modules, as set out in Article 174, or

2. a capital add-on to its Solvency Capital Requirement in the cases under Article 584.

(4) The Commission shall discuss the proposal under Paragraph 2, respectively under Paragraph 3, with the college of supervisors, explaining the reasons therefor to the college and to the insurer or reinsurer.

(5) The Commission shall take action to achieve a joint decision within the college of supervisors on the proposed measures or on other potential measures. Sentence 1 shall also apply where the Commission is a member of a college of supervisors and another supervisory authority has proposed measures within the meaning of Paragraph 2 or 3 in respect of an insurer or reinsurer authorised by it. The achieved joint decision shall be regarded final with regard to the relationship between supervisory authorities and shall be subject implementation. If no joint decision is reached within one month of the date of the proposal under Paragraph 2 or 3, the Commission, respectively the other supervisory authority proposing the measures, may make a decision on its own.

(6) Where the Commission and the group supervisor fail to reach an agreement, and also where no joint decision has been reached and the term under Paragraph 5 has not expired, the Commission may request assistance from the European Authority pursuant to Article 19 of Regulation (EU) No 1094/2010. Where the matter has been referred to the European Authority pursuant to Article 19 of Regulation (EU) No 1094/2010, the Commission shall postpone making a decision until the ruling of the European Authority and shall make a decision in accordance with such ruling. The decision of the Commission made in accordance with the ruling of the European Authority pursuant to Article 19, Paragraph 3 of Regulation (EU) No 1094/2010, shall be regarded as final in the relationship between the supervisory authorities and shall be subject to implementation. The one-month period under Paragraph 5, sentence 4 shall be deemed the conciliation period within the meaning of Article 19, Paragraph 2 of the same Regulation.

(7) The Commission's own decision under Paragraph 5, respectively under Paragraph 6, shall include reasons and shall be provided to the insurer or reinsurer and to the college of supervisors.

(8) Paragraph 6 shall also apply to the settlement of any disagreements regarding the application of Paragraph 2 or 3 between the Commission, where it is a group supervisor, and another supervisory authority within the college of supervisors.

(9) The ruling of the European Authority in the cases under Paragraph 8 shall not replace the discretion of the national supervisory authorities, when it is in compliance with law of the European Union. The European Authority shall settle disagreements by mediating between the supervisory authorities.

Non-compliance with the Solvency Capital Requirement or the Minimum Capital Requirement of subsidiaries in a group with centralised risk management

Article 260. (1) Where a local insurer or reinsurer which is a subsidiary in a group with centralised risk management does not comply with the Solvency Capital Requirement and regardless of the requirements of Article 214 Paragraph 2, points 1 and 3, Article 215, Paragraph 1 and Paragraphs 3 to 5 and Article 216, at the proposal of the Deputy Chairperson, the Commission shall immediately send to the college of supervisors the plan to restore solvency submitted by the insurer or reinsurer to be implemented within 6 months of the establishment of the non-compliance with the Solvency Capital Requirement in order to re-establish compliance.

(2) The Commission shall take action to achieve a joint decision within the college of supervisors for approval of the submitted plan not later than 4 months from the date of establishment of the non-compliance with the Solvency Capital Requirement. Sentence 1 shall also apply where another supervisory authority has proposed the approval of the plan to restore solvency in respect of an insurer or reinsurer authorised by it.

(3) Where no agreement under Paragraph 2 has been reached, the Commission shall decide on the approval of the plan to restore solvency, taking account of the opinions and objections of the other members of the college of supervisors.

(4) Where deteriorating financial conditions under Article 214 Paragraph 1 are established with regard to a local insurer or reinsurer which is a subsidiary in a group with centralised risk management, the Commission shall immediately notify the college of supervisors of the measures it proposes to be taken. Apart from emergencies, the measures shall be discussed within the college of supervisors.

(5) The Commission shall take action to achieve a joint decision within the college of supervisors in connection with the proposed measures within a period not longer than one month after the notification. Sentence 1 shall also apply when the Commission is a member of a college of supervisors and another supervisory authority has proposed measures in respect of an insurer or reinsurer authorised by it.

(6) Where no agreement under Paragraph 5 has been reached, the Commission shall decide on its own on the imposition of measures against the insurer or reinsurer, taking account of the opinions and objections of the other members of the college of supervisors.

(7) Where a local insurer or reinsurer which is a subsidiary in a group with centralised risk management does not comply with the Minimum Capital Requirement and regardless of the requirements of Article 214, Paragraph 2, points 2 and 3, Article 215, Paragraphs 2 to 5, the Commission shall immediately send to the college of supervisors the short-term plan submitted by the insurer or reinsurer, so that the objectives of short-term plan may be achieved within three months after the establishment of the non-compliance with the Minimum Capital Requirement. The Commission shall inform the college of supervisors of the measures imposed on the insurer or reinsurer in order to ensure compliance with the plan.

(8) If the Commission and the group supervisor fail to reach an agreement on the approval of the plan to restore solvency within the 4-month period under Paragraph 2 or on the approval of the proposed measures within the one-month period under Paragraph 5, as well as and in the absence of a joint decision and if relevant periods have not expired, and if there is no emergency situation under Paragraph 4, the Commission may request the assistance of the European Authority pursuant to Article 19 of Regulation (EU) No 1094/2010. Where the matter has been referred to the European Authority pursuant to Article 19 of Regulation (EU) No 1094/2010, the Commission shall postpone making a decision until the ruling of the European Authority and shall make the decision in accordance with such ruling. The decision of the Commission made in accordance with the ruling of the European Authority pursuant to Article 19, Paragraph 3 of Regulation (EU) No 1094/2010, shall be regarded as final in the relationship between the supervisory authorities and shall be subject to implementation. The one-month term under Paragraph 5 shall be deemed the conciliation period within the meaning of Article 19, Paragraph 2 of the same Regulation. The decision of the Commission, together with the reasons therefor, shall be provided to the insurer, respectively reinsurer, and to the members of the college of supervisors.

(9) Paragraph 8 shall also apply to the settlement of any disagreements regarding the application of Paragraph 1 – 6 between the Commission, where it is a group supervisor, and another supervisory authority within the college of supervisors.

(10) The ruling of the European Authority under Paragraph 8 shall not replace the discretion of the Commission, where it is in compliance with law of the European Union. In cases of disagreements between the supervisory authorities, the European Authority shall assist their resolution.

Exclusion of a subsidiary – insurer or reinsurer – from the scope of a group with centralised risk management

Article 261. (1) A subsidiary that is an insurer or reinsurer 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, point 1 no longer exists;

2. the condition of Article 257, Paragraph 2, point 2 is no longer satisfied and the group does not restore compliance within an appropriate period;

3. the conditions under Article 257, Paragraph 2, points 3 and 4 no longer exist.

(2) Where the Commission is a group supervisor and it decides to exclude the undertaking under Paragraph 1, point 1 in the scope of the group supervision, the Deputy Chairperson shall immediately inform the supervisory authority concerned and the parent undertaking. The Commission shall make the decision under sentence 1 after consulting the college of supervisors.

(3) A parent undertaking of a group with centralised risk management shall be responsible for ensuring that the conditions under Article 257, Paragraph 2, points 2 to 4 are complied with on an ongoing basis. If any of these conditions ceases to exist, the relevant parent undertaking shall immediately notify the Commission and the relevant supervisory authority of the subsidiary and shall submit a plan to restore compliance with that condition within an appropriate period.

(4) Where the Commission is the supervisor of a group with centralised risk management, it shall verify *ex-officio* at least once a year that the conditions under Article 257, Paragraph 2,

points 2 to 4 are complied with. At the proposal of the Deputy Chairperson, the Commission shall make the verification under sentence 1 also at the request of the concerned authority from the college of supervisors. Where the Commission is a member of a college of supervisors and a local insurer or reinsurer is included in the scope of a group with centralised risk management, it may submit a request to the relevant group supervisor for verification of the existence of the conditions under Article 257, Paragraph 2, points 2 to 4 with regard to the local insurer or reinsurer.

(5) Where weaknesses are identified in the cases of a verification under Paragraph 4, the Commission shall instruct the relevant parent undertaking to submit a plan to restore compliance with the unsatisfied conditions within an appropriate period.

(6) Where the Commission is the supervisor of a group under Paragraph 4, sentence 1, it shall assess whether the plan under Paragraph 3, respectively under Paragraph 5, is sufficient, respectively whether it is complied with, after consultation with the college of supervisors. Where it is established that the plan is insufficient, respectively that it is not complied with and that the conditions under Article 257, Paragraph 2, points 2 to 4 have ceased to exist, the Commission shall immediately notify the supervisory authorities concerned thereof.

(7) The excluded insurer, respectively reinsurer, may be re-included within the scope of the group with centralised risk management under Article 258.

Implementing instruments

Article 262. The criteria for assessing whether the conditions under Article 257, Paragraph 2 and the criteria for assessing the existence of an emergency situation under Article 260, Paragraph 4, as well as the procedures for exchange of information among the supervisory authorities and for exercise of their powers and duties under this Subsection shall be governed by an instrument of the European Commission.

Section II
Risk concentration, intra-group transactions, risk management and internal control

Supervision of risk concentration

Article 263. (1) Risk concentration within the group means all exposures of undertakings in a group with a loss potential which is large enough to threaten the solvency or the overall financial position of the insurers and/or reinsurers in the group.

(2) The Deputy Chairperson shall carry out supervisory reviews of the risk concentrations of the groups of which the Commission is a group supervisor, regardless of whether the seat of the parent undertaking is in the Republic of Bulgaria. The supervisory review of the risk concentrations of a group whose parent undertaking is a local insurer, reinsurer, insurance holding or a mixed financial holding shall be carried out by the group supervisor. When reviewing the risk concentrations, the Deputy Chairperson shall also monitor the possible risk of contagion in the group, the risk of a conflict of interests, and the level or volume of risks

(3) A local insurer, reinsurer, insurance holding or mixed financial holding which is the parent undertaking of a group shall report to the group supervisor any significant risk concentrations at group level at least once a year. When a parent undertaking of a group is a local insurance holding or a mixed financial holding, the group supervisor may, after consultation with

the college of supervisors and with the group, determine an insurer or reinsurer to provide the information under sentence 1. The Deputy Chairperson shall also require information within the meaning of sentence 1 and shall have the power under sentence 2 where the Commission is the supervisor of a group whose parent undertaking is an undertaking without a head office in the Republic of Bulgaria.

(4) In the cases under Paragraph 3, the exposures, as well as all types of risks subject reporting in any event shall be determined by the group supervisor after consultation with the Deputy Chairperson and the other supervisory authorities concerned and with the group. Where the Commission is a group supervisor, the Deputy Chairperson shall also have the right to determine the risks subject to reporting under sentence 1, after consultation with the other supervisory authorities concerned and with the group, where a parent undertaking of a group is without a head office in the Republic of Bulgaria. When determining the risks subject to reporting under sentence 2 and when participating in a consultation under sentence 1, the Deputy Chairperson shall take into account the specific structure of the group and its risk management.

(5) To determine significant risk concentrations when the Commission is a group supervisor, the Deputy Chairperson, after consultation with the supervisory authorities concerned and with the group, shall determine appropriate thresholds based on solvency requirements, the technical provisions, or on both indicators taken together.

(6) Article 265 and Chapter XXV shall apply to the supervision of risk concentrations.

(7) The term "significant risk concentration", the manner of identification of significant risk concentrations and the calculation of appropriate thresholds for the purposes of Paragraph 5 shall be governed by an instrument of the European Commission.

Supervision of intra-group transactions

Article 264. (1) An intra-group transaction means any transaction by which an insurer or reinsurer relies, either directly or indirectly, on other undertakings within the same group or on any natural or legal person linked to the undertakings within that group by close links, for the fulfilment of an obligation, whether or not contractual, and whether or not for payment.

(2) The Deputy Chairperson shall carry out supervisory reviews of the intra-group transactions of groups of which the Commission is a group supervisor, regardless of whether the seat of the parent undertaking is in the Republic of Bulgaria. The supervisory review of the intra-group transactions of a group whose parent undertaking is a local insurer, reinsurer, insurance holding or a mixed financial holding shall be carried out by the group supervisor.

(3) A local insurer, reinsurer, insurance holding or mixed financial holding which is the parent undertaking of a group shall report to the group supervisor all significant intra-group transactions, including those concluded with a natural person with close links to an undertaking within the group at least once a year, and transactions of major significance – immediately when an opportunity arises. When a parent undertaking of a group is a local insurance holding or a mixed financial holding, the group supervisor may, after consultation with the college of supervisors and with the group, determine an insurer or reinsurer to provide the information under sentence 1. The Deputy Chairperson shall also require the information under sentence 1 and shall have the powers under sentence 2 where the Commission is the supervisor of a group whose parent undertaking is without a head office in the Republic of Bulgaria.

(4) The intra-group transactions under Paragraph 3, sentence 1 subject to reporting in any event shall be determined by the group supervisor after consultation with the Deputy Chairperson and the other supervisory authorities concerned and with the group. Where the Commission is a group supervisor, the Deputy Chairperson shall also have the power to determine the intra-group transactions subject to reporting under sentence 1, after consultation with the other supervisory authorities concerned and with the group, where the parent undertaking of a group is an entity without a head office in the Republic of Bulgaria. When determining the transactions subject to reporting under sentence 2 and when participating in a consultation with regard to them under sentence 1, the Deputy Chairperson shall take into account the specific structure of the group and its risk management.

(5) To determine significant intra-group transactions when the Commission is a group supervisor, the Deputy Chairperson, after consultation with the supervisory authorities concerned and with the group, shall determine appropriate thresholds based on solvency requirements, technical provisions, or on both indicators taken together.

(6) Article 265 and Chapter XXV shall apply to the supervision of intra-group transactions.

(7) The term "significant intra-group transaction" shall be governed by an instrument of the European Commission.

Supervision of the system of governance

Article 265. (1) The requirements of Articles 76 to 79 and Article 86 to 100 shall apply at the group level respectively.

(2) Notwithstanding the requirements of Paragraph 1, a local insurer, respectively reinsurer, or a local insurance holding, respectively mixed financial holding which is a parent undertaking of the group shall be responsible for ensuring that the risk management and internal control systems and reporting procedures are implemented consistently in all the undertakings included in the scope of group supervision, so that those systems and procedures can be controlled at the level of the group.

(3) Notwithstanding the requirements of Paragraphs 1 and 2, the group internal control mechanisms shall include at least the following:

1. adequate mechanisms as regards group solvency to identify and measure all material risks incurred and to appropriately relate eligible own funds to risks;

2. sound reporting and accounting procedures to monitor and manage the intra-group transactions and the risk concentration.

(4) The Deputy Chairperson shall carry out supervisory reviews under Chapter XXV of the systems and procedures under Paragraphs 1 to 3 in the groups of which the Commission is a group supervisor, regardless of whether the seat of the parent undertaking of the group is in the Republic of Bulgaria. The supervisory review of the systems and procedures under Paragraphs 1 to 3 in a group whose parent undertaking is a local insurer, reinsurer, insurance holding or a mixed financial holding shall be carried out by the group supervisor.

(5) A local insurer, reinsurer, insurance holding or mixed financial holding which is the parent undertaking of a group shall conduct its own assessment of the risk and solvency at group level. This assessment shall be subject to supervisory reviews by the group supervisor. Where the Commission is a group supervisor, the Deputy Chairperson shall perform a supervisory review of the own risk and solvency assessment following the procedure set out in Chapter XXV.

(6) Where at group level the calculation of the solvency is based on the accounting consolidation-based method, the local insurer, reinsurer, insurance holding or mixed financial holding which is the parent undertaking of the group shall explain to the group supervisor the difference between the sum of the Solvency Capital Requirements of the related insurers and reinsurers in the group and the consolidated group Solvency Capital Requirement. Where the Commission is a group supervisor, the Deputy Chairperson shall also require explanations in the cases under sentence 1 where the parent undertaking of the group is without a head office in the Republic of Bulgaria.

(7) The local insurer, reinsurer, insurance holding or mixed financial holding which is the parent undertaking of the group may, subject to the agreement of the group supervisor, undertake its own risk and solvency assessment simultaneously at group level and at the level of one, more or all insurers or reinsurers in the group and produce a single document covering all the assessments. Where the Commission is a group supervisor, the Deputy Chairperson shall give such an agreement after consultation with the members of the college of supervisors and taking due account of their opinions and objections.

(8) Where the group exercises the option under Paragraph 7, it shall provide the single document to all supervisory authorities concerned at the same time. Exercising the option under Paragraph 7 shall not exempt a local insurer, respectively reinsurer, which is a subsidiary of a group from the obligation to fully comply with the requirements of Article 90 in the course of the simultaneous assessment. Sentence 2 shall also apply to local insurers or reinsurers which are subsidiaries of a group whose parent undertaking is not a local entity.

Chapter XXV
GROUP SUPERVISOR. COLLEGE OF SUPERVISORS. COOPERATION BETWEEN SUPERVISORY AUTHORITIES AND OTHER MEASURES TO FACILITATE GROUP SUPERVISION

Group supervisor

Article 266. (1) A single supervisor, responsible for coordination and exercise of group supervision (group supervisor), shall be designated for each group within the meaning of Article 234, Paragraph 1, point 1 or 2 from among the supervisory authorities of the Member States where the group is located.

(2) The group supervisor shall be designated according to Paragraphs 3 to 10.

(3) The Commission, respectively the Deputy Chairperson, shall be a group authority when they exercise supervisory functions over all individual insurers and reinsurers in the group.

(4) Apart from the cases under Paragraph 3, the Commission, respectively the Deputy Chairperson, shall be a group supervisor if:

1. a local insurer or reinsurer is the parent undertaking of the group;

2. an insurance holding or a mixed financial holding is the parent undertaking of a group including a local insurer or reinsurer, and the group has no insurers or reinsurers in another Member State;

3. a local insurance holding or a local mixed financial holding is the parent undertaking of a local insurer or reinsurer, where the group has at least one subsidiary –insurer or reinsurer – in another Member State;

4. the insurer, respectively reinsurer, in the group with the largest balance sheet total has its head office in the Republic of Bulgaria in all other cases.

(5) Paragraph 4 shall apply respectively to the designation of a group supervisor of groups under Article 234, Paragraph 1 or 2, where the Commission is not a group supervisor as well as where a local insurer or reinsurer is part of a group headed by an insurer, reinsurer, insurance holding or mixed financial holding from another Member State.

(6) The supervisory authorities concerned may, at the request of any one of them, make a joint decision to derogate from the rules under Paragraphs 3 to 5 and designate another group supervisor, where their application would be inappropriate, taking into account the structure of the group and the relative importance of the activities of insurers and reinsurers in different countries.

(7) In order to designate another group supervisor, the Deputy Chairperson may request the initiation of a discussion within the college of supervisors as to whether the criteria under Paragraphs 3 to 5 are suitable. A new discussion cannot be held with a frequency of less than one year. The Deputy Chairperson shall contribute to the joint decision within three months of submission of the request for discussion. Before making a decision, the supervisory authorities concerned shall take into account the opinion of the group. The authority designated as the group supervisor under Paragraph 6 shall present the joint decision with detailed reasons therefor to the group concerned.

(8) Within the three-month period under Paragraph 7, the Commission or another authority concerned may refer the matter to the European Authority pursuant to Article 19 of Regulation (EU) No 1094/2010. In this case, the joint decision shall be deferred until the ruling of the European Authority and it shall be taken in conformity with the ruling. That joint decision shall be recognised as determinative and shall be applied by the supervisory authorities concerned. The three-month term shall be deemed the conciliation period within the meaning of Article 19, Paragraph 2 of the same Regulation. Referral of the matter to the European Authority shall not be allowed if a joint decision was reached and if the three-month period under Paragraph 7 has expired. After a joint decision reached, sentence 5 of Paragraph 7 shall also apply.

(9) In the absence of a joint decision, the group supervisor shall be designated according to Paragraphs 3 to 5.

Powers of the group supervisor

Article 267. (1) The Deputy Chairperson shall have the following powers with regard to group supervision:

1. coordination of the gathering and dissemination of relevant or essential information for going concern and emergency situations, including the dissemination of information which is of importance for the supervisory task of a supervisory authority;

2. supervisory review and assessment of the financial situation of the group;

3. assessment of compliance of the group with the rules on solvency and of risk concentration and intra-group transactions as set out in Chapter XXV;

4. assessment of the system of governance of the group, as set out in Article 265, and of whether the members of the management or supervisory body of the participating undertaking at the head of the group fulfil the requirements for qualifications and good repute under Articles 79, 80 and 82;

5. planning and coordination, through regular meetings held at least annually or through other appropriate means, of supervisory activities in going-concern as well as in emergency situations, in cooperation with the supervisory authorities concerned and taking into account the nature, scale and complexity of the risks inherent in the business of all undertakings that are part of the group;

6. performing tasks, taking measures and making decisions relating to group supervision under this Code in respect of:

a) approval of an internal model at group level;

b) implementation of a supervisory regime for groups with centralised risk management;

c) other tasks.

(2) With regard to group supervision, the Commission shall approve an internal model at group level.

(3) When another authority is designated as group supervisor, the Commission, respectively the Deputy Chairperson, shall cooperate with in order to facilitate the exercise of its powers.

College of supervisors

Article 268. (1) To support the implementation of Article 267, a college of supervisors chaired by the group supervisor shall be established for each group under Article 266, Paragraphs 4 or 5.

(2) The college of supervisors is permanent and flexible structure for the cooperation, coordination and facilitation of decision making concerning the supervision of a group. The college of supervisors shall ensure that cooperation, exchange of information and consultation processes among the supervisory authorities that are its members are effectively applied in accordance with the provisions of this Title, with a view to promoting the convergence of their respective decisions and activities. Where the group supervisor fails to exercise the powers referred to in Article 267, respectively where a member of the college of supervisors does not cooperate to the extent required in sentence 2, the Commission may refer the matter to the European Authority in accordance with Article 19 of Regulation (EU) No 1094/2010.

(3) Members of the college of supervisors shall be the group supervisor, the supervisory authorities of all the Member States in which the head offices of all subsidiaries of the group are situated and the European Authority in accordance with Article 21 of Regulation (EU) No 1094/2010. The supervisory authorities of significant branches and related undertakings shall also be allowed to participate in the college of supervisors. They shall participate solely in order to achieve the objective of an efficient exchange of information. The effective functioning of the college of supervisors may require that some activities be carried out by a reduced number of supervisory authorities therein.

(4) Unless otherwise stipulated in an instrument implementing Directive 2009/138/EC, the establishment and functioning of the college of supervisors shall be governed by coordination arrangements between the group supervisor and the other supervisory authorities concerned.

Where the Commission is a group supervisor, it shall take the initiative to conclude a coordination arrangement, respectively to amend and supplement it where necessary.

(5) In compliance with the instruments implementing Directive 2009/138/EC, the coordination arrangement shall specify the procedures for:

1. the joint decision-making process of the supervisory authorities regarding:

a) determining the group supervisor;

b) approval of the group's internal model;

c) group capital add-on;

2. consultation on:

a) the adoption of amendments in the coordination arrangement;

b) in the cases where there is a non-compliance with the group Solvency Capital Requirement or such a risk exist.

(6) Without prejudice to the powers allocated to the group supervisor and the other supervisory authorities, the coordination arrangements may entrust additional tasks to the group supervisor, the other supervisory authorities and to the European Authority where this would result in the more efficient supervision of the group and would not impair the supervisory activities of the members of the college of supervisors in respect of their responsibilities.

(7) The coordination arrangement may set out procedures for consultation among the supervisory authorities in relation to other aspects of the supervision of the group, and for cooperation with other supervisory authorities.

(8) In case of disputes relating to coordination arrangements, the Commission may refer the matter to the European Authority and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010. Where the Commission is a group supervisor and the European Authority has been informed about a dispute relating to a coordination arrangement, the Commission shall make its final decision in accordance with the decision of the European Authority and shall send the decision of the European Authority to the other supervisory authorities concerned.

(9) Where the Commission is a group supervisor, the Deputy Chairperson shall provide information to the European Authority on the functioning of colleges of supervisors that it chairs, as well as information on any difficulties encountered.

(10) Additional requirements in connection with the coordination of the supervision of a group shall be determined by an instrument of the European Commission.

Cooperation and exchange of information between supervisory authorities

Article 269. (1) The Deputy Chairperson shall collaborate with the other supervisory authorities responsible for the supervision of individual insurers or reinsurers in the group, particularly in cases where the insurer or reinsurer in such a group is facing financial difficulties.

(2) With the objective of ensuring that all supervisory authorities under Paragraph 1, including the group supervisor when other than the Commission, have the same information, the Deputy Chairperson shall exchange with the other supervisory authorities information needed to allow and facilitate the exercise of their supervisory powers. For this purpose, the Deputy Chairperson shall provide to and receive from the other supervisory authorities information about

group activities, supervisory action taken against undertakings in the group, information provided by the group, as well as other relevant information. The information shall be provided immediately when Deputy Chairperson receives access to it, and also at the request of another supervisory authority, but not later than two weeks from the date of the request. When the Commission is a group supervisor, the Deputy Chairperson shall communicate to the other supervisory authorities concerned and the European Authority information on persons that have close links with the group, the content of their report on their solvency and financial condition, as well as the information received directly from subsidiaries of the group, in particular in relation to the legal structure, management structure and organisation of the group. Where a supervisory authority has not communicated relevant information or a request for cooperation, in particular to exchange relevant information, has been rejected or has not been acted upon within two weeks, the supervisory authorities may refer the matter to the European Authority.

(3) The Deputy Chairperson shall call a meeting of all supervisors involved in the supervision of the group on the following day after its becomes aware of any of the following circumstances:

1. a significant breach of the Solvency Capital Requirement or a breach of the Minimum Capital Requirement of a local insurer or reinsurer;

2. a significant breach of the Solvency Capital Requirement at group level calculated on the basis of consolidated data or the aggregated Solvency Capital Requirement, in accordance with whichever calculation method is used;

3. occurrence of other exceptional circumstances.

(4) An instrument of the European Commission shall determine:

1. the items which are, on a systematic basis, to be gathered by the group supervisor and disseminated to other supervisory authorities concerned or which the other supervisory authorities concerned are to communicate to the group supervisor;

2. the items essential or relevant for supervision at group level with the purpose of enhancing convergence of supervisory reporting;

3. the procedures and templates for the submission of information to the group supervisor as well as the procedures for the cooperation and the exchange of information between supervisory authorities.

Consultation between supervisory authorities

Article 270. (1) The Deputy Chairperson shall, where a decision is of importance for the supervisory tasks of other supervisory authorities, before the Commission or the Deputy Chairperson makes a decision, consult the college of supervisors with regard to the following:

1. changes in the shareholder structure, organisational or management structure of insurance and reinsurance undertakings in a group, which require the approval or authorisation in accordance with this Code;

2. decisions to extend the terms for implementation of the plan to restore solvency under Article 216;

3. imposition of major sanctions or emergency measures, including the imposition of a capital add-on requirement to the Solvency Capital Requirement and add capital to the Solvency

Capital Requirement and the imposition of any limitation on the use of an internal model for the calculation of the Solvency Capital Requirement.

(2) In the cases under Paragraph 1, points 2 and 3, the Deputy Chairperson shall further take into account the opinion of the group supervisor when the Commission itself is not such a supervisor.

(3) Before making a decision based on information received from another supervisory authority, the Deputy Chairperson shall receive the opinion of that supervisory authority.

(4) Notwithstanding the requirements of Articles 267 and 268, the Commission, respectively the Deputy Chairperson, may decide not to consult other supervisory authorities in cases of urgency or where such consultation could jeopardise the effectiveness of the decision. In that case, the Commission shall, without delay, inform the other supervisory authorities concerned.

Request for collection of information by the group supervisor

Article 271. (1) Where the Commission is the supervisor of a group whose parent undertaking has its head office in another Member State, the Deputy Chairperson may request from the competent authority of another Member State to collect from the parent undertaking any information necessary for the exercise of its group supervisory the powers and to provide such information to it. Where the supervisor of a group whose parent undertaking has its head office in the Republic of Bulgaria requests from the Commission to collect information, the Deputy Chairperson shall take the necessary action and provide the requested information.

(2) Where the Commission in its capacity of a group supervisor needs information under Article 274 which has already been provided to another supervisory authority, the Deputy Chairperson shall request the information from that authority. Upon request, the Commission, respectively the Deputy Chairperson, shall provide the information under Article 274 to another group supervisor, when it possesses such information.

Cooperation with the supervisory authorities responsible for credit institutions and investment firms

Article 272. (1) When a local insurer, respectively reinsurer, a credit institution or investment firm are directly or indirectly related or have a common participating undertaking, the Commission and/or Deputy Chairperson shall cooperate closely with the supervisory authority of the respective credit institution or investment firm.

(2) The Commission and/or the Deputy Chairperson shall be entitled to receive information from the authority which supervises the credit institution, respectively the investment firm under Paragraph 1 in connection with the exercise of its supervisory powers and shall be obliged to provide such authority with information necessary to exercise its supervisory powers over the credit institution, respectively over the investment firm.

Professional secrecy

Article 273. (1) The exchange of information under Articles 269 to 272 among the supervisory authorities shall not be restricted by rules of professional secrecy.

(2) The rules of Article 24 and 25 of the Financial Supervision Commission Act shall apply to the information received by the Commission in connection with group supervision under this Title.

Access to information

Article 274. (1) Natural and legal persons included within the scope of group supervision whose domicile or head office is situated in the Republic of Bulgaria and their related undertakings and participating undertakings shall exchange all information which is necessary for the purposes of group supervision, including with persons in the group whose domicile or head office is situated in other Member States, without restriction.

(2) The persons under Paragraph 1 shall submit to the Commission or to another supervisory authority from a Member State responsible for group supervision all information which is necessary for the purposes of group supervision. The Commission in its capacity of a group supervisor, respectively the Deputy Chairperson, can require and receive all the information which is necessary for the purposes of group supervision from any person that is part of the group whose domicile or head office is situated in another Member State. Article 114, Paragraph 3 and Article 127 shall apply accordingly.

(3) Where the Commission is a group supervisor, the Deputy Chairperson may exempt the group from an obligation to provide periodic reporting information when the submission period is shorter than one year, in case that an exemption within the meaning of Article 193 is applied to each insurer and reinsurer in the group and taking into account the nature, scale and complexity of the risks inherent in the business of the group.

(4) Where the Commission is a group supervisor, the Deputy Chairperson may exempt the group from an obligation to provide detailed information (on an item-by-item basis) in case that an exemption within the meaning of Article 194 is applied to each insurer and reinsurer in the group and taking into account the nature, scale and complexity of the risks inherent in the business of the group and whether such an exemption would be contrary to the purpose of Article 2, Paragraph 2.

(5) The Deputy Chairperson may require information necessary for group supervision directly from another undertaking within the group only when such information has been required from the insurer or reinsurer subject to the group supervision and has not been supplied by it within a reasonable period.

Verification of information

Article 275. (1) The Deputy Chairperson may order an on-site verification of the information referred to in Article 274 in the premises in the territory of the Republic of Bulgaria of:

1. a insurer, respectively reinsurer, subject to the group supervision;

2. related undertaking of a person under point 1;

3. the parent undertaking of a person under point 1;

4. a related undertaking of the parent undertaking of a person under point 1.

(2) Where the Commission or the Deputy Chairperson intend to verify information relating to a person, whether subject to supervision or not, that is part of a group and is located in another Member State, they send a request for verification in the relevant supervisory authority in the Member State.

(3) Where the Commission, respectively the Deputy Chairperson, have received a request under Paragraph 2 by the relevant supervisory authority in the Member State within the

framework of their competences, they shall take the necessary action not later than one week of receipt of the request. The verification shall be carried out by employees of the Commission or by an external auditor or expert, by allowing the authority which made the request to carry it out with its own employees. The Commission, respectively the Deputy Chairperson, shall notify the group supervisor of the action taken.

(4) The Commission may carry out the verification under Paragraph 2 with its own employees or send a representative to participate in a verification organised by the supervisory authority in the relevant Member State. Where the authority making the request under Paragraph 3 does not carry out the verification on its own, it may send representatives to participate in the verification. Where the verification under sentence 1 or 2 is carried out jointly, the European Authority may participate in it as well.

(5) The Commission may refer the matter to the European Authority when:

1. a request to another supervisory authority for verification under Paragraph 2 has not been acted upon within two weeks;

2. employees of the Commission have been prevented from exercising their right to participate in the verification under Paragraph 4.

Report on group solvency and financial condition

Article 276. (1) A local insurer or reinsurer, respectively a local insurance holding or mixed financial holding which is the parent undertaking of a group shall disclose publicly, on an annual basis, a report on its solvency and financial condition at group level. Articles 129 to 133 shall apply accordingly.

(2) A local insurer or reinsurer, respectively a local insurance holding or mixed financial holding may, with the permission of the group supervisor, provide a single report on its solvency and financial condition, including:

1. the information at group level subject to disclosure under Paragraph 1;

2. information on each of the subsidiaries within the group, which information shall be individualised and disclosed in accordance with Articles 129 to 133.

(3) Where the Commission is a group supervisor, the Deputy Chairperson shall, before reviewing an application for permission under Paragraph 2, consult with the members of the college of supervisors and take into account their opinions and objections.

(4) Where the single report under Paragraph 2 disclosed by the parent undertaking of a local insurer or reinsurer does not disclose information about it which is subject to disclosure with regard to comparable persons in the market in the Republic of Bulgaria, and where the omission is material, the Deputy Chairperson shall order the local insurer or reinsurer concerned to disclose the necessary additional information.

Group structure

Article 277. A local insurer or reinsurer, respectively a local insurance holding or mixed financial holding which is the parent undertaking of a group shall disclose publicly, on an annual basis, not later than 31 January:

1. the legal, management and organisational structure of the group, including an updated diagram of the group;

2. a description of all subsidiaries, significant related undertakings and significant branches belonging to the group, regardless of whether subject to supervision under this Code.

Enforcement measures

Article 278. (1) Where an insurer or reinsurer part of a group does not comply with the requirements provided for in this Title or where the requirements are met but solvency may nevertheless be jeopardised or where the intra-group transactions or the risk concentrations are a threat to the financial position of the insurer or reinsurer, measures necessary to rectify the situation as soon as possible shall be adopted by:

1. the group supervisor – for insurance holding companies or mixed financial holding companies;

2. the national supervisory authority – for insurers, respectively reinsurers.

(2) Where, in the case referred to in Paragraph 1, point 1, the Commission is not a supervisory authority in the Member State in which the insurance holding or mixed financial holding has its head office, it shall inform the supervisory authorities concerned of its findings with a view to them taking the necessary measures. Where the Commission has been informed, by a supervisory authority which is the supervisor of a group headed by an insurance holding or mixed financial holding which has its head office in the Republic of Bulgaria, of the circumstances under Paragraph 1, point 1, the Commission, respectively the Deputy Chairperson, shall take the relevant measures or sanctions in accordance with its powers.

(3) Where, in the case referred to in Paragraph 1, point 2, the Commission in its capacity of a group supervisor is not a supervisory authority in the Member State in which the insurer or reinsurer has its head office, it shall inform the supervisory authorities concerned of its findings with a view to them taking the necessary measures Where the Commission has been informed, by a supervisory authority which is the supervisor of a group of the circumstances under Paragraph 1, point 2, the Commission, respectively the Deputy Chairperson, shall take the relevant measures or sanctions in accordance with its powers.

(4) In the cases under Paragraph 2 or 3, the Commission, respectively the Deputy Chairperson, shall take the measures under Article 587 according to their competence. The measures under sentence 1 shall also apply to insurance holding companies and mixed financial holding companies. The Commission, respectively the Deputy Chairperson, shall at its discretion coordinate the measures with other supervisory authorities within the college of supervisors.

Chapter XXVI
GROUP SUPERVISION FOR THIRD-COUNTRY GROUPS AND GROUPS HEADED BY MIXED INSURANCE HOLDING COMPANIES
Section I
Groups headed by an insurer, reinsurer, insurance holding company or mixed financial holding company having its head office in a third country

Groups from third countries with an equivalent regime

Article 279. (1) When a local insurer and reinsurer is part of a group from a third country under Article 234, Paragraph 1, point 3 whose supervisory regime is equivalent to the regime in the European Union, the Commission shall recognises the group supervision carried out by the authorities of that country.

(2) Chapter XXV shall apply respectively to the cooperation with the supervisory authorities of the third country.

Groups from third countries where the regime is not equivalent

Article 280. (1) Where a local insurer or reinsurer is part of a group from a third country under Article 234, Paragraph 1, point 3 whose supervisory regime is not equivalent and where in a regime of temporary equivalence Article 279 does not apply pursuant to Article 281, Paragraph 5, the Commission shall apply one of the following measures, whichever is more appropriate:

1. applying the regime under Articles 239 to 256 and Articles 263 to 277 accordingly;

2. ordering the group to establish an insurance holding company or a mixed financial holding company in a Member State at which level supervision shall be exercised following the procedure set out in Chapters XXIV and XXV.

(2) The general principles and methods under Chapters XXIV and XXV shall apply at the level of an insurance holding company, mixed financial holding company, third-country insurer or third-country reinsurer.

(3) For the sole purpose of the group solvency calculation, the parent undertaking shall be treated as if it were an insurer or reinsurer subject to the requirements of this Code relating to the determination of the eligible own funds for the Solvency Capital Requirement, and its Solvency Capital Requirement shall be determined by applying:

1. Article 247, where that undertaking is an insurance holding company or a mixed financial holding company;

2. Article 248, where that undertaking is an insurer or reinsurer from a third country.

Establishing equivalence

Article 281. (1) The equivalence of a third-country group supervision regime with the regime in the European Union shall be established:

1. by an instrument of the European Commission under Article 260, Paragraph 3 of Directive 2009/138/EC;

2. by an instrument of the European Commission for temporary equivalence of Article 260, Paragraph 5 in conjunction with Paragraph 6 of Directive 2009/138/EC;

3. by the Commission and other group supervisors concerned, following the procedure set out in Paragraphs 2 to 5.

(2) In the absence of an instrument under Paragraph 1, point 1 or 2, the assessment establishing the equivalence of the regime shall be carried out by the Commission or by a supervisory authority concerned which would have been a group supervisor according to the criteria of Article 266, Paragraphs 3 to 5 (acting group supervisor) at its discretion or at the request of the parent undertaking of an insurer or reinsurer in the group. The European Authority shall assist the acting group supervisor in accordance with Article 33, Paragraph 2 of Regulation (EU) No 1094/2010.

(3) The Commission, in the capacity of an acting group supervisor and with the assistance of the European Authority, shall consult the other supervisory authorities concerned. The decision shall be based on criteria adopted by an instrument of the European Commission and may not be contrary to other decisions made earlier with respect to the same third country, except in cases where this is necessary in order to take into account a significant change in the regime under this Title or in the respective third country.

(4) Where the Commission does not agree with a decision under Paragraph 3 of another supervisory authority in its capacity of an acting group supervisor, it may refer the matter to the European Authority.

(5) In case of an instrument under Paragraph 1, point 2, Article 279 shall apply, except in cases where there is a subsidiary of the third-country group in the Member State which subsidiary has a larger balance sheet total than that of the parent undertaking which has its head office in a third country. In this case, the acting group supervisor shall be the supervisory authority of the group.

Levels of establishment of the regime of equivalence

Article 282. (1) Where the third-country parent undertaking at the head of the group is a subsidiary of an insurance holding company, mixed financial holding company, third-country insurer or third-country reinsurer, the establishment of equivalence under Article 281 shall be performed at the level of the ultimate parent undertaking.

(2) In the absence of a regime of equivalence at the level under Paragraph 1, the Commission, in the capacity of an acting group supervisor, may establish equivalence at a lower level where there is a parent undertaking – insurance holding company, mixed financial holding company, third-country insurer or reinsurer. The reasons for that decision shall be sent to the group.

(3) Article 280 shall apply accordingly.

Cooperation with third-country supervisory authorities

Article 283. In connection with the supervision of insurance groups from third countries, the Commission and the Deputy Chairperson shall collaborate with supervisory authorities from third countries on the basis of bilateral agreements or on the basis of agreements concluded at the level of the European Union.

Section II
Group headed by a mixed insurance holding company

Intra-group transactions

Article 284. (1) Where the parent undertaking of one or more local insurers or reinsurers is a mixed insurance holding company, 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 company and its other related undertakings.

(2) Articles 264 and 269 to 275 shall apply accordingly.

Cooperation with third-country supervisory authorities

Article 285. In connection with the supervision of groups headed by mixed insurance holding companies, the Commission and/or the Deputy Chairperson shall collaborate with

supervisory authorities from third countries on the basis of bilateral agreements and on the basis of agreements concluded at the level of the European Union.

PART III
DISTRIBUTION OF INSURANCE AND REINSURANCE PRODUCTS
TITLE I
GENERAL PROVISIONS
Chapter XXVII
GENERAL PROVISIONS

Distribution of insurance and reinsurance products

Article 286. (1) Distribution of insurance products is the business of introducing, providing consultation, proposing or other preparatory work for the conclusion of insurance contracts or the business of conclusion of such contracts or the business of facilitating the exercise of rights and fulfilment of obligations under such contracts, in particular in case of occurrence of an insured event.

(2) The provision of information on one or more insurance contracts based on criteria selected by a beneficiary through an Internet page that summarise data or compare prices, as well as the provision of ranking of insurance products or contract price discounts shall also be considered as distribution of insurance products, where this activity is paid directly or indirectly by a beneficiary or is offered free of charge by a distributor of insurance products.

(3) Distribution of reinsurance products is the business under Paragraph 1, where it refers to the conclusion and performance of reinsurance contracts.

(4) The following shall not be considered as distribution of insurance products:

1. incidental provision of information in the course of another professional activity whose purpose is not assistance to beneficiaries of insurance services in the preparation, execution and performance of insurance, respectively reinsurance, contracts;

2. pursuing professional activities related to claims settlement;

3. pursuing the activity of preparing expert opinions;

4. the activities of the persons under Article 294, Paragraph 3.

(5) An insurance, respectively reinsurance, product is a set of conditions that form the content of the insurance, respectively reinsurance, contract and that is intended for the market.

Distributors of insurance products

Article 287. The distributors of insurance products are the insurers, respectively reinsurers, and insurance intermediaries.

General principles of the distribution of insurance products. Prohibition on the placement of signs, marks or other indications

Article 288. (1) In the course of distribution of insurance products, insurers and insurance intermediaries shall act correctly, fairly and professionally in the best interests of the beneficiaries of insurance services.

(2) In the course of distribution of insurance products, an insurer shall identify itself as an insurer, respectively an insurance intermediary shall identify itself as an insurance intermediary of the respective type. The obligation under sentence 1 shall also apply in respect of the company or advertising boards, signs and materials.

(3) Any information from a distributor of insurance products addressed to beneficiaries of insurance services, including marketing communications, shall be fair, clear and not misleading. Marketing communications shall be clearly marked as such. A marketing communication is any message addressed to a definite or indefinite number of persons, regardless of the form or means of communication, which aims to present an insurance product or conclude an insurance contract.

(4) Affixing signs, marks or other indications on display on or in a vehicle or other property, which directly or indirectly indicate the presence of concluded insurance contract regarding that vehicle or other property shall be prohibited.

(5) An insurer or reinsurer shall not require any form the placement of signs, marks or other indications under Paragraph 4 as a condition precedent to the conclusion and/or entry into force of an insurance contract in respect of the relevant motor vehicle or other property and/or to the coverage of one or more risks under an insurance contract, and the placement of signs, marks or other indications under Paragraph 4 shall not be negotiated or included in general terms and conditions of such insurance as an obligation of the insured, the policy holder or the third party beneficiary. The absence of such signs, marks or other indications shall not constitute grounds for exclusion from coverage of one or more risks under the insurance contract, for amendment or termination of the insurance contract or shall not be bound to any adverse legal consequences for the insured, the policy holder or the third party beneficiary.

(6) The prohibition under Paragraph 4 shall not apply to signs, marks or other indications whose placement is expressly governed by a statutory instrument, as well as to signs, marks or other indications that advertise a natural or legal person, their brand mark or brand, their product, goods, services, trademark or similar, and they shall not be bound to the conclusion of the insurance contract where:

1. the motor vehicle or other property is owned by the same person or is rented, leased, or otherwise, from that person, regarding which a contract is concluded, or

2. their placement derives from a written advertising contract concluded with a natural or legal person that is owner, user, tenant or lessee of the motor vehicle or other property on which the respective signs, marks or other indications are placed.

Publication of the rules laid down in the interest of the general good

Article 289. (1) The Commission shall publish on its Internet page information about the provisions of the Bulgarian legislation adopted in the interest of the general good, which the distribution of insurance products and the fulfilment of the obligations under insurance contracts in the Republic of Bulgaria shall comply with.

(2) The conclusion of insurance contracts shall not be limited when the imperative provisions of the Bulgarian legislation laid down in the interest of the general good are fulfilled.

Complaints of beneficiaries and consumer organisations

Article 290. (1) The Commission shall establish and maintain an organisation for review of complaints of beneficiaries of insurance services, consumer organisations and other stakeholders against distributors of insurance services and products. Each received complaint shall be reviewed and receive a reply within one month of the date of receipt of the complaint.

(2) All insurers and insurance brokers shall establish and maintain an organisation for review of complaints of beneficiaries of insurance services. An insurer, respectively an insurance broker, shall register, review and respond to the complaint within one month from the date of its receipt. Insurers, respectively insurance brokers, shall analyse the lodged complaints and take measures to eliminate shortcomings in their business operations identified on the basis of such complaints.

(3) Where an insurance agent has received a complaint from a beneficiary of insurance services, the insurance agent shall forward it to the insurer on behalf of which insurance agent pursues the business of insurance mediation within three days of its receipt.

Chapter XXVIII
REQUIREMENTS RELATING TO THE DIRECT OFFERING AND CONCLUSION OF INSURANCE BY AN INSURER

Requirements to the management and supervision of insurance products

Article 291. (1) When developing insurance products, the insurer shall maintain, implement and periodically review a process of approval of each insurance product and of implementation of significant changes to existing products prior to their marketing and distribution among the beneficiaries of insurance services.

(2) The insurer shall understand and periodically review the insurance products it offers or distributes, taking account of any event that may materially affect the potential risk with regard to the specific market segment.

Requirements to the qualifications and good repute of employees marketing insurance products

Article 292. (1) All insurers shall ensure that their employees who distribute insurance products have appropriate knowledge and competence.

(2) All insurers shall conduct regular training for their employees who market insurance products.

(3) All employees of an insurer that distributes insurance products shall fulfil the requirements under Article 303, Paragraph 1.

Management and control of the requirements to the qualifications and good repute of employees marketing insurance products

Article 293. All insurers shall adopt and implement rules for the qualifications and good repute of its employees who market insurance products.

TITLE II
INSURANCE INTERMEDIARIES

Chapter XXIX
GENERAL RULES AND EXCEPTIONS

General

Article 294. (1) Insurance and reinsurance intermediaries are insurance brokers and insurance agents that pursue the business of insurance and/or reinsurance mediation against payment.

(2) Insurance and reinsurance intermediaries may pursue other commercial activities as well as, to the extent that this Code or another law does not provides for otherwise.

(3) Persons that provide mediation services in connection with insurance contract shall not be considered as insurance and reinsurance intermediaries if all of the following conditions are fulfilled:

1. the insurance contract only requires knowledge of the provided insurance coverage;

2. the insurance contract does not cover risks under life insurance;

3. the insurance contract does not cover risks under points 10 to 13, Section II, letter "A" of Annex No 1;

4. the principal professional activity of the person is not insurance mediation;

5. the insurance is an addition to a supplied product or service and covers:

a) the risk of destruction, loss or damage to goods supplied, or

b) damage to or loss of baggage and other risks associated with travel, including when the insurance covers risks under point 2 or 3, provided that such coverage is ancillary to the main travel-related coverage;

6. the amount of the annual premium does not exceed BGN 1,000 and the total duration of the insurance contract, including after its renewal, is not more than 5 years.

(4) Where an insurance intermediary concludes an insurance contract on behalf of an insurer and receives an insurance premium or contribution from the beneficiary of an insurance service, it shall be considered that the premium or contribution has been received by the insurer. When an insurance intermediary receives payment from an insurer under an insurance contract, which payment is intended for a beneficiary of insurance services, it shall not be considered as paid to the beneficiary of insurance services until the beneficiary receives it effectively.

Exceptions

Article 295. The provisions of this Title shall not apply in respect of insurance and reinsurance mediation regarding risks located in third countries.

Registration

Article 296. (1) Insurance and reinsurance intermediaries with a head office, respectively permanent residence, in the Republic of Bulgaria, shall be subject to registration by the Deputy Chairperson.

(2) Insurance agents shall be registered by the insurers for which they carry out insurance mediation, except in the cases under Article 319, Paragraph 2, sentence 2.

(3) With regard to insurance intermediaries – legal persons, all members of their management bodies shall be entered in the register under Article 30, Paragraph 1, point 11 of the Financial Supervision Commission Act. An insurance intermediary who is a commercial company shall keep a current list of all of its employees who directly handle the distribution of insurance products, along with evidence of compliance with the qualification and good repute requirements, and shall submit that list to the Deputy Chairperson upon request.

(4) It shall not be allowed insurance mediation to be pursued without a registration under Paragraph 1, except in the cases under Article 294, Paragraph 3, as well as in the case of pursuing business under the right of establishment or the freedom to provide services.

Conditions for registration

Article 297. (1) An insurance, respectively reinsurance, intermediary shall be registered if the registration requirements under Chapter XXX, respectively Chapter XXXI are met.

(2) An insurance intermediary must be in constant compliance with the registration requirements.

Company name

Article 298. A person that is not registered in the register under Article 30, Paragraph 1, point 11 of the Financial Supervision Commission Act cannot use in its company name, advertising or other activities words in Bulgarian or in foreign languages denoting or relating to the business of insurance or reinsurance mediation.

Avoiding conflict of interest and protection of insurance secret

Article 299. Insurance intermediaries shall apply Article 146, Paragraphs 5 to 8, Articles 149 and 151.

On-going supervision

Article 300. The Deputy Chairperson shall exercise on-going supervision over the activities of the insurance and reinsurance intermediaries.

Chapter XXX
INSURANCE BROKERS
Section I
General

Definition

Article 301. (1) An insurance broker is a commercial company or sole proprietor registered in the register under Article 30, Paragraph 1, point 11 of the Financial Supervision Commission Act that carries out insurance mediation for compensation and at the commission of a beneficiary of insurance services and carries out reinsurance mediation at the commission of an insurer or reinsurer.

(2) The relationship between the beneficiary of insurance services, respectively the insurer or reinsurer, and the insurance broker shall be governed by a written contract, unless in the case of mediation regarding compulsory insurance under Article 461, points 1 and 2.

(3) In the case of insurance mediation, the remuneration of the insurance broker shall be included in the insurance premium and shall be payable by the insurer, unless the contract under

Paragraph 2 provides for otherwise. Where the relationship between the insurer and the insurance broker provides for that, the broker may deduct the amount of the remuneration due to the broker before the transfer of the insurance premium to the insurer.

(4) In the course of their operations, insurance brokers shall perform a comprehensive analysis of the insurance risks, of the proposals for insurance or reinsurance coverage, shall provide consultancy services on behalf of and at the commission of the beneficiary of insurance services, shall negotiate terms or conclude insurance or reinsurance contracts, monitor the deadlines for renewal of contracts and assist the beneficiary of insurance services in the settlement of claims upon occurrence of an insured event.

(5) An insurance broker shall not be entitled to receive documents relating to insurance claims on behalf of the insurer, unless expressly authorised to do so. Where an insurance broker is authorised by the beneficiary of insurance services to register an insurance claim and to submit documents related to it on his behalf, the claim and the documents shall be considered as received by the insurer on the date on which they are registered in the record-keeping system of the insurer.

Restrictions on activities

Article 302. (1) An insurance broker cannot pursue the business of an insurance agent.

(2) The restriction under Paragraph 1 shall also apply to members of the management and supervisory bodies of the insurance broker, to all other persons authorised to manage and represent the insurance broker, as well as to its employees directly engaged in carrying out insurance or reinsurance mediation.

(3) An insurance broker cannot be a shareholder or partner, or a member of the management or supervisory body of an insurance agent.

Section II
Conditions for pursuing the business of an insurance broker

Requirements to the insurance brokers

Article 303. (1) Each member of the management body of an insurance broker and any other person authorised to manage or represent it, as well as an insurance broker – sole proprietor, shall meet the following requirements:

1. has not been convicted of a wilful crime of general nature, unless rehabilitated;

2. has not been deprived of the right to hold a position involving material liability;

3. over the last three years before the initial date of insolvency set by the court, has not been a member of a managing or controlling body or a general partner in a company against which bankruptcy proceedings have been initiated or which has been terminated due to bankruptcy if unsatisfied creditors have remained;

4. has not been declared bankrupt if unsatisfied creditors have remained and is not in bankruptcy proceedings.

(2) Any person under Paragraph 1 who is responsible for and manages the business of insurance mediation shall also meet the following requirements:

1. has higher education;

2. has professional experience in the field of insurance or has passed an exam for professional qualification organised by the Commission.

(3) Where a member of the management body of the insurance broker is a legal person, the requirements under Paragraph 1 and 2 shall refer respectively to the natural persons who represent it in these bodies.

(4) The professional experience under Paragraph 2, point 2 means at least two years of experience in a managerial position or a position directly related to the conclusion and performance of insurance contracts with an insurer, reinsurer, insurance broker or insurance agent, as well as experience within the meaning of Article 83.

(5) The employees of an insurance broker directly engaged in carrying out insurance or reinsurance mediation shall have at least secondary education and shall meet the requirements of Paragraph 1, and shall have the necessary qualifications to perform their duties.

(6) An insurance broker shall be obliged to provide training to its employees under Paragraph 5.

(7) The terms and conditions for the conduct of an examination for professional qualification under Paragraph 2, point 2, as well as for recognition of qualifications acquired in a Member State shall be determined by an ordinance of the Commission. The examination shall be conducted by a commission, whose members shall include one representative of professional organisations of insurers and one representative of professional organisations of insurance brokers.

Enhancement of professional qualifications and competences

Article 304. (1) All insurance brokers shall ensure that their employees who distribute insurance products have appropriate knowledge and competences.

(2) All insurance brokers shall conduct regular training for their employees who market insurance products.

Maintenance of compulsory professional liability insurance

Article 305. (1) Insurance brokers shall be obliged to maintain on-going compulsory professional liability insurance valid for the whole territory of the European Union and the European Economic Area which covers liability for damages occurring in the territory of a Member State in the course of insurance and/or reinsurance mediation operations arising from their actions or inactions. The minimum insured amount shall be BGN 2,240,400 – for each insured event, and BGN 3,360,600 – for all insured events for a period of one year.

(2) The insurance under Paragraph 1 shall cover liability for damages caused by actions or inactions of any person authorised to manage or represent the insurance broker, a member of its management or supervisory body or any of its employees in the course of or in connection with the performance of insurance or reinsurance mediation, including liability for non-payment to the insurer of received insurance premiums, respectively for non-payment to the beneficiary of insurance services of insurance benefits or amounts paid by the insurer.

Guarantees for the activity of insurance brokers

Article 306. (1) An insurance broker shall be obliged to guarantee the performance of its obligations to transfer insurance premiums paid to it and intended for the insurer, or to transfer to

the beneficiary of insurance services the insurance benefit or amounts paid by the insurer, in one of the following manners:

1. by maintaining on an on-going basis own funds amounting to 4 % of the total insurance premiums under insurance and/or reinsurance contracts concluded through its mediation during the previous financial year, but not less than BGN 40,000;

2. by opening one or more specialised client accounts which serve only for transfer of insurance premiums to the insurer and for transfer of insurance benefits or amounts to the beneficiary of insurance services.

(2) The funds in the client account under Paragraph 1, point 2 shall not be part of the property of the insurance broker, shall not be subject to attachment and shall not be included in the bankruptcy estate in case of initiation of bankruptcy proceedings of the insurance broker.

(3) The Deputy Chairperson shall appoint a liquidator of the client account of an insurance broker in the case of:

1. death of an insurance broker – sole proprietor;

2. voluntary termination or winding-up of an insurance broker – legal entity and in case of withdrawal of the registration as an insurance broker on other grounds under Article 312, without winding-up;

3. bankruptcy of an insurance broker – sole proprietor or legal entity.

(4) The liquidator under Paragraph 3 shall be a natural person other than a liquidator or receiver in bankruptcy respectively under Article 266, Paragraph 3 or under Article 655 of the Commerce Act and shall be subject to the requirements of Article 303, Paragraph 1 and Paragraph 2, point 1.

(5) The liquidator under Paragraph 3 shall determine the receivables and perform the payments to the client account and shall submit a report thereon to the Deputy Chairperson.

(6) An insurance broker shall inform the Deputy Chairperson which of the manners to guarantee the fulfilment of the obligations under Paragraph 1 it will apply in its activities, any subsequent changes thereto, as well as the manner to guarantee the rights of the beneficiaries of insurance services in the course of it subsequent change. The Deputy Chairperson may issue additional guidelines to ensure the protection of the interests of the beneficiaries of insurance services during the transition from one manner to guarantee the fulfilment of the obligations under Paragraph 1 to another.

(7) Upon notification under Paragraph 6, the insurance broker shall submit financial statements as of the end of the previous financial year in order to justify the amount of the necessary own funds.

Section III
Registration of insurance brokers

Documents required for registration

Article 307. (1) An application shall be submitted for registration of an insurance broker in the register under Article 30, Paragraph 1, point 11 of the Financial Supervision Commission Act, with the following documents enclosed:

1. the statute, memorandum of association or articles of association – for legal persons;

2. data on the persons under Article 303, Paragraphs 1 to 3 – for legal persons, and documents certifying compliance with the requirements of Article 303, Paragraphs 1 and 2 – for natural persons – sole proprietors;

3. data on the addresses of the offices or branches where insurance mediation activities are carried out;

4. proof of possession of own funds under Article 306, Paragraph 1, point 1, in case the applicant has chosen this manner to guarantee the fulfilment of its obligations;

5. certificate from the respective bank operating in the Republic of Bulgaria for each client account opened with it under Article 306, Paragraph 1, point 2, in case the applicant has chosen this manner to guarantee the fulfilment of its obligations;

6. contract for compulsory insurance under Article 305;

7. declarations certifying the absence of the circumstances under Article 310, Paragraphs 1 and 2.

(2) The application under Paragraph 1 shall be reviewed after payment of a fee for document processing.

Ruling on the application

Article 308. The Deputy Chairperson shall pass a decision on the application for registration in the register within one month of its receipt. If irregularities are found or if additional information is needed, Article 34, Paragraphs 2, 4 and 5 shall apply, where the term to remedy the irregularities or provide additional information shall not be shorter than 15 days. Where no irregularities have been found or they have been removed and/or the additional information has been provided and there are no barriers to the registration in the register, the Deputy Chairperson shall notify the applicant accordingly. Registration in the register shall be effected upon payment of the relevant fee according to the tariff under Article 27, Paragraph 2 of the Financial Supervision Commission Act.

Registration certificate

Article 309. (1) Upon registration of an insurance broker in the register, the Deputy Chairperson shall grant a certificate of registration based on a template determined by the Deputy Chairperson, which contains the company name, head office and address of the insurance broker, the register in which it is registered and the registration number, the manners in which the registration can be verified and the names of the persons authorised to manage and represent the insurance broker.

(2) The broker shall display a copy of the certificate under Paragraph 1 prominently in its offices.

Grounds for refusal

Article 310. (1) The Deputy Chairperson shall refuse registration in the register if:

1. the requirements of this Code are not met;

2. the applicant has submitted misrepresentations or documents with untruthful content;

3. the applicant or its actual owner (beneficial owner) under Article 68, Paragraph 5, or an entity controlled by its actual owner (beneficial owner) has been deleted from the register under

Article 30, Paragraph 1 of the Financial Supervision Commission Act pursuant to Article 312, Paragraph 1 point 1 or points 7 to 9;

4. the applicant or its actual owner (beneficial owner) under Article 68, Paragraph 5, or an entity controlled by its actual owner (beneficial owner) has been deleted from the register under Article 30, Paragraph 1 of the Financial Supervision Commission Act pursuant to Article 312, Paragraph 1, points 2 to 4 or point 11, unless three years from the date of deletion of the registration have expired;

5. the applicant or its actual owner (beneficial owner) under Article 68, Paragraph 5, or an entity controlled by its actual owner (beneficial owner) has been deleted from the register under Article 30, Paragraph 1 of the Financial Supervision Commission Act pursuant to Article 312, Paragraph 1, point 5, unless its rights have been restored following the due procedure.

(2) The Deputy Chairperson shall also refuse registration in the register where a member of the management body of the applicant has been a member of the management body of an entity under Paragraph 1, points 3 to 5.

(3) The grounds for the refusal of a registration in the register of the Deputy Chairperson shall be stated in writing.

(4) In case of refusal, the applicant may submit a new application for registration in the register no earlier than 6 months from the entry into force of the decision under Paragraph 1.

Notifications

Article 311. (1) The insurance broker shall notify the Commission of:

1. all new facts and circumstances subject to registration in the register of the Commission;

2. any changes in the circumstances registered in the trade register.

(2) The obligation under Paragraph 1 shall be fulfilled within 7 days from the occurrence or learning of the relevant fact or circumstance, and when it is subject to entry in the trade register – within 7 days of its entry. The documents certifying the change made shall be attached to the notification.

(3) An insurance broker shall submit to the Commission:

1. annual reports and statements – within 31 January of the year following the year to which they relate;

2. semi-annual reports and statements – within 31 July of the respective year;

3. annual financial statements – within 31 March of the year following the year to which the statements relate in case that the insurance broker guarantees the fulfilment of the obligation to transfer insurance premiums, respectively insurance benefits, with its own funds.

(4) The annual and 6-month reports and statements shall be presented in the form of an electronic document signed with a qualified electronic signature according to a template approved by 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, with a decision, delete an insurance broker from the register:

1. if it has submitted misrepresentations or documents with untruthful content which have served as grounds for its registration in the register;

2. if it has not taken up the business of insurance mediation within one year of its registration in the register;

3. if it has ceased to pursue business for more than 6 months;

4. if it has ceased to meet the conditions for the pursuit of the business of an insurance broker under Articles 303, 305 or 306;

5. if bankruptcy or winding-up proceedings have been initiated against it;

6. if the persons authorised to manage and represent the insurance broker or persons authorised by them to receive documents and communications cannot be found systematically at its registered head office and this obstructs insurance supervision;

7. if it has committed gross or systematic breaches of this Code or its implementing instruments or other material statutory breaches established by an enforced act;

8. if it fails to pay, pays in arrears of more than 10 business days after the statutory or contractual term or pays partially any due and payable commitments in connection with its activities as an insurance broker;

9. if its actions violate the principle of voluntary insurance;

10. in case of the death of a natural person – sole proprietor;

11. at the request of the insurance broker.

(2) The request for deletion under Paragraph 1, point 11 of the insurance broker shall be accompanied by a certified copy of the decision of the competent body in accordance with the law, the statute, the articles of association or the memorandum of association with regard to the deletion.

(3) After its deletion from the register, an insurance broker cannot pursue the business of insurance and reinsurance mediation.

Chapter XXXI
INSURANCE AGENTS
Section I
General

Definition. Types

Article 313. (1) An insurance agent is a natural person or a commercial company registered in the register under Article 30, Paragraph 1, point 11 of the Financial Supervision Commission Act that carries out insurance mediation for compensation and at the commission of an insurer in its name and for its account. Insurance agents are bound or unbound.

(2) A bound insurance agent cannot collect premiums and make payments to beneficiaries of insurance services.

(3) The relationship between an insurer and an insurance agent shall be governed by a written contract for insurance agency. The type of the agent must be indicated in the insurance contract.

Restrictions on activities

Article 314. (1) An insurance agent cannot work for an insurance broker.

(2) The pursuit of the business of an insurance agent by a natural person is a freelance occupation.

(3) An insurance agent – natural person cannot be in the employment of an insurer.

Special restrictions

Article 315. (1) An insurance agent may mediate for one insurer authorised to pursue the business of insurance covering the insurance classes under Section I of Annex No 1 and for one insurer authorised to pursue the business of insurance covering the insurance classes under Section II of Annex No 1.

(2) With the consent of the insurers under Paragraph 1, an insurance agent may carry out insurance mediation for other insurers as well, if it carries out mediation for insurance other than the class of insurance for which it is authorised by the insurers under Paragraph 1.

(3) In cases where an insurance agent mediates for an insurer under Section I of Annex No 1, which is authorised under point 1 and/or 2, letter "A", Section II of Annex No 1, the insurance agent may mediate for another insurer authorised under Section II of Annex No 1, with the exception of mediation for insurance under points 1 and 2, letter "A", Section II of Annex No 1.

(4) Where two or more persons that are related persons or that pursue business in shared premises, with shared funds or in another manner from which it can be reasonably inferred that they act in a related manner, perform each activity separately as insurance agents for different insurers, it shall be considered that they pursue jointly the business of an insurance broker without the registration required by law, except in the following cases:

1. where all persons are employees of the same agent, which observes the restrictions under Paragraph 1 and 2, or

2. where all persons are agents and their joint activities do not violate the restriction under Paragraph 1.

Section II
Conditions for pursuing the business of an insurance agent

Guarantees for the business of insurance agents

Article 316. (1) An insurance agent – natural person, or the persons managing and representing an insurance agent – legal person, shall have at least secondary education and meet the requirements of Article 303, Paragraph 1. Employees of an insurance agent directly engaged in insurance mediation shall meet the requirements of Article 303, Paragraph 5.

(2) Insurance agents shall be obliged to maintain compulsory professional liability insurance valid for the whole territory of the European Union and the European Economic Area which covers liability for damages occurring in the territory of a Member State in the course of insurance mediation operations arising from their actions or inactions. The minimum insured amount under the insurance shall be BGN 2,240,400 for each insured event and BGN 3,360,600 –

for all insured events for a period of one year, including liability for non-payment to the insurer of received insurance premiums, respectively for non-payment to the beneficiary of insurance services of insurance benefits or amounts paid by the insurer.

(3) The insurance under Paragraph 2 shall cover liability for damages caused by actions or inactions by any person authorised to manage or represent an insurance agent, a member of its management or supervisory body or any of its employee in the course of or in connection with the performance of insurance or reinsurance mediation.

(4) The obligation under Paragraphs 2 and 3 shall be considered satisfied if the insurance agent submits a declaration by the insurer or insurers that have authorised the agent to perform insurance mediation, which declaration certifies that the insurer or insurers take full responsibility for the agent's actions as an intermediary.

(5) The provisions of Article 306 shall apply to insurance agents – legal persons or sole proprietors. An insurance agent – legal person, shall declare the circumstances under Article 306, Paragraph 6 to the insurer.

(6) The provisions of Article 306, Paragraph 1, point 2, shall apply to insurance agents – natural persons, unless there is a declaration under Paragraph 4. Article 306, Paragraphs 3 to 5 shall also apply, respectively.

(7) The requirement that an insurance agent discloses a client account shall not apply where the insurer has authorised the agent to operate with its account to which insurance premiums for the insurer and the insurance benefits or amounts intended for beneficiaries of insurance services are to be transferred directly.

(8) The funds paid to the insurance agent by beneficiaries of insurance services shall be considered as paid to the insurer, while the funds paid to the insurance agent by the insurer shall not be considered as paid to the beneficiary of insurance services until the latter has received them.

Training of insurance agents

Article 317. (1) Insurers shall provide training to the insurance agents with whom they have concluded a contract for insurance agency, as well as the insurance agents' employees who market insurance products.

(2) The insurer shall conduct an examination at the end of the training and shall grant to insurance agents who have passed the examination successfully a certificate which shall certify the undergone training related to the knowledge and marketing of insurance products and the right to market the classes of insurance specified in the certificate.

(3) All insurers shall conduct regular training for their agents and for the agents' employees who market insurance products.

Verification of the compliance with the requirements

Article 318. (1) Prior to concluding a contract for insurance agency, the insurer shall verify that the person with whom it is to conclude a contract meets the requirements of Article 316.

(2) In case that the person under Paragraph 1 does not have professional liability insurance, the insurer which has concluded a contract with such a person shall bear full responsibility for the person's actions in connection with the insurance mediation operations under the contract.

Registration in the register

Article 319. (1) The insurer shall maintain a list of persons with whom it has concluded contracts for insurance agency, according to a template determined by the Deputy Chairperson. The relevant documents under Article 307 shall be enclosed with the list.

(2) The insurer shall submit an application to the Commission for registration in the register under Article 30, Paragraph 1, point 11 of the Financial Supervision Commission Act of the persons included in the list under Paragraph 1. The insurance agent shall submit an application for registration in the register of the Commission individually, where it carries out mediation for an insurer from another Member State which operates in the Republic of Bulgaria under the freedom to provide services and shall enclose the relevant documents under Article 307 within 14 days of conclusion of the contract for insurance agency.

(3) The insurer shall record all changes in the facts and circumstances in the list under Paragraph 1 and shall inform the Commission therefor. In the cases under Paragraph 2, sentence 2, notifications of changes in the facts and circumstances shall be made by the insurance agent.

(4) The obligation under Paragraph 3 shall be performed within 7 days of becoming aware of the relevant fact or circumstance.

Identification certification

Article 320. (1) After the registration of an insurance agent in the register under Article 30, Paragraph 1, point 1 of the Financial Supervision Commission Act, the insurer shall issue an identification certificate to the agent according to a template approved by the Deputy Chairperson, which shall contain at least the following:

1. the name and address of insurance agents – natural persons, respectively the company name and head office of insurance agents – sole proprietors;

2. the address of the office or branch where the activity is pursued;

3. the classes of insurance which may be marketed and the maximum insured amount for which such insurance may be concluded;

4. the names of the persons authorised to manage and represent an insurance agent – legal person;

5. the register in which the agent is registered and the manners in which the registration can be verified.

(2) An insurance agent shall display a copy of the certificate prominently in all premises in which the agent conducts business.

Grounds for deletion from the register

Article 321. (1) Article 312, Paragraph 1 shall apply accordingly to the deletion of insurance agents from the register under Article 30, Paragraph 1, point 11 of the Financial Supervision Commission Act. The Deputy Chairperson shall also delete the insurance agent from the register upon termination of the contract for insurance agency.

(2) After its deletion from the register, an insurance agent cannot pursue the business of insurance mediation. The insurance agent shall return the issued identification certificate.

Chapter XXXII
RIGHT OF ESTABLISHMENT AND FREEDOM TO

PROVIDE SERVICES OF INSURER INTERMEDIARIES

Pursuit of the business of an insurance broker and insurance agent from the Republic of Bulgaria in another Member State

Article 322. (1)An insurance broker and an insurance agent registered under the terms and conditions of Chapter XXX, respectively Chapter XXXI, may operate in the territory of another Member State (host state) under the right of establishment and the freedom to provide services.

(2) An insurance broker or insurance agent registered in the Republic of Bulgaria that intends to operate in one or more host Member States under the right of establishment or the freedom to provide services shall notify the Deputy Chairperson thereof in advance.

(3) Within one month 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 the insurance broker or insurance agent to operate in its territory. The Deputy Chairperson shall immediately notify the insurance broker, respectively insurance agent, regarding the notification to the competent authority of the host Member State or of the fact that the host Member State does not wish to be notified.

(4) An insurance broker, respectively insurance agent, may commence operations in the territory of the host Member State after the expiry of one month of its notification following the procedure set out in Paragraph 3. If the host Member State does not wish to be notified, the insurance broker, respectively insurance agent, may commence operations immediately, in compliance with the law of the host Member State.

(5) The Deputy Chairperson shall immediately notify the competent authority of the host country in the event that the insurance broker, respectively insurance agent, is deleted from the register under Article 30, Paragraph 1, point 11 of the Financial Supervision Commission Act.

Operations in the Republic of Bulgaria of insurance intermediaries from another Member State

Article 323. (1) An insurance intermediary registered in another Member State may operate in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services.

(2) An insurance intermediary under Paragraph 1 may commence operations in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services after the expiry of one month of the notification to the Commission by the respective competent authority of the country of origin of the intention of the insurance intermediary to operate in the Republic of Bulgaria.

TITLE III
PROVISION OF INFORMATION. PRACTICES RELATED TO THE DISTRIBUTION OF INSURANCE PRODUCTS
Chapter XXXIII
PROVISION OF INFORMATION

Section I
Information on the insurer or insurance intermediary

Information on the insurer

Article 324. (1) Before the conclusion of the insurance contract, the insurer must provide the following information:

1. the fact that it is an insurer, its company name and legal form;

2. the name of the Member State where it has its head office and the name of the home Member State of the branch, in the event that the contract is concluded through a branch in a Member State other than the home Member State of the insurer;

3. the address of its head office in its home country and the registered address of the branch, in the event that the insurance contract is concluded through a branch in a Member State other than the home Member State of the insurer;

4. the procedure for filing of complaints according to the rules for claim settlement under Article 104, Paragraph 1 and the Internet page where those rules are published;

5. the option to file complaints with the Commission and other state authorities, as well as the out-of-court dispute settlement options available to the beneficiary of insurance services in the Republic of Bulgaria;

6. the Internet address of the report on the solvency and financial condition of the insurer.

(2) The information under Paragraph 1, point 2 shall be included in all documents sent by the insurer to beneficiaries of insurance services. The information under Paragraph 1, point 3 must be set out in the insurance contract, respectively in any other document which provides insurance coverage in case that it contains binding obligations for the beneficiary of insurance services.

(3) The contract for compulsory liability insurance of motorists concluded with an insurer which operates in the Republic of Bulgaria under the freedom to provide services must also include the name and address, respectively the company name and head office address, of the claims representative of the insurer in the Republic of Bulgaria. Where the address where the representative is located is different from the address of its head office, it shall also be set out in the insurance contract.

(4) Where the insurance contract is concluded through an insurance intermediary, the information under Paragraphs 1 to 3 shall be provided by the insurance intermediary.

Provision of information to beneficiaries of insurance services by insurance intermediaries

Article 325. (1) Upon conclusion of an insurance contract and, if necessary, upon its amendment or renewal, the insurance intermediary shall provide the beneficiary of insurance services with at least the following information:

1. the fact that it is an insurance broker, respectively insurance agent, the name and address, respectively the company name and the address of its head office;

2. the register in which the intermediary is registered and the manners in which the registration can be verified;

3. whether the intermediary holds, directly or through related parties, more than 10 % of the voting rights or capital of an insurer;

4. whether an insurer or parent undertaking of an insurer holds, directly or through related parties, shares representing more than 10 % of the voting rights or capital of the insurance broker or insurance agent;

5. the procedure for filing of complaints by beneficiaries of insurance services and other stakeholders against the insurance broker or insurance agent;

6. the option to file complaints against the insurance intermediary with the Commission and other state authorities, as well as the out-of-court dispute settlement options available to the beneficiary of insurance services in the Republic of Bulgaria.

(2) Upon conclusion of the insurance contract, the insurance intermediary shall also inform the beneficiary of insurance services whether:

1. it provides advice on the basis on the obligation under Paragraph 3, or

2. it has a contractual obligation to carry out insurance mediation exclusively for one or more insurers, in which case at the request of the beneficiary of insurance services, the insurance intermediary shall provide the names of those insurers to the beneficiary, or

3. it does not have a contractual obligation to carry out insurance mediation exclusively for one or more insurers and does not provide advice on the basis of its obligation under Paragraph 3, in which case at the request of the beneficiary of insurance services, the insurance intermediary shall provide to the beneficiary the names of the insurers for which it may carry out insurance mediation.

(3) When the insurance intermediary notifies the beneficiary of insurance services that it provides advice on the basis of a fair analysis, it shall be obliged to provide that advice after an analysis of a sufficiently large number of insurance, in order to be able to make a professional recommendation regarding the insurance that will be best suited to the needs of the beneficiary of insurance services.

(4) Before concluding an insurance contract, an insurance intermediary shall, on the basis of the information provided by the beneficiary of insurance services, identify the beneficiary's needs and requirements, as well as the grounds for the provided advice to the beneficiary on the specific insurance.

Section II
Information on insurance products

General information before conclusion of the insurance contract

Article 326. Before an insurance contract is concluded, the insurer, respectively the insurance firm, shall submit to all beneficiaries of insurance services the following information regarding the insurance product:

1. the law applicable to the insurance contract, where the parties do not have a free choice;

2. the law applicable and the law the insurer proposes to choose, in case that the parties have a free choice.

Additional information before conclusion of insurance contracts under Section I of Annex No 1

Article 327. (1) Before the conclusion of an insurance contract for the types of insurance under Section I of Annex No 1, the insurer, respectively the insurance intermediary, shall submit to all beneficiaries of insurance services the following additional information regarding the insurance product:

1. the definition of each benefit and each option;

2. the term of the contract;

3. the means of terminating the contract;

4. the means of payment of premiums and duration of payments;

5. the means of calculation and distribution of bonuses, if any;

6. the surrender and paid-up values and the extent to which they are guaranteed;

7. the premiums for each benefit, both main benefits and supplementary benefits, where appropriate;

8. for unit-linked policies, the definition of the units to which the benefits are linked;

9. the nature of the underlying assets for unit-linked policies;

10. the conditions for unilateral termination of the contract;

11. general information on the tax arrangements applicable to the respective contract;

(2) The insurer, respectively the insurance intermediary, shall also provide specific information in view of the proper understanding of the risks underlying the contract which are accepted by the policy holder, respectively the insured.

Information provided during the term of the insurance contract

Article 328. (1) The insurer shall provide to the policy holder the following information during the term of the insurance contract under Section I of Annex No 1:

1. any changes in the general terms and conditions, if the applicable law allows that without the consent of the policy holder;

2. any changes in the name of the insurer, its legal form or the address of its head office, respectively of the branch which concluded the contract;

3. the information under Article 327, Paragraph 1, points 4 to 10, in the event that a change in the general terms and conditions, or respectively in the applicable law, results in a change in these arrangements;

4. annually, information on the state of bonuses.

(2) Where, in connection with an offer for or conclusion of a life insurance contract, the insurer provides figures relating to the amount of potential payments above and beyond the contractually agreed payments, the insurer shall provide the policy holder with a specimen calculation whereby the potential maturity payment is set out applying the basis for the premium calculation using three different rates of interest.This shall not apply to short-term insurance. The insurer shall inform the policy holder in a clear and comprehensible manner that the specimen calculation is only a model of computation based on notional assumptions, and that the policy holder shall not derive any contractual claims from the specimen calculation.

(3) In the case of insurances with profit participation, the insurer shall inform the policy holder annually in writing of the status of the benefits of the insured, incorporating the profit participation. Furthermore, where the insurer has provided figures about the potential future development of the profit participation, the insurer shall inform the policy holder of the differences between the actual development and the initial data.

Exemption from the obligation to provide information

Article 329. The information under Articles 324 and 325 may be waived in case of distribution of high-risk insurance products or in case of distribution of reinsurance products, as well as in case of provision of advance coverage under Article 356.

Methods for provision of information to beneficiaries of insurance services

Article 330. (1) The distributors of insurance products shall provide information to beneficiaries of insurance services free of charge:

1. in hard copy;

2. in a clear and appropriate manner comprehensible for the beneficiary of insurance services;

3. in the official language of the Member State in which the risk is situated or in another language – with the consent of the beneficiary of insurance services.

(2) The information under Paragraph 1 may also be submitted using another type of durable medium.

Chapter XXXIV
PRACTICES RELATED TO THE DISTRIBUTION OF INSURANCE PRODUCTS

Online marketing of insurance

Article 331. An insurer, respectively insurance intermediary, which offers online insurance, must develop an Internet page that meets the following requirements:

1. . the company name and address of the insurer, respectively the intermediary, and the legal grounds for its operations in the Republic of Bulgaria shall be displayed on the home page or another prominent and accessible place on the page;

2. all information shall be in the Bulgarian language;

3. the consumer information on the page shall meet all requirements under this Code and the Distance Marketing of Financial Services Act;

4. the beneficiary of insurance services can learn about all conditions of the contract free of charge.

Requirements for distance conclusion of insurance contracts

Article 332. (1) An insurance contract may be concluded at a distance only in one of the following manners:

1. in electronic form in accordance with Article 344, Paragraph 2, signed with the qualified electronic signatures of the parties within the meaning of Regulation (EU) 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust

services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ, L 257/3 of 28 August 2014);

2. on paper, signed personally by the parties;

3. through an Internet page following the procedure set out in Paragraph 4.

(2) Upon conclusion at a distance in the form of an electronic document of an insurance contract for civil liability insurance and accident insurance of passengers of public transport vehicles following the procedure set out in Paragraph 1, the insurer, respectively the insurance intermediary, shall be obliged, within three business days of the conclusion of the contract, to provide the policy holder with the insurance contract reproduced on paper as a transcript, signed personally by the insurer, respectively the insurance intermediary. In order to exercise their right of refusal following the procedure set out in Article 12 of the Distance Marketing of Financial Services Act, policy holders that are beneficiaries within the meaning of Article 7, Paragraph 2 of the same Act shall return to the insurer the received transcript certifying the conclusion of the insurance contract.

(3) Upon conclusion at a distance in the form of an electronic document of an insurance contract for liability insurance of motorists following the procedure set out in Paragraph 1, the insurer, respectively the insurance intermediary, shall be obliged, within three business days, to provide the policy holder with the insurance policy reproduced on paper as a transcript, signed personally by the insurer, respectively the insurance intermediary, certifying 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 their right of refusal following the procedure set out in Article 12 of the Distance Marketing of Financial Services Act, policy holders that are beneficiaries within the meaning of Article 7, Paragraph 2 of the same Act shall return to the insurer the received transcript certifying the existence of an insurance contract, the green card certificate and the respective section of the mark under Article 487 in accordance with the ordinance under Article 504, Paragraph 1.

(4) Upon conclusion at a distance of liability of motorists insurance through the Internet page of an insurer or an insurance intermediary, the requirement for written format shall be regarded as met even without the signature of the policy holder if the latter has paid the insurance premium or the respective instalment thereof via the same page by means of a credit or debit card issued in the name of the policy holder. In the case under sentence 1, the insurer, respectively the insurance intermediary, shall be obliged, within three business days, to provide the policy holder with the insurance policy on paper, signed personally by the insurer, respectively the insurance intermediary, accompanied by a mark under Article 487 and a green card certificate under Article 488. In this case a signature of the policy holder on the insurance policy shall not be necessary. In order to exercise their right of refusal following the procedure set out in Article 12 of the Distance Marketing of Financial Services Act, policy holders that are beneficiaries within the meaning of Article 7, Paragraph 2 of the same Act shall return to the insurer, respectively the insurance intermediary, the received insurance policy, the green card certificate and the respective section of the mark under Article 487 in accordance with the ordinance under Article 504, Paragraph 1.

(5) In the cases under Paragraph 4, the contract shall be regarded as concluded upon receipt by the policy holder, via electronic means, of the confirmation of the insurer or the insurance intermediary regarding the conclusion of the contract. The effective date of the insurance cover

shall be provided for explicitly in the insurance contract but it cannot be earlier than 12:00 pm on the day following the day of conclusion of the contract.

(6) A compulsory liability insurance of motorists may be concluded at a distance by an insurer or an insurance intermediary after receiving from the beneficiary service a copy of part I of the registration certificate of the motor vehicle in relation to which the insurance is concluded.

Bundling

Article 333. (1) Where an insurance product is marketed together with another service or is bundled, the distributor of insurance products shall notify the beneficiary of insurance services whether it is possible to purchase the various components separately, and if possible, it shall provide an adequate description of the various components of the contract or bundle, as well as information on the price and costs associated with each individual component.

(2) Where the risks to the beneficiaries of insurance services resulting from such a contract or bundle are different from the risks associated with the individual components, the distributor of the insurance product shall provide an adequate description of the various components and the manner in which their interaction affects the risk.

Identification documents

Article 334. In the pursuit of its business, an insurance broker shall identify itself with the registration certificate issued by the Commission, and an insurance agent – with the identification certificate issued by the insurer.

Payment of insurance premiums

Article 335. Persons not registered in the register under Article 30, Paragraph 1, point 11 of the Financial Supervision Commission Act as insurers or insurance intermediaries cannot accept insurance premium payments, unless they are authorised to provide payment services.

Certification of insurance premium payments

Article 336. (1) Where an insurer or insurance intermediary receives a cash payment of an insurance premium or a contribution, it shall issue to the beneficiary of the insurance services a document certifying the receipt of the payment which meets the requirements of the Accountancy Act, except in cases of payment of the full premium or the first instalment thereof, the receipt of which is certified directly in the insurance contract.

(2) The beneficiary of insurance services shall not be obliged to keep or present the document under Paragraph 1 in order to prove the validity of the insurance contract.

Reporting and supervision of insurance intermediaries

Article 337. (1) An insurance agent shall be subject to supervision by the compliance function and by the internal audit function of the insurer for which it carries out insurance mediation.

(2) An insurance intermediary that has received payment of an insurance premium or instalment, regardless of whether concluded through the intermediary's mediation or not, shall notify the insurer on the same day of the received amount, its grounds and amount, and shall transfer it to the benefit of the insurer within one month after receipt of the payment; for compulsory insurance under Article 461 points 1 and 2 – within 5 business days of receipt of the payment. The notification shall be made by e-mail through the electronic system of the insurer or in another manner agreed upon between the insurer and the insurance intermediary.

(3) Where an insurance premium or a due payment under it is paid before the expiry of the 15-day term under Article 368, Paragraphs 3 and 4, the insurer cannot terminate the insurance contract. In this case, Article 294, Paragraph 4 shall apply.

Payment of insurance benefits

Article 338. (1) A payment from an insurer to a beneficiary of insurance services through an insurance intermediary or another person shall be allowed only on the basis of an explicit written power of attorney with notarized signatures regarding the respective insurance claim or payment, which contains a statement that the beneficiary of insurance services is informed of the right to receive the payment personally. Where an insurance intermediary has chosen to guarantee the fulfilment of its obligation to transfer client funds by means of a client account, the insurer shall make payments of funds intended for beneficiaries of insurance services only through the client account.

(2) An insurance intermediary that has received a payment following the procedure set out in Paragraph 1 shall transfer the amount received to the bank account of the beneficiary of insurance services within 5 business days, unless the insurance intermediary and the beneficiary have agreed otherwise in writing.

(3) Where an insurer makes a payment through an insurance intermediary or another person under Paragraph 1, it shall inform the beneficiary of insurance services explicitly and in writing and shall indicate the amount of payment made.

Chapter XXXV
SPECIAL REQUIREMENTS FOR DISTRIBUTION OF INVESTMENT INSURANCE PRODUCTS

Investment insurance products

Article 339. (1) An investment insurance product is an insurance product that offers value at maturity or surrender valuewhich are entirely or partially exposed, directly or indirectly, to market fluctuations.

(2) An insurance investment product is not:

1. non-life insurance products by classes of insurance under Section II of Annex No 1;

2. life insurance contracts where the amounts under the contract are paid only in case of death or in case of incapacity due to accident, illness or injury;

3. pension products which are recognised under the national law as having the main objective of ensuring retirement benefits for the investor and entitling the investor to certain benefits;

4. officially recognised occupational retirement provision schemes within the scope of Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision or within the scope of Directive 2009/138/EC;

5. individual pension products which under national law require contributions by the employer and where the employer or the employee cannot choose the pension product or provider.

Delegated acts of the European Commission

Article 340. Insurers and insurance intermediaries shall comply with the requirements established by an instrument of the European Commission regarding:

1. the measures that may reasonably be expected to be taken by insurance intermediaries or insurers to identify, prevent, manage and disclose conflicts of interest when carrying out insurance distribution activities under Article 339, Paragraph 1;

2. appropriate criteria for determining the types of conflicts of interest the existence of which may damage the interests of the clients or potential clients of the insurance intermediary or insurance undertaking.

Additional information for the beneficiaries of insurance services in connection with insurance investment products

Article 341. In connection with the distribution of investment insurance products, the distributor shall provide additional information in such a format and manner that the beneficiary of the insurance service will be able to understand the nature and risks associated with the investment insurance product in order to make an informed investment decision. Where the characteristics of the investment insurance product allow that, the information may be provided in a standardised format.

Assessment of appropriateness. Reporting to the beneficiary of insurance services

Article 342. (1) When providing advice in relation to insurance investment products, the insurer, respectively insurance intermediary, shall collect the necessary information regarding the knowledge and experience of the beneficiary of insurance services in the field of investments in view of the particular product or service, the beneficiary's financial position and the purpose of the investment, including the beneficiary's risk appetite, in order to offer an appropriate product. When providing advice on bundled sales, the insurer, respectively insurance intermediary, shall consider whether the whole bundle of services or products is suitable for the beneficiary of insurance services.

(2) The insurer, respectively insurance intermediary, shall not be required to collect the information under Paragraph 1 in case that the following conditions are met:

1. no advice is being provided in connection with the investment insurance product;

2. the subject of the distribution is an investment insurance product that constitutes:

a) a contract that results in exposure to instruments that are not regarded as complex and there is no structure that renders the risks difficult to understand by the beneficiary of insurance services, or

b) any other product that is not complex;

3. the distribution of the insurance product is carried out at the initiative of the beneficiary of insurance services.

(3) When providing advice in relation to an investment insurance product before signing the contract, the insurer, respectively insurance intermediary, shall provide the beneficiary of insurance services with a written statement about the appropriateness of the product referred in the provided advice and how it reflects the preferences, objectives and other characteristics of the beneficiary of insurance services, with Article 330 applied respectively.

PART IV
INSURANCE CONTRACTS
TITLE I
GENERAL REQUIREMENTS TO ALL INSURANCE CONTRACTS
Chapter XXXVI
PART GENERAL
Section I
General

Definition

Article 343. (1) With the insurance contract, the insurer undertakes to accept a certain risk against payment of a premium and upon occurrence of an insured event to pay an insurance benefit or amount.

(2) The general rules of the Commerce Act and of the Obligations and Contracts Act shall apply to insurance contracts, unless this Code provides otherwise.

(3) An insurance contract can also be concluded as a distance contract using communication means in accordance with the provisions of this Code and the Distance Marketing of Financial Services Act.

(4) Marine insurance contracts shall be governed by the Merchant Shipping Code.

Format of the insurance contract

Article 344. (1) An insurance contract shall be concluded in writing as an insurance policy or another written instrument. The general terms and conditions of the insurance, if any, shall be an integral part of the contract.

(2) An insurance contract can also be drawn up 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 policy holder, as well as where it is provided by law. Where the policy holder and the insured are separate persons, the insurer shall also issue an insurance certificate at the request of the insured – only with regard to the latter's insured interest. In this case, the insured shall also be entitled to receive information on any other contractual terms and conditions which relate to their insured interest.

(4) The insurer shall, within 7 days of the request, provide the policy holder with a certified copy of the insurance contract. The policy holder's lack of an original of the insurance contract shall not constitute grounds for refusal or reduction of the insurance benefit.

(5) The policy holder shall be entitled at all times to request from the insurer a copy of all contractual statements, declarations and other documents provided in connection with the conclusion of the insurance contract.

(6) The standard costs for the issue of the new documents under Paragraphs 4 and 5 shall be borne by the policy holder.

Contents of the insurance contract

Article 345. (1) The insurance contract shall contain:

1. the names, respectively company names, and addresses of the parties;

2. the subject of the contract;

3. the covered insurance risks;

4. the term of the contract and the beginning and end of the insurance period and of the insurance coverage period;

5. the insured amount or the method of its determination;

6. the insurance value (actual, replacement and/or contractual) of insurance under points 3 to 9 and 14 to 16, Section II, letter "A" of Annex No 1;

7. the insurance premium or the method of its determination and the terms and conditions for its payment;

8. the size of the deductible, if a deductible is agreed between the parties;

9. the names and address of the insurance intermediary, if the contract is concluded through an intermediary, and in case of insurance agents – also the number of their identification document;

10. the date and place of conclusion of the contract;

11. the signatures of the parties.

(2) The written proposal or request to the insurer for the conclusion of an insurance contract or the written replies of the insured and/or the policy holder to questions brought up by the insurer relating to circumstances relevant to the nature and extent of the risk shall be an integral part of the insurance contract.

(3) Upon conclusion of an insurance contract where a third party – beneficiary is identified, the contract shall also contain the names, respectively company name, and address of that person or the manner in which that person can be identified.

(4) Where an insurance contract is concluded with an insurer which operates in the Republic of Bulgaria under the freedom to provide services, the contract shall contain the names (company name) and address of the representative under Article 51, Paragraph 2, respectively of the branch or the representative under Article 503, charged with the execution of its functions.

(5) The insurance contract shall identify clearly, unambiguously and comprehensively:

1. the risks covered and the exclusions from coverage;

2. the terms and condition for payment of the premiums by the policy holder and the consequences of non-payment or incorrect payment;

3. the obligations of the insurer, the payment term and the method for determination of the size of the payments;

4. the obligations upon occurrence of an insured event and the obligations to prove it;

5. the circumstances related to changes in the insurance relationship;

6. the conditions and the size of advance payments or loans against life insurance policies and their redemption.

(6) The content of the contract for compulsory liability insurance of motorists and accident insurance of passengers of public transport vehicles shall be determined in accordance with the ordinance under Article 504.

(7) The insurance contract cannot set out conditions and requirements to produce documents or other evidence provided by the beneficiary of insurance services or by state authorities which documents or evidence may be reasonably determined as having no material importance for proving the insured event or establishing the amount of the damage, as well as such documents or evidence for which it can be determined that there exists a legal or factual barrier to their provision.

(8) The insurance contract shall not set out terms and requirements, including those related to the occurrence of the insured event, which may be reasonably determined as not relevant in terms of limiting the risk of occurrence of the insured event, as well as those for which it can be determined that there exists a legal or factual barrier for them to be met.

(9) With regard to insurance under Section I of Annex No 1, as well as to sickness insurance, the insurance contract shall clearly, unambiguously and comprehensively identify the conditions under which the exceptions from insurance coverage are applicable.

Insured amount

Article 346. The insured amount (limit of liability) is a sum of money as agreed between the parties or determined in a statutory instrument and indicated in the insurance contract, representing the cap of the limit of the liability of the insurer towards the insured, the third party beneficiary or the third damaged party.

Change of address and company name

Article 347. Policy holders shall inform the insurer of any changes in their name or company name, or mailing address referred to in the insurance contract or other documents provided to the insurer. If they fail to fulfil that obligation or indicate false information, any written statement by the insurer sent to them at the last address of the policy holder declared to the insurer shall be deemed served and received by the policy holder with all resulting statutory or contractual legal consequences.

General terms and conditions

Article 348. (1) The general terms and conditions are standardised clauses applicable to an unlimited number of insurance contracts. The general terms and conditions of the insurer established in advance of the conclusion of a certain insurance product shall be binding to the policy holder if they have been provided upon conclusion of the insurance contract and the policy holder has stated in writing that they are accepted. The general terms and conditions accepted by the policy holder shall form an integral part of the insurance contract. In case of discrepancy between the insurance contract and the general terms and conditions, the provisions set out in the contract shall prevail.

(2) The general terms and conditions of the insurer shall be adopted by its management body, and the date of their adoption and of their subsequent amendments must be specified therein.

(3) The general terms and conditions of the insurer shall not constitute legally protected secret and the insurer cannot refuse access to them. The insurer shall provide to the beneficiary of insurance services the general terms and conditions of the insurance before the conclusion of the insurance contract. Where a questionnaire has been prepared in connection with the insurance, the general terms and conditions shall be provided together with it.

(4) The amendment or replacement of general terms and conditions with new ones during the term of validity of the insurance contract shall be binding only if the amendments or the new terms and conditions have been provided to the policy holder and the policy holder has confirmed them in writing.

(5) The general terms and conditions of the insurance contract covering risks under Section II, letter "A" of Annex No 1 shall not include conditions intended to address particular circumstances of the covered risk in individual cases.

Insurable interest

Article 349. (1) Insurable interest is the legally recognised need for protection against the effects of a possible insured event.

(2) An insurance contract concluded in the absence of insurable interest shall be null and void, except in cases of future insurable interest.

(3) Future insurable interest is the need for protection from harmful effects of an expected but not yet occurred property right, or the need for protection of the own liability during and in the course of a not yet taken up or pending business activity.

(4) The policy holder may request the return of the entire premium paid or of the part paid thereof in case of deferred payments, unless the policy holder was aware or should have been aware of the lack of insurable interest.

(5) The insurance contract shall be terminated if the insurable interest ceases to exist during its term of validity and the insurer shall be entitled to retain the part of the premium corresponding to the expired term of the insurance contract until its termination.

Term of the insurance contract

Article 350. The insurance contract may be concluded for a definite or indefinite period. The term of the contract may be longer than the period of insurance cover.

Period of insurance cover

Article 351. (1) The period of insurance cover is the period during which the insurer bears the insurance risk.

(2) The period of insurance cover may be set in minutes, hours, days, weeks, months or years, or by explicit definition of the start and end time.

(3) Unless otherwise agreed, the insurance cover shall commence after payment of the premium due under the contract or of the first instalment thereof in case of deferred premium payments.

Insurance period

Article 352. (1) The insurance period is the period for which the insurance premium is fixed, which period shall be one year, unless the premium is fixed for a shorter period.

(2) The term of validity of the insurance contract may include more than one insurance period.

Extension of the term of validity of the contract. Termination

Article 353. (1) An insurance contract concluded for a fixed period may contain a stipulation for its automatic renewal. Automatic renewal shall be allowed for only one further insurance period and shall apply only if during the current insurance period neither of the parties has explicitly requested that the contract is not renewed for a new insurance period. In this case the contract shall be regarded as terminated from the end of the current insurance period without any penalties or other expenses due.

(2) If the insurance contract is concluded for an indefinite period of time, the contract may be terminated without penalties or other costs by any of the parties before the end of the current insurance period. The termination under sentence 1 shall become effective from the end of the current insurance period.

(3) An insurance contract concluded for a definite period of time may be terminated without penalties or other costs by any of the parties with a prior notice to the other party. The termination under sentence 1 shall become effective from the end of the current insurance period.

(4) The period of the prior notice under Paragraphs 1 to 3 cannot be less than one month and more than three months.

(5) Paragraphs 1 to 4 shall not apply to insurance contracts for compulsory liability insurance of motorists.

Termination of the insurance contract

Article 354. (1) The insurance contract shall be terminated upon expiry of the period for which it has been concluded, as well as in the cases provided for in this Code.

(2) The insurance contract may also be terminated on grounds specified therein in case they are not in conflict with the rules of civility and the interests of the beneficiaries of insurance services are not affected unduly.

(3) The financial relations between the parties to the contract shall be settled at the date of its termination, unless the parties agree otherwise.

Section II
Retroactive cover. Advance cover

Retroactive cover

Article 355. (1) Retroactive cover is the provision, under an insurance contract, of cover for a period prior to the date of conclusion of the contract.

(2) Retroactive cover for an insured event shall be null and void if the policy holder or the insured knew at the time of conclusion of the contract that the event has occurred during the retroactive period.

(3) If the insurance contract is concluded through a representative in the case of Paragraph 2, the knowledge of the representative shall also be taken into account.

(4) The arrangement of retroactive cover for compulsory liability insurance of motorists and accident insurance of passengers of public transport vehicles shall be null and void.

Advance cover

Article 356. (1) Where an insurer provides advance cover until the conclusion of a final contract, it may be agreed that the policy holder has to be supplied with the contractual conditions and the information under Article 324 upon request but not later than together with the final contract.

(2) If upon advance cover the policy holder is not supplied with general terms and conditions, the commonly used terms and conditions of the insurer at that time shall become an integral part of the contract, and in their absence the terms of the final contract shall apply. In case of doubt as to which conditions are applicable, upon advance cover the conditions used by the insurer at the time of commencement of the advance cover that are most favourable to the insured shall apply.

(3) Advance cover shall not be allowed for compulsory liability insurance of motorists, as well as for insurance under which the beneficiaries of the insurance services are consumers within the meaning of the Consumer Protection Act.

Failure to conclude an insurance contract in case of advance cover

Article 357. If after the provision of advance cover a final contract is not concluded, the policy holder shall pay the premium for advance cover agreed between the parties and the insurer shall be entitled to a portion of the premium, corresponding to the period of the advance cover, which would have been payable under the conditions under which the advance cover was provided.

Payment of premiums upon advance cover

Article 358. (1) Upon advance cover, the insurer shall state the insurance premium in writing.

(2) The beginning of the advance cover may be fixed depending on the payment of the premium if the policy holder has been informed expressly and in writing thereof by the insurer.

(3) Arrangements derogating from Paragraph 1 to the detriment of the policy holder shall be null and void.

Termination of the advance cover

Article 359. (1) The period of the advance cover shall expire in accordance with the conditions under which it has been provided or upon entry into force of the cover under the final contract concluded by the policy holder or of another advance cover.

(2) Paragraph 1 shall also apply where the policy holder concludes an insurance contract with or receives advance cover from another insurer. The policy holder shall immediately notify the previous insurer of the conclusion of such a contract or the receipt of such cover.

(3) If the final contract with the insurer providing advance cover is not concluded, the advance cover shall be terminated not later than the receipt by insurer of the policy holder's refusal to conclude a final contract.

(4) If the advance cover is provided for a period which is not fixed, either party may terminate it with a 14-day prior notice as of the date of its receipt.

(5) Arrangements derogating from Paragraph 1 – 4 to the detriment of the policy holder shall be null and void.

Section III
Open insurance contracts

Notification obligation

Article 360. If upon conclusion of an insurance contract only the type of the insurable interest is determined, which interest is to be specified to the insurer after the conclusion of the contract (open insurance contract), the policy holder shall:

1. announce the individualised insurance risks or the specific basis for calculation of the insurance premium, or

2. require confirmation of the insurance cover by the insurer on a case by case basis, if agreed between the parties.

Breach of the notification obligation

Article 361. (1) If the policy holder or the insured have not fulfilled their obligations under Article 360 or have fulfilled them incorrectly, the insurer shall not be obliged to pay benefits. Sentence 1 shall not apply if the person that did not fulfil the obligations under Article 360 or fulfilled them incorrectly proves that it was done in good faith.

(2) If the policy holder or the insured breach their obligations under Article 360 in bad faith, the insurer may terminate the contract without prior notice. The individualised insurance risks for which the insurance cover has commenced shall remain insured until the agreed period of their insurance cover even after the termination of the open insurance contract, unless otherwise agreed. In this case, the insurer shall be entitled to receive the insurance premium payable until the expiration of the period of the respective cover.

Section IV
Disclosure of circumstances relating to insurance risk

Disclosure obligation

Article 362. (1) Upon conclusion of the insurance contract, where the insurer has posed questions, the policy holders, their representatives or their insurance brokers shall disclose accurately and comprehensively the material circumstances that are known to them and that are relevant to the risk. Sentence 1 shall also apply to the insured if information was also requested from the insured upon the conclusion of the contract.

(2) Circumstances material to the risk under Paragraph 1 shall be only those circumstances about which the insurer has posed a question expressly and in writing. Where the insurer has posed questions, it cannot refuse to pay a claim on the basis of circumstances which existed before the date of conclusion of the insurance contract and about which it did not pose a question in writing.

(3) Where the insurer has concluded a contract despite the fact that it has posed questions to the policy holder in advance and has not received an answer or has received an unclear answer, the insurer shall not have the right to unilaterally terminate the insurance contract, refuse to pay a benefit or reduce its size on the grounds of the absence of an answer or an unclear answer.

(4) Where the policy holder has disclosed the circumstances under Paragraph 2 and the insurer has entered into the insurance contract, the insurer cannot use the disclosed circumstances as a justification to unilaterally terminate the contract, refuse to pay a benefit or reduce its size.

(5) The insurer cannot use as justification the incorrect disclosure of circumstances material for the risk that have been verified by it upon conclusion of the insurance contract.

(6) The failure to answer a question or an unclear answer to a question without the intent to conceal circumstances material for the risk shall not constitute grounds to terminate the insurance contract, request its modification or refuse to pay a claim under Article 363.

Intentional misrepresentation or non-disclosure

Article 363. (1) If a person under Article 362, Paragraph 1 has intentionally misrepresented or not disclosed a circumstance where the insurer would not have concluded the contract if it knew of that circumstance, the insurer may terminate the contract. It may exercise that right within one month of becoming aware of the circumstance.

(2) In the case of Paragraph 1, the insurer shall retain the paid portion of the premium and shall be entitled to require its payment for the period until the termination of the contract.

(3) If the intentionally misrepresented or not disclosed circumstance is of such nature that the insurer would have concluded the contract, but under different conditions, it may require its modification. That right may be exercised within one month of becoming aware of the circumstance. If the policy holder does not accept the proposal for modification within two weeks of its receipt, the contract shall be terminated with the consequences under Paragraph 2.

(4) Where the insured event occurs under the cases of Paragraphs 1 or 3, the insurer may refuse to pay the insurance claim or amount fully or partially only if the misrepresented or not disclosed circumstance has affected the occurrence of the event. Where a circumstance under Paragraphs 1 or 3 only had the effect of increasing the amount of damages, the insurer cannot refuse to pay a benefit, but it may reduce it according to the ratio of the amount of the paid premium to the premium that should be paid on the basis of the actual risk.

(5) Paragraphs 1 to 4 shall also apply if the policy holder has concluded the contract through a representative or for the account of a third party and the non-disclosed circumstance was known to the insured or the insured's representative, respectively to the third party.

Unintentional misrepresentation

Article 364. (1) If upon conclusion of the insurance contract a circumstance under Article 362, Paragraph 1 was not known to the parties, each of them may, within two weeks of becoming aware of it, propose a modification of the contract.

(2) If the other party does not accept the proposal under Paragraph 1 within two weeks of its receipt, the proposing party may terminate the contract, about which its shall notify the other party in writing.

(3) If the contract is terminated, the insurer shall reimburse the portion of the paid premium corresponding to the unexpired period of the insurance contract.

(4) In case of occurrence of the insured event before the modification or termination of the contract, the insurer cannot refuse to pay an insurance benefit or amount, but it may reduce it according to the ratio of the amount of the paid premium to the premium that should be paid on the basis of the actual risk.

Reporting of new circumstances

Article 365. (1) During the term of validity of the insurance contract, the insured shall disclose to the insurer all new circumstances about which the insurer has posed questions in writing upon conclusion of the contract. The disclosure of the circumstances shall be made immediately upon becoming aware of them.

(2) Upon failure to fulfil the obligation under Paragraph 1, Articles 363 and 364 shall apply.

Immaterial increase of the risk

Article 366. Articles 363 to 365 shall not apply where the non-disclosure or the incorrect disclosure has resulted in an immaterial increase of the risk or where it has been agreed that such an increase of the risk is subject to insurance.

Section V
Insurance premium

Payment of the insurance premium

Article 367. (1) The entire premium or its first instalment, in case of a deferred payment of the premium, shall be paid upon conclusion of the insurance contract, unless otherwise provided by law or agreed in the contract.

(2) If during the term of validity of the insurance contract the insurance risk increases or decreases significantly, either party may request an increase or decrease of the insurance premium or may terminate the contract.

(3) If during the term of validity of the insurance contract for liability insurance of motorists the insurance risk increases or decreases significantly, either party may request an increase or decrease of the insurance premium, but termination of the contract by the insurer is not allowed except in the cases under Article 491, Paragraph 6.

Deferred payment of the insurance premium

Article 368. (1) In case of a deferred payment, the instalments of the insurance premium shall be paid within the term agreed in the insurance contract.

(2) In case of failure to pay a deferred instalment of the insurance premium, the insurer may take one of the following actions:

1. reduce the insured amount under the contract, respectively the portion of the unpaid premium;

2. amend the terms of the contract;

3. terminate the contract.

(3) The insurer may exercise the rights under Paragraph 2 not earlier than 15 days from the date on which the insured has received a written notification from the insurer. The written notification shall be deemed to have been delivered and the contract shall be terminated automatically where the insurer has opted for the right under Paragraph 2, point 3 and the policy states explicitly that the contract will be deemed as terminated after the expiry of a certain period from the due date of the deferred instalment, which period cannot be shorter than 15 days. In the case of sentence 2, an additional written statement from the insurer to the insured shall not be required.

(4) In the case of a compulsory liability insurance of motorists and a compulsory accident insurance of passengers of public transport vehicles, Paragraph 2, points 1 and 2 shall not apply. The insurer may terminate the contract, but not earlier than 15 days from the date on which the insured has received a written notification from the insurer. The written notification shall be deemed to have been delivered and the contract shall be terminated automatically where the insurer has opted for the right under Paragraph 2, point 3 and the policy states explicitly that the contract will be deemed as terminated after the expiry of a certain period from the due date of the deferred instalment, which period cannot be shorter than 15 days. In the case of sentence 3, an additional written statement from the insurer to the insured shall not be required.

Deduction by the insurer

Article 369. (1) If the insurer has a due payment of an insurance premium or other due receivables under the insurance contract, it may deduct them from a benefit payable by it to the insured or a third party beneficiary arising from the insurance contract.

(2) Where an insured event has occurred before the insurance premium has been paid in full by the policy holder, the insurer may deduct the outstanding premium from the payable insurance benefit or amount.

(3) Paragraphs 1 and 2 shall not apply to payments under direct claims of a damaged party under the compulsory liability insurance and accident insurance where the insured persons are other than the policy holder, and also in the case of group insurance under Article 441.

Insurance premium in the event of termination of the insurance contract

Article 370. In the event of termination of the insurance contract before the end of the insurance period, the insurer shall be entitled to the respective premium only for the portion of the insurance period during which it has provided cover.

Insurance premium in the event of insolvency of an insurer

Article 371. In the event of insolvency of an insurer:

1. the policy holder shall pay the bankruptcy estate the due insurance premium for the period of the insurance cover where the insurance policy is terminated on the grounds of Article 614, Paragraph 2;

2. the policy holder shall be entitled to a reimbursement from the bankruptcy estate of the portion of the premium paid for the period during which no insurance cover will be provided where the insurance policy is terminated on the grounds of Article 614, Paragraph 2.

Termination of the insurance contract in the event of an increase of the premium by the insurer

Article 372. (1) If an insurer increases the premium on the basis of an explicit text to that effect in the insurance contract but without a corresponding change in the insurance cover, the policy holder may terminate the contract within one month of receipt of the notification of the insurer about the change, but not earlier than the entry into force of the increase. In the event of a change in the insurance premium, the insurer shall notify the insured explicitly of the latter's right to unilaterally terminate the contract. The notification must be received by the insured not later than one month before the entry into force of the premium increase.

(2) Paragraph 1 shall also apply where the insurer reduces the scope of the insurance cover without reducing the size of the due premium.

Reduction of the insurance premium

Article 373. The policy holder may request a corresponding reduction of the premium with an explicit application in writing to the insurer where a change in material for the risk circumstances under Article 362, Paragraph 2 results in a reduction of the risk. If the insurer does not accept the request to reduce the premium, the policy holder shall have the right to terminate the contract without notice.

Section VI
Deductible

Deductible

Article 374. (1) The parties under the insurance contract may stipulate a deductible for the insured, which constitutes an acceptance of a portion of the liability in the event of occurrence of an insured event. The deductible can be unconditional or conditional.

(2) In the event of an unconditional deductible, the insured accepts the liability arising from the occurrence of an insured event up to a certain amount for each damage.

(3) In the event of a conditional deductible, the insurer pays the entire amount of the damage if it exceeds the amount of the deductible specified in the insurance contract. Damages which do not exceed the amount of the conditional deductible set out in the insurance contract are borne by the insured.

(4) The amount of the deductible cannot exceed 50 % of the insurance benefit or an amount fixed in the contract. Apart from the cases under Article 375, where a deductible is not allowed, in case of compulsory liability insurance, the amount of the deductible cannot exceed 10 % of the insurance benefit.

Ban on deductibles

Article 375. A deductible shall not be allowed under compulsory liability insurance of motorists and accident insurance of passengers of public transport vehicles, as well as under life insurance.

Section VII
Co-insurance

Co-insurance

Article 376. (1) Co-insurance is the conclusion by the insured of one insurance contract with more than one insurer for the same pecuniary or non-pecuniary goods, right or property, for the same cover period and for the same risks.

(2) In the event of co-insurance, the insurance contract may be concluded between the policy holder and the leading insurer acting on its own behalf and on behalf and for the account of several insurers with or without the conclusion of a prior co-insurance contract between them.

(3) In the event of co-insurance, the insurance contract shall indicate the insurers, the proportion of the liability accepted by them and the applicable general terms and conditions.

(4) In the event of co-insurance under insurance that does not cover high risks, the insurance contract must identify the leading insurer.

(5) The relations with the policy holder, the insured and the third party beneficiary under the insurance contract shall be managed by the leading insurer, unless otherwise agreed in the insurance contract.

(6) The person entitled to a benefit under the insurance contract shall have the right to receive the full amount of the due benefit from the leading insurer, where a leading insurer is identified, unless the insurance contract covers a high risk and it is otherwise agreed therein. The relations between the co-insurers with respect to the payments by the leading insurer shall be settled on the basis of the proportion of the liability accepted by them.

Co-insurance contracts

Article 377. (1) In the event of co-insurance, a co-insurance contract may be concluded at the discretion of the insurers.

(2) The insurers must set out in the co-insurance contract:

1. the leading insurer;

2. the proportion of the liability accepted by them;

3. the allocation of the insurance premium;

4. the applicable general terms and conditions;

5. the relations among them in connection with the liquidation of damages.

(3) Where co-insurance is carried out without a co-insurance contract, the insurance contract must identify the information under Paragraph 2, points 1 to 4.

Section VIII
Prescription

Period of prescription

Article 378. (1) The rights and obligations under the insurance contract related to the insurance benefit shall lapse after a three-year period of prescription from the date of occurrence of the insured event.

(2) The rights and obligations under insurance contracts for life, accident, sickness insurance and under direct civil liability insurance claims under points 10 to 13, Section II, letter "A" of Annex No 1 in connection with the insurance benefit or amount shall lapse after a 5-year period of prescription from the date of occurrence of the insured event.

(3) In cases of granted retroactive cover under an insurance contract limitation period under Paragraph 1, respectively under Paragraph 2 runs from the date of filing an insurance claim in the term of the current insurance contract to the insurer, provide retroactive cover.

(4) In the case of excess which derives directly from insured events under the insurance under Paragraph 2, the period of prescription is 5 years from the date of occurrence or becoming aware of the excess, but not more than the period of prescription in respect of the person responsible for the damage where the damage was caused by tort/delict. Excess is any deterioration of the health of the injured person who has a direct and immediate causal relationship with the occurred insured event.

(5) Regression and subrogation claims and claims of perpetrator of the damage under Article 435 against the insurer under civil liability insurance with regard to points 10 to 13,

Section II, letter "A" of Annex No 1 shall lapse within a period of 5 years from the date of the payment by the insurer under property insurance or by the perpetrator of the damage. The insurer under the property insurance of the damaged third party and the perpetrator of the damage under sentence 1 shall be entitled to the statutory interest on the amount claimed as of the invitation to pay addressed to the insurer under civil liability insurance in respect of points 10 to 13, Section II, letter "A" of Annex No 1.

(6) Regression and subrogation claims of the insurer under civil liability insurance in respect of points 10 to 13, Section II, letter "A" of Annex No 1 against the perpetrator of the damage shall lapse within 5 years from the date of the payment of the insurance benefit to the third damaged party. The insurer shall be entitled to the statutory interest on the amount claimed as of the invitation to pay addressed to the perpetrator of the damage.

(7) Paragraph 2 shall not apply to receivables of creditors constituting compensation for damages caused by contractual non-performance by an insured under insurance which covers the insured's contractual liability under Article 429, Paragraph 1, point 2. In this case, claims against the insurer under insurance in respect of Article 429, Paragraph 1, point 2 shall lapse simultaneously with the lapse of the liability of the insured.

(8) Receivables from interest on the insurance benefit shall lapse after a three-year period of prescription.

(9) The prescription regarding the claim of the damaged party under a direct claim against the insurer and of the insured and the beneficiary shall be suspended from the date of filing of the claim to the insurer to the date of receipt of the decision of the insurer under Article 108, Paragraph 1, respectively until the expiry of the maximum term to make a decision under Article 108, Paragraphs 2, 3 or 5, whichever of those two dates is earlier.

Period of prescription for premium receivables of the insurer

Article 379. The insurer receivables related to insurance premiums shall lapse within three years from the date of the relevant maturity.

Section IX
Claim for insurance benefit or amount

Insurance claim

Article 380. (1) A person who wishes to receive an insurance benefit shall file a written insurance claim with the insurer. Together with the claim, the person shall provide full and accurate details of the bank account to which payments are to be made by the insurer, except in cases of restitution in kind.

(2) The insurer shall pay the insurance benefit under the bank account provided under Paragraph 1, regardless of whether the size of the benefit is determined by the insurer or by court order. A change of the bank account shall be binding for the insurer only after it has been explicitly notified in writing prior to the payment, including in the course of court proceedings.

(3) A failure to provide bank account details by the person under Paragraph 1 shall result in a delay of the creditor with respect to the payment, in which case the insurer shall not have to pay interest under Article 409.

Non-seizability

Article 381. (1) Enforcement on an insured amount under life insurance and accident insurance, as well as on insurance benefits under civil liability and accident insurance of passengers of public transport vehicles shall not be allowed.

(2) Enforcement on insurance benefits under property insurance shall be allowed if it could be directed to the insured property.

Chapter XXXVII
INSURANCE OF COLLATERAL FOR LOANS OR BANK CREDITS. INSURANCE OF LEASING PROPERTY

Insurance concluded as collateral by a creditor

Article 382. (1) In case of insurance concluded in favour of a creditor between an insurer and a policy holder that is a creditor of a third party – debtor, upon occurrence of an insured event, the insurer shall be liable to the creditor up to the size of the insured amount for the outstanding portion of the commitment for the collateral for which the insurance contract is concluded, including principal, interest and costs as of the date of occurrence of the insured event. In case that the insured amount for a given insured person is not fixed, unless otherwise agreed it shall be equal to the outstanding portion of the principal which the insurance contract is concluded to secure, together with the non-outstanding interest. Where the due benefit or insured amount under the terms of the insurance contract exceeds the amount of the outstanding portion of the commitment under sentence 1 and after payment is made to the creditor, the balance shall be paid to the debtor or the debtor's heirs. In respect of the payment of a benefit under insurance with regard to sentence 1, the debtor shall have all the rights of an insured person, except the right to receive the benefit up to the amount of the outstanding portion of the commitment.

(2) An insurance contract between a policy holder that is a creditor and an insurer in connection with the pecuniary or non-pecuniary goods of a debtor shall be concluded in favour of a creditor as collateral for the receivables of the creditor only with the prior express written consent of the debtor, whereby that written consent shall not be required in case the receivables have been called in.

(3) In case of death of a debtor insured under an insurance contract, the creditor shall be obliged, with regard to the debtor's non-pecuniary goods under Paragraph 1, to diligently undertake all necessary actions related to the filing of the claim and the payment by the insurer of the insured amount under the insurance contract. In respect of the payment of a benefit under insurance with regard to Paragraph 1, the heirs of the debtor, as well as the debtor's co-debtors or debt sureties, shall have the rights of an insured person, except the right to receive the benefit up to the amount of the outstanding portion of the commitment.

(4) The contracts under Paragraph 1 must be concluded under the general terms and conditions as set out in Article 348. In case of any discrepancy between the insurance contract and general terms and conditions, the arrangements about which the debtor has been notified in writing and in advance shall apply.

(5) The creditor shall provide the debtor in advance with all information in connection with the conclusion and performance of the insurance contract, including:

1. the general terms and conditions of the insurance and information on the insurer, the subject of the insurance, the insured amount, the term of the insurance and the persons entitled to receive the insurance benefit or insured amount;

2. the questions posed by the insurer under Article 362;

3. the answers provided by the creditor.

(6) The creditor shall be obliged by the 15th day of the month following the month of conclusion of the insurance contract under Paragraph 1, to provide the debtor with a certificate containing information on the insurer, the subject of the insurance, the insured amount, the term of the insurance and the persons entitled to receive the insurance benefit or insured amount.

(7) The creditor shall, immediately after becoming aware thereof, notify the debtor in writing of any changes, actions, inactions or other circumstances that could result in the termination of the insurance contract, the reduction of the insurance benefit or amount or that could otherwise prejudice the interests of the debtor. The insurer cannot refuse to provide information under sentence 1 at the request of the debtor.

(8) The creditor shall be obliged to immediately notify the debtor of a termination of the contract under Paragraph 1.

(9) Upon payment of a benefit or the insured amount under an insurance in respect of Paragraph 1, the commitment of the debtor shall be reduced by the amount of the payment received by the creditor.

(10) In case of an insured event, the debtor shall immediately notify the creditor of its occurrence.

Insurance in favour of a creditor concluded by a debtor

Article 383. (1) In case of insurance concluded in favour of a creditor between an insurer and a policy holder that is a debtor or a third party – debtor, under a pledge or mortgage, upon occurrence of an insured event, the insurer shall be liable to the creditor up to the size of the insured amount for the outstanding portion of the commitment in case of a collateral on the basis of which the insurance contract is concluded, including principals, interest and costs as of the date of occurrence of the insured event.

(2) In case of an insured event, the policy holder, the policy holder's heirs or beneficiaries and the insurer shall immediately notify the creditor of its occurrence.

(3) In case of death of a debtor insured under an insurance contract, the creditor shall be obliged, with regard to the debtor's non-pecuniary goods under Paragraph 1, to diligently undertake all necessary actions related to the filing of the claim and the payment by the insurer of the insured amount under the insurance contract. In respect of the payment of a benefit under insurance with regard to sentence 1, the heirs of the debtor, as well as the debtor's co-debtors or debt sureties, shall have the rights of an insured person, except the right to receive the benefit up to the amount of the outstanding portion of the commitment.

(4) In case of occurrence of an insured event and under the terms of the main contract between the creditor and the debtor and the terms of the insurance contract, the insurer shall make a payment to the creditor up to the amount of the outstanding portion of the commitment under Paragraph 1. The balance of the insurance benefit, if any, shall be paid:

1. to the debtor or the debtor's heirs or third party beneficiaries, where the policy holder is the debtor;

2. to the debtor under the pledge or mortgage, where the policy holder is a debtor under a pledge or mortgage.

Insurance concluded in respect of leasing property

Article 384. (1) Before conclusion of an insurance contract under points 3 – 12, Section II of Annex No 1 between a lessor and an insurer in connection with leasing property in the cases of financial lease and where the premium is due and payable by a lessee, including in the cases where the insurance premium is included in the lease price, the lessor shall be obliged to obtain the explicit prior written consent of the lessee with regard to the terms and conditions of the insurance contract. Article 382, Paragraphs 5 to 8 shall apply accordingly.

(2) In connection with the payment of a benefit under insurance in respect of Paragraph 1, the lessee shall have the right of an insured person and:

1. in case of partial damages, the benefit shall be paid to the lessee, unless it has been agreed for the damages to be remedied in kind, in which case the expenses shall be paid directly to the external contractor;

2. in case of theft or total loss of the leasing property, the benefit shall be paid to the lessor and the insurer shall be obliged to inform the lessee explicitly and in writing within one day of the day of payment, indicating the amount of the payment made.

(3) In the cases under Paragraph 2, point 2, the lessor may retain the paid benefit only up to the amount of the outstanding liabilities under the lease contract. The amount retained by the lessor shall be used to repay the liabilities of the lessee under the financial lease contract and the lessor shall be obliged to pay the remainder to the lessee within 7 days of receipt of the benefit.

TITLE II
INSURANCE AGAINST DAMAGES
Chapter XXXVIII
GENERAL REQUIREMENT FOR CONTRACTS FOR INSURANCE AGAINST DAMAGES
Section I
General

Scope

Article 385. Insurance against damages includes insurance in respect of the classes of insurance under Section II of Annex No 1, .

Insured amount. Insurance benefit

Article 386. (1) Upon occurrence of an insured event, the insurer shall pay an insurance benefit which cannot exceed the insured amount (the limit of liability), except as provided in this Code.

(2) Upon occurrence of an insured event, the insurer shall pay an insurance benefit equal to the actual damage suffered as of the day of occurrence of the event, except in cases of underinsurance and agreed value insurance.

Agreed value insurance

Article 387. (1) The parties to the insurance contract may determine an agreed value of the insurance as a fixed amount of money, in which case Article 386, Paragraph 2 shall not apply. The agreed value of the insurance shall also be regarded as the value of the insurable interest upon occurrence of an insured event and cannot be contested by the parties.

(2) Individual insurance values may be defined for the individual insurance risks under an insurance contract.

Overinsurance

Article 388. (1) Apart from the cases under Article 387, Paragraph 1, in case a higher insurance premium than the actual insurance value, respectively the replacement insurance cost of the insured property, the contract shall remain in force and each of the parties may request that the insured amount be reduced to the amount of actual value, respectively replacement cost.

(2) The insurer shall be obliged to return the portion of the paid premium which corresponds to the difference between the agreed insured amount and the actual value, respectively replacement cost, of the insured property, unless the insured has acted in bad faith.

(3) If an insured event has not occurred and if the parties fail to agree on the size of the necessary reduction of the insured amount or the insurance premium, either party may terminate the contract.

Underinsurance

Article 389. (1) Apart from the cases of Article 387, Paragraph 1, if an insurance premium lower than the actual value, respectively replacement cost, of the insured property is agreed and if the property is destroyed or damaged, the insurer shall compensate the full amount of the damage up to the size of the insured amount.

(2) If the insurance contract is concluded with a arrangement for proportional compensation, the benefit shall be determined according to the proportion between the insured amount and the actual value, respectively replacement cost.

Total loss of a motor vehicle

Article 390. (1) Before the payment of a benefit defined as total loss of a motor vehicle registered in the Republic of Bulgaria, the insurer shall require from the beneficiary of the insurance service a certificate issued by the competent registration authority for cancellation of the registration of the motor vehicle containing a note that the cancellation of the registration is due to the occurrence of total loss.

(2) Total loss of a motor vehicle is a damage where the value of the necessary repair costs exceeds 70 % of its actual value. The amount of the costs of the necessary repairs shall be determined according to the agreed method of compensation based on:

1. a proforma invoice issued by an automobile repair shop – in case of restitution of the damages in kind, or

2. an expert appraisal – in case of monetary compensation.

Section II
Multiline insurance

Multiple insurers

Article 391. (1) A person insuring the same interest against the same risk with more than one insurer shall immediately notify each of the insurers of the existence of the other insurance contracts, indicating the other insurers and the insured amounts under each of those contracts.

(2) Paragraph 1 shall also apply if loss of profit in respect of one interest is insured with one insurer and other damages in respect of the same interest are insured with another insurer.

Liability in case of multiline insurance

Article 392. (1) Multiline insurance arises when the same interest is insured against the same insurance risk with more than one insurer and the sum of the individual insured amounts exceeds the amount of the actual insurance value or the amount of the actual damages. In this case, each insurer shall be liable in the proportion to which the insured amount under the insurance concluded with it corresponds to the total insured amount of all insurance, where the insured cannot receive from the insurers a total amount higher than the actual damages.

(2) In case of multiline civil liability insurance, the beneficiary of insurance services may file a claim up to the insured amount with each of the insurers, but in the relationship among them the liability of each of the insurers to provide compensation for the damages arising from the insured event shall be determined in the proportion to which the insured amount under the insurance concluded with it corresponds to the total insured amount of all insurance, where the insured cannot receive from the insurers a total amount higher than the actual damages.

(3) In case of multiline insurance, each insurer with which a claim is filed shall notify all other insurers it is aware of. Each insurer that makes a payment shall immediately inform the other insurers thereof.

(4) If the law of another country is applicable to one of the contracts under Paragraph 1, the insurer to whose insurance that law is applicable may file a claim for reimbursement with the other insurers only where it would have an obligation for reimbursement under the law applicable to it.

(5) If the insured has concluded the contracts under Paragraph 1 with the intention of unjust enrichment, the concluded contracts shall be null and void. In that case, the insurer shall be entitled to the premium up to the time when it became aware of the circumstances that constitute grounds for the nullity of the contract.

Removal of multiline insurance

Article 393. (1) If the policy holder has concluded an insurance contract as a result of which multiline insurance has occurred, the policy holder may require termination of one of the contracts or reduction of the insured amount, respectively the insurance premium as well, down to the amount of the insurance interest not covered under the earliest insurance.

(2) Paragraph 1 shall also apply where multiline insurance has occurred due to a reduction of the insurance value after the conclusion of the contracts. If in this case the multiple insurance contracts are concluded simultaneously or with the consent of the insurers, the insured may require only the corresponding reduction of the insured amounts and premiums.

Section III
Insured event

Occurrence of an insured event

Article 394. Upon occurrence of an insured event, the insurer shall pay an insurance benefit under the terms of the insurance contract.

Prevention and limitation of damages by the insured or the policy holder

Article 395. (1) The insured shall take steps to protect the insured property from damages, to comply with the instructions of the insurer and the competent authorities regarding removal of sources which could potentially cause damages 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, the insured must act at its reasonable discretion with regard to the fulfilment of the obligations under Paragraph 1, notifying each of the insurers of the actions taken.

(3) If the obligations under Paragraphs 1 or 2 are not fulfilled, the insurer shall have the right to terminate the insurance contract only if no insured event has occurred.

(4) Upon occurrence of an insured event, the insurer may refuse to pay a benefit if the event is a consequence of a non-fulfilment of the obligation under Paragraph 1 and only if it has expressly provided for this eventuality in the contract. If the occurrence of the insured event is a consequence of a non-fulfilment of the obligation under Paragraph 1 but that non-fulfilment is not stipulated as grounds for refusal in the contract, the insurer may reduce the insurance benefit in accordance with the severity of the non-fulfilment.

(5) Notwithstanding Paragraph 4, the insurer shall pay a benefit if the failure of the insured under Paragraphs 1 and 2 is not causally related to the occurrence of the insured event or if it is impossible to determine the type or amount of damage.

(6) Upon occurrence of an insured event, the insured shall make every effort to reduce the extent of the damages and to comply with the instructions of the insurer, in case of a failure of the insured to do so, the insurer shall have the right to reduce the insurance benefit.

(7) Upon occurrence of an insured event, the insured shall allow an inspection or a medical examination by the insurer and shall submit the documents requested by the insurer that are directly related to the establishment of the event and the extent of the damages.

Compensation of the costs to limit the extent of the damages

Article 396. (1) The insurer shall compensate the insured separately for the costs incurred to limit the damages, where the insured has acted with the appropriate care, even if the insured's efforts have been unsuccessful. In that case, the insurer may be liable for more than the insured amount where the costs were incurred to implement its instructions.

(2) If the insurer is entitled to reduce the insurance benefit pursuant to Article 395, Paragraph 4 due to gross negligence, it may also reduce the compensation under Paragraph 1.

(3) The costs that the insured has incurred in order to implement the instructions of the insurer shall also be compensated where in combination with the other benefits they exceed the insured amount.

(4) In case of insurance of animals, the costs for animal feed and care and the costs for veterinary examination and treatment shall not be considered as costs subject to compensation by the insurer under Paragraph 13.

Costs of the insured related to determining the extent of the damages

Article 397. (1) The insurer shall reimburse the insured for the costs incurred to determine the cause and extent of the damages where those costs have been approved by the insurer in advance.

(2) If the insurer is entitled to reduce the due compensation pursuant to Article 395, Paragraph 4, it can also reduce proportionately the amount in relation to the reimbursement of the costs under Paragraph 1.

Section IV
Insurance to the benefit of a third party

Insurance to the benefit of a third party

Article 398. (1) Policy holders may conclude insurance contracts in their own name but to the benefit of a third party (beneficiary). The third party beneficiary can also be identifiable.

(2) If the insurance contract does not explicitly state that the contract is concluded to the benefit of a third party, it shall be deemed that the contract is to the personal benefit of the policy holder.

(3) In the case of insurance to the benefit of a third party beneficiary, the latter shall have the rights arising from the insurance contract. The insurer shall provide the insurance policy and the insurance certificate only to the policy holder, unless otherwise provided for in the insurance contract or by law.

(4) In case of an insured event, the third party beneficiary to the insurance contract shall be entitled to receive the insurance benefits and all rights under the contract.

(5) The policy holder may cancel the arrangements to the benefit of the third party beneficiary without the latter's consent, unless an insured event has occurred.

(6) The cancellation under Paragraph 5 shall be binding for the insurer as of the receipt of a written notice by the policy holder to that effect.

Chapter XXXIX
PROPERTY INSURANCE
Section I
General

Subject of the insurance contract

Article 399. Any right that is quantifiable in monetary terms for the insured may be the subject of an insurance contract for property insurance.

Insurance value

Article 400. (1) The actual insurance value is the value against which another property of the same kind and quality can be bought in place of the insured property.

(2) The insurance replacement value is the value needed to replace the property with a new property of the same kind and quality, including all inherent costs for procurement, construction, installation and others, without applying impairment.

(3) Unless otherwise agreed, it is deemed that the insured amount under the contract is determined on the basis of the actual value of the property. In order to establish the actual value, the insurer shall be entitled to inspect the insured property.

Insurance a set of items

Article 401. (1) An insurance contract for a set of items shall refer to each individual item of the set.

(2) If the insurance contract is concluded for a set of items, the contract shall also apply to the items belonging to the persons cohabiting with the insured at the time of occurrence of the insured event or those who are employed by the insured at the time of performance of an activity at the place stipulated in the insurance contract. In those cases, the insurance contract shall be regarded as concluded for the account of another person.

Conclusion of contract without representation

Article 402. (1) Persons who insure the property of another person in their own name shall be personally responsible for the payment of the insurance premium.

(2) A contract for insurance of the property of another person shall be valid if it has been approved by the owner of the property insured.

(3) If the premium is duly paid, the approval of the insurance contract shall also be valid when provided after the occurrence of the insured event.

Obligation for notification of an insured event

Article 403. (1) Upon occurrence of an insured event, the insured shall notify the insurer within 7 business days of becoming aware of the occurrence of an insured event, unless the contract provides for a different term.

(2) The term for notification of the occurrence of an insured event under the contract shall not be less than three business days of becoming aware of the occurrence. In case of insurance against theft or robbery, the term for notification under the contract shall not be less than 24 hours of becoming aware of the occurrence.

(3) If a third party is entitled to receive a benefit under an insurance contract, the third party shall notify the insurer of the occurrence of an insured event within the terms and following the procedures set out in Paragraphs 1 and 2 regardless of the obligation of the insured for notification.

(4) The insurer shall have the right to refuse payment if neither the insured, nor the policy holder or the third party under Paragraph 3 have fulfilled their obligations within the terms under Paragraphs 1 and 2 with the intent of preventing the insurer from establishing the circumstances under which the event has occurred or if the non-fulfilment has rendered impossible the determination of the circumstances by the insurer.

(5) The insurer shall not refuse payment if it has become aware of the occurrence of the insured event before it has been notified thereof under Paragraphs 1 and 2.

Obligation to provide information in case of an insured event

Article 404. (1) Following the occurrence of an insured event, the insurer shall have the right to require from the insured and the policy holder the information necessary to establish the facts and circumstances regarding the insured event or the determination of the amount of the benefit by the insurer.

(2) Paragraph 1 shall also apply in cases where a third party is entitled to receive a benefit under an insurance contract.

Insurance benefit

Article 405. (1) Upon occurrence of an insured event, the insurer shall pay the insurance benefit within the agreed term. That term cannot be longer than the term under Article 108, Paragraphs 1 to 3 or 5.

(2) The insurer shall not pay a compensation for loss of profit, unless otherwise agreed in the insurance contract.

(3) If after payment of an insurance benefit the stolen or lost insured property is found, the insured shall transfer the right of ownership over it to the insurer or a person identified in writing by the insurer. If the insured wishes to keep the found property, the insured shall return to the insurer the received benefits and all other reasonable costs incurred by the insurer in connection with the respective damage.

Replacement of damages in kind

Article 406. Upon occurrence of an insured event, the insurer may, with the consent of the insured, replace the damages suffered by the insured in kind, in which case Article 108, Paragraph 7 shall apply accordingly.

Partial loss

Article 407. In case of partial loss of insured property, it shall be deemed insured until the expiry of the insurance contract in an amount equal to the difference between the original insured amount and the paid insurance benefit, unless otherwise agreed in the insurance contract. The insured amount shall not be reduced under sentence 1 where the insured has provided all the necessary evidence for exercising the right of recourse against the perpetrator of the damage or its insurer under civil liability insurance and that evidence has been accepted as sufficient by the insurer under the property insurance.

Refusal to pay an insurance benefit

Article 408. (1) The insurer may refuse to pay a benefit only:

1. in case of intentional causation of the insured event by a person who is entitled to receive an insurance benefit;

2. in case of intentional causation of the insured event by the policy holder with the purpose of causing another person to receive the insurance benefit;

3. in case of a failure to fulfil an obligation under the insurance contract by the insured which is material with regard to the interests of the insurer, which has been provided for by law or under the insurance contract and which has led to the occurrence of the insured event;

4. in other cases as provided by law.

(2) In the cases under Paragraph 1, point 1, where a third party beneficiary has intentionally caused an insured event without the knowledge and participation of the insured or the other

beneficiaries, the benefit shall be paid to the other beneficiaries, and if there are no such beneficiaries – to the insured or the insured's heirs. In case of payment of an insurance benefit under sentence 1, the rights of the insured against the person who has intentionally caused the insured event shall be subrogated by the insurer.

Interest on insurance benefits

Article 409. The insurer shall pay the statutory default interest on the due insurance benefit after the expiry of the term under Article 405, except in the cases of Article 380, Paragraph 3.

Substitution of the rights of the insured (Subrogation)

Article 410. (1) With the payment of an insurance benefit the insurer shall subrogate to the rights of the insured up to the amount of the paid benefit and the usual costs for its determination, against:

1. the perpetrator of the damage, including in case of damages arising from breach of contract, or

2. the assignor, with regard to work assigned by the assignor to a third party in the course or on the occasion of which damages have been incurred under Article 49 of the Obligations and Contracts Act, or

3. the owner of the item and the person who was responsible for the supervision of the item which incurred damages for the insured under Article 50 of the Obligations and Contracts Act.

(2) If the person causing the damages is a relative in the ascending or descending line or a spouse, as well as if that person belongs to the household of the insured or is the insured's stable non-marital partner, the insurer shall have the rights under Paragraph 1 if that person has acted intentionally.

(3) The insured, the policy holder or third parties who are entitled to receive an insurance benefit shall be required to assist the insurer in the exercise of its rights against the perpetrator of the damage.

(4) If the property of the perpetrator of the damage is insufficient, the subrogated insurer shall be compensated after the insured or the third damaged parties who are entitled to receive compensation.

(5) In case that the perpetrator of the damage has compensated the insured in full, the insurer shall be released from its obligation to pay an insurance benefit.

Subrogation to the rights of the insured against the perpetrator of the damage or the perpetrator's insurer under civil liability insurance by the insurer under the property insurance

Article 411. In cases where the perpetrator of the damage has civil liability insurance, the insurer under the property insurance shall subrogate to the rights of the insured against the perpetrator of the damage or the perpetrator's insurer under civil liability insurance up to the amount of the paid benefit and the usual costs incurred for its determination. The insurer under the property insurance may claim its receivables directly from the insurer under the civil liability insurance. Where the damage is caused by a driver of a motor vehicle with a valid compulsory liability insurance of motorists, the insurer under the property insurance which subrogated to the rights of the damaged party may file a claim against the perpetrator only for the amount of the incurred damages that exceeds the size of the insured amount under the compulsory insurance contract, as well as for the damages caused by the driver of the motor vehicle for which the

insurer under the compulsory liability insurance of motorists has refused to pay a benefit on the grounds of Article 494.

Settlement of claims between the insurer under the property insurance of the damaged party and the insurer under the civil liability insurance of the perpetrator of the damage

Article 412. (1) An insurer under property insurance which has subrogated to the rights of the insured against the insurer under the civil liability insurance of the person guilty of causing the damage to the insured property shall bring its claim against that insurer by attaching the evidence available to it, including evidence certifying the road accident in the case of liability insurance of motorists. The insurer under the civil liability insurance shall certify any claim brought up under sentence 1.

(2) Where the insurer under the property insurance has not submitted all evidence or when further evidence is required to establish the grounds or the extent of the damage, the need for which could not have been foreseen at the time of filing the claim, the insurer under the civil liability insurance shall have the right to request such evidence within 45 days from the date of filing the claim, in which case Article 106, Paragraph 5 shall apply.

(3) Within 30 days of the submission of all evidence, the insurer shall:

1. determine and pay its obligation under the filed claim, or

2. refuse payment, stating the reasons thereto.

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 transferee shall subrogate to the rights and obligations of the insured under the insurance contract.

(2) The transferor and the transferee shall be jointly liable for payment of the unpaid portion of the premium until the subrogation.

Termination of the insurance contract after a transfer of insured property

Article 414. (1) In the cases under Article 413, Paragraph 1, the insurer shall have the right to terminate the contractual insurance relationship with the transferee of the insured property with one month's prior notice in writing. The right of termination by the insurer shall lapse if not exercised by it within one month of becoming aware of the change in the right of ownership over the insured property.

(2) In the cases under Article 413, Paragraph 1, the transferee of the insured property shall be entitled to terminate the contractual insurance relationship immediately, notifying the insurer in writing thereof. The right of termination by the transferee shall lapse if not exercised by the transferee within one month after the acquisition, and if the transferee was unaware of the existence of the insurance contract – after becoming aware of it.

(3) In case of termination of the contractual insurance relationship under the terms and conditions of Paragraphs 1 or 2, the transferor shall pay the due premium until the termination date. In this case, the transferee shall not be obliged to pay the premium.

(4) In case of termination of the contractual insurance relationship under the terms and conditions of Paragraphs 1 or 2, the insurer shall 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 transferee shall notify the insurer of the transfer in writing within 7 days of the transfer of the right of ownership. If no notification has been made under sentence 1, the insurer shall not be obliged to pay an insurance benefit in case that the insured event has occurred after the expiry of one month from the date of transfer of the right of ownership and provided that it would not have concluded the existing contract with the transferee due to a material increase of the risk.

(2) The insurer cannot apply Paragraph 1, sentence 2 where at the time of occurrence of the insured event it has been aware of the transfer of the right of ownership or if the term under Article 414, Paragraph 1 to give notice of termination of the insurance contract by the insurer has expired and the insurer has not terminated it.

Protection of the purchaser

Article 416. The insurer cannot apply to the detriment of the transferee insurance conditions which differ from the provisions of Articles 413 to 415.

Change of ownership of a motor vehicle

Article 417. The provisions of Articles 413 to 415 shall not apply in the event of a change of ownership of a motor vehicle in the case of compulsory liability insurance of motorists.

Enforcement, entitlement to use

Article 418. Articles 413 to 416 shall apply where the ownership of the insured property is acquired following an enforcement procedure as set out in the Civil Procedure Code or if a third party acquires the rights to insured agricultural output from land as a result of right of use, lease or other legal relationship.

Chapter XL
INDIVIDUAL CLASSES OF INSURANCE AGAINST DAMAGES
Section I
Transport insurance

Insurance against transportation risks

Article 419. (1) An insurance contract for land, air and river transport shall cover all risks to which the transported cargo is exposed, unless otherwise agreed.

(2) Transported cargo may be insured up to its market price at destination.

(3) The insurance contract shall become effective upon handing over of the cargo for transportation and shall be effective until its transfer to the recipient, including in case of transshipment and storage, unless otherwise agreed.

(4) The insurer shall not cover risks after an interruption of the transportation or a deviation from the route, unless otherwise agreed.

(5) If the recipient under the transportation contract accepts the cargo before the damages are established, the insurer shall not pay a benefit.

(6) If the damages could not have been noticed by means of a visual inspection upon receipt but have been established later, within the term according to the rules for the respective type of transport, the insurer shall pay a benefit only if the recipient sends a notice to it, but not later than 15 business days from receipt of the cargo.

Section II
Legal expenses insurance

Nature

Article 420. (1) By means of a legal expenses insurance contract an insurer shall cover risks under point 17, Section II, letter "A" of Annex No 1 and against payment of a premium it shall bear the expenses of the insured in connection with the insured's participation in trial, pre-trial, administrative and arbitration proceedings and shall provide other services directly related to the insurance cover, in particular regarding:

1. securing compensation for the loss, damage or injury suffered by the insured person, by settlement out of court or through civil or criminal proceedings;

2. defending or representing the insured person in civil, criminal, administrative or other proceedings or in respect of any claim made against that person.

(2) The requirements of this section shall not apply to legal expenses insurance:

1. in case of disputes or risks arising out of, or in connection with, the use of sea-going vessels;

2. in case of defending and representation the insured person in connection with a civil liability insurance contract where the insurer ensures defence of its own interests as well.

(3) It is not allowed to insure obligations for payment of fines, confiscation or other pecuniary sanctions within the meaning of a criminal or administrative penal provision.

Contract for legal expenses insurance. Compulsory content

Article 421. (1) A contract for legal expenses insurance shall be concluded:

1. separately from a contract covering other risks, or

2. as a distinct part of a contract covering other risks where the amount of the premium and the type of the legal expenses cover are specified.

(2) The contract for legal expenses insurance shall explicitly state:

1. the procedure for avoidance of conflicts of interest under Article 147 adopted by the insurer;

2. the rights of the insured under Articles 423 and 424.

Management of claims

Article 422. All insurers shall adopt and implement at least one of the following manners of management of claims regarding legal expenses insurance:

1. ensuring that no employee who is concerned with the management of legal expenses claims or with legal advice in respect thereof pursues at the same time a similar activity in

another undertaking having financial, commercial or administrative links with the insurer and pursuing one or more of the other classes of insurance set out in Section II, letter "A" of Annex I;

2. the insurer entrusting the management of claims in respect of legal expenses insurance to another legal entity; that entity shall be indicated in a contract under Article 421, Paragraph 1 and shall fulfil the conditions of point 1;

3. informing the insured persons of their right to authorise a lawyer of their choice to protect their interests from the moment that those insured persons have a claim under the insurance.

Free choice

Article 423. (1) The insured shall have a free choice to authorise a lawyer or another person providing legal advice or representations before a court in proceedings under Article 420, Paragraph 1 in accordance with the law of the head office of the authority where the proceedings take place.

(2) The insured shall also have the right under Paragraph 1 in case of conflicts of interest in the relationship with the insurer.

(3) The persons authorised by the insured in accordance with Paragraphs 1 or 2 cannot receive instructions in connection with their activities from the insurer.

Out-of-court dispute resolution

Article 424. An insured person shall be entitled to refer to an objective and impartial authority for out-of-court dispute resolution in all cases of disagreements with the insurer in respect of a contract for legal expenses insurance. The right to apply to the courts cannot be limited.

Notification of the insured

Article 425. The insurer, respectively the claims representative under Article 147, point 2, shall notify the insured of their rights under Articles 423 and 424 in all cases of conflict of interest or disagreements with the insured.

Section III
Assistance insurance

Nature

Article 426. (1) By means of a contract for assistance insurance, the insurer undertakes, against the payment of a premium, to make aid immediately available to persons who get into difficulties while travelling following the occurrence of a chance event. The events and conditions for the provision of the assistance shall be determined in the insurance contract.

(2) The insurer shall provide the assistance in cash or in kind in accordance with the stipulations of the contract.

(3) An assistance insurance contract shall not cover fixing, repair and warranty service of property and expenses incurred for mediation in finding and providing assistance.

Section IV
Health (medical) insurance

Contract for medical insurance

Article 427. (1) By means of a contract for medical insurance, the insurer undertakes to cover the cost of health goods and services resulting from illness or following an accident, or other agreed health goods and services, including those related to prevention, pregnancy and childbirth of the insured person or a temporary loss of income due to illness or accident, as well as a combination of the listed covers.

(2) A contract for medical insurance can be concluded for payment of fixed sums of money in connection with accident or illness, regardless of the costs incurred or for payment of benefits, as well as for a combination of both types of payment.

(3) By means of a contract for medical insurance, the insurer may also cover the costs for other healthcare goods and services for the insured person resulting from illness or following an accident, including transportation, specialised care and palliative care.

(4) The contract for medical insurance may indicate a ceiling for the insurer's liability in the form of an insured amount for individual health goods and services or in terms of the volume and scope of health goods and services offered for a fixed period.

General provisions

Article 428. (1) By means of a contract for medical insurance the insurer may undertake to reimburse in cash the costs incurred by the insured person or to provide the relevant goods and services through contractors with which it has concluded a contract.

(2) Article 454 shall apply accordingly to contracts for medical insurance.

Chapter XLI
CIVIL LIABILITY INSURANCE

General

Article 429. (1) By means of a contract for civil liability insurance, the insurer:

1. shall cover, within the limits of the insured amount specified in the insurance contract, the liability of the insured for pecuniary and non-pecuniary damages caused by the insured to third parties, which are a direct and immediate result of the insured event;

2. may be required to cover, within the limits of the insured amount specified in the insurance contract, the liability of the insured regarding the insured's failure to fulfil a contractual obligation.

(2) The insurance benefit under Paragraph 1 shall also include:

1. lost profit which is a direct and immediate result of tort;

2. default interest, where the insured is liable for their payment to the damaged party under the conditions of Paragraph 3.

(3) The default interest of the insured under Paragraph 2, point 2, for which the insured is liable to the damaged party, shall be paid by the insurer only within the limits of the insured amount (the limit of liability). In this case, the insurer shall pay only the default interest owed by the insured as of the date of notification by the insured of the occurrence of the insured event following the procedure set out in Article 430, Paragraph 1, point 2 or as of the date of notification or filing of an insurance claim by the damaged party, whichever is the earliest.

(4) The insurer may provide cover against payment of an additional premium, unless otherwise agreed, for liability for loss of profit as a result of breach of contract.

(5) The insurer shall also pay, within the limit of the insured amount (the limit of liability) the expenses awarded to the damaged party in court litigation against the insured to establish the insured's civil liability where the insurer is involved in the process.

Notification and involvement in litigation. Representation

Article 430. (1) In connection with the insured's civil liability, the insured shall, within 7 business days of:

1. becoming aware of them, notify the insurer of circumstances which could lead to its occurrence;

2. becoming aware of it, notify the insurer of the occurrence of an insured event;

3. becoming aware of them, notify the insurer in writing of any claims brought against it;

4. the serving of a communication, notify the insurer in writing of claims against it;

5. making payments under claims brought against it, notify the insurer of them in writing.

(2) Where a lawsuit is initiated by the damaged party, the insured shall, within the statutory term, request the inclusion of the insurer in the proceedings, where it is permitted by law.

(3) The insurer or a person designated by it may, if authorised by the insured, represent the insured in legal proceedings or out-of-court settlement of claims in respect of the insured's civil liability, where that is in the best interest of the insurer The expenses associated with the authorisation and representation under sentence 1 shall be paid by the insurer and shall be included in the insured amount. The circumstances established with court acts, ruled upon with the involvement of persons under sentence 1 shall be binding for the insurer.

Civil liability insurance of legal persons

Article 431. If civil liability insurance is concluded by a legal person, it shall cover the liability both of the legal person and of the natural persons representing the legal person and the natural persons employed by it. The rules of insurance for the account of another person shall apply to this type of insurance contract.

Direct claim of the damaged party

Article 432. (1) The damaged party, to whom the insured is liable, shall be entitled to claim compensation directly from the insurer under civil liability insurance in compliance with the requirements of Articles 380.

(2) The insurer under civil liability insurance may raise objections arising from the insurance contract and the civil liability of the insured, except the objections under Article 395, Paragraphs 6 and 7 and Article 430, Paragraph 1, points 1 to 4 and Paragraph 2. Where the civil liability insurance is compulsory, the insurer cannot raise objections regarding the deductible of the insured, in addition to the above exceptions. Furthermore, the insurer cannot raise the objections under Article 363, Paragraph 4, Article 364, Paragraph 4 and Article 365, Paragraph 2 with regard to the compulsory liability insurance of motorists.

(3) Under compulsory civil liability insurance, the insurer shall also be liable to the damaged party where the damage has been caused intentionally by the insured.

Recourse of the insurer

Article 433. The insurer shall have the right of recourse against the insured:

1. for all payments to the damaged party – in the cases of Article 432, Paragraph 3;

2. for the amount of the agreed deductible – in the cases of Article 432, Paragraph 2, sentence 2;

3. for all payments to the damaged party – where the insured has caused damage through actions or inactions as a result of use of alcohol, with blood alcohol concentration above the legally permissible norm, or under the influence of drugs or analogous substances.

Settlement

Article 434. (1) The settlement between the damaged party and the insured, as well as the recognition of the liability by the insured, shall have effect for the insurer if it approves them.

(2) A settlement reached with the knowledge and consent of a representative under Article 430, Paragraph 3 shall be deemed to be approved by the insurer.

Right of the insured

Article 435. If the insured has settled the claim of the damaged party, the insured shall be entitled to receive from the insurer an insurance benefit within the limit of the insured amount (the limit of liability) and of the cover under the insurance contract and in compliance with the requirements of Article 434.

Multiple damaged parties

Article 436. (1) Where the insured is liable to multiple damaged parties, the insurer shall determine the actual extent of the damages to each of the parties and if the total extent of the damages exceeds the insured amount, the insurer shall pay a benefit to each party in proportion to the amount of the compensation awarded to the party within the limit of and against the insured amount (the limit of liability).

(2) Where a payment of an insurance benefit exhausts the insured amount, a damaged party that has not participated in the distribution under Paragraph 1 because the party has not filed a claim by the date of the payment of the final benefit cannot file an insurance claim against the insurer at a later date, provided that the insurer has not foreseen and could not have foreseen the filing of another claim on the basis of the documents submitted to it upon the filing of previous claims.

Offsetting against damaged parties

Article 437. Article 369 shall not apply to damaged parties.

TITLE III
LIFE INSURANCE. ACCIDENT INSURANCE
Chapter XLII
LIFE INSURANCE

Subject of the insurance contract

Article 438. (1) Life insurance contracts shall be concluded against events related to life, health and bodily integrity of a natural person.

(2) A life insurance contract can have a cover for survival to a stipulated age only, cover for death only, cover for survival to a stipulated age or earlier death, as well as cover for marriage or birth. Fixed amounts may also be paid under life insurance contracts – as a single payment or in the form of annuities.

(3) The insurance payment under life insurance shall constitute the insured amount or a proportion of it under the terms of the contract.

(4) The insured person under life insurance is a natural person whose life, health or bodily integrity is the subject of an insurance contract. The insured person may be other than the policy holder.

(5) Life insurance contracts covering the death of an insured person who is a minor or a person under plenary guardianship, as well as contracts covering the risk of miscarriage or stillbirth shall be null and void. The insurer shall be obliged to refund insurance premiums received under life insurance contracts covering those risks. If the insured has deliberately withheld information regarding the persons under sentence 1 whose life, health or bodily integrity is the subject of a life insurance contract, the insurer shall be entitled to offset the value of costs incurred for the conclusion of the insurance contract against the refundable premium.

Insurance with payment of annuities (pension or annuity)

Article 439. (1) With an insurance contract with payment of annuities (pension or annuity), the insurer shall undertake to make life-long or fixed-term periodic payments against the payment of a single or periodic premium.

(2) Contracts concluded in a professional capacity, containing operations for acquisition of property rights on real estate against life-long or fixed-term periodic payments shall be governed by this Code. In the cases under sentence 1, the transfer of the property rights shall be considered as payment of an insurance premium.

(3) In case of contracts under Paragraph 2, the value of the real estate shall be appraised by at least two independent real estate appraisers.

Pension or annuity insurance with transfer of pension rights from pension schemes of the European Union, the European Central Bank and the European Investment Bank

Article 440. Pension or annuity insurance contracts, where concluded on transfer of pension rights under Article 343c, Paragraph 1, point 3 of the Social Security Code, shall regulate:

1. the provision of life-long monthly payments to the insured person not earlier than the age of 60 years and not later than the age of 65 years;

2. inadmissibility of contract termination before reaching the age under point 1 stipulated therein and after the start of the life-long monthly payments;

3. payment of the amount due under the insurance contract to the heirs or third party beneficiaries upon death of the insured.

Group Insurance

Article 441. (1) By means of a single life insurance contract (group insurance), the insured can insure two or more persons, whose number is determined or determinable and who are included in a list of specific criteria. In this case, it is not necessary that the contract contains the names and addresses of the insured persons if they are identified in another unequivocal manner, including by indicating a specific property that they possess.

(2) Where an employer concludes group insurance, the insured persons are its employees and/or workers whose life, health, bodily integrity and work capacity are the subject of the insurance. Where an employer concludes at its expense insurance of its employees and/or workers to their benefit or to the benefit of their heirs, the consent of the employees and workers for the conclusion, amendment and termination of the insurance shall not be required.

(3) The policy holder shall provide in writing to the insured persons all the information received by the insurer on the concluded life insurance contract, including the general terms and conditions or the insurance contract if it is not concluded under the general terms and conditions. The information under sentence 1 shall include details on the insurer, the subject of the insurance, the insured amount, the term of the insurance, the third party beneficiaries and the procedure to be applied in case of an insured event. The information or future changes therein shall be provided by the 15th day of the month following the month of the conclusion of the insurance under sentence 1, respectively any changes therein.

(4) In case of an insured event, the insurer shall provide the authorised persons with the information under Paragraph 3, sentence 2.

Mutual insurance

Article 442. (1) Mutual insurance may be concluded by spouses, stable non-marital parters, relatives, partners in a company under Article 357 of the Obligations and Contracts Act, as well as partners in general and limited partnerships or law firms.

(2) In case of a divorce of spouses, the mutual insurance shall be separated as of the date of dissolution of the marriage. This rule shall not apply if the contract is concluded to the benefit of a child of the dissolved marriage.

(3) Upon termination of the companies under Paragraph 1, mutual insurance shall be separated.

(4) Upon dissolution of the relationship between stable non-marital partners, they may request separation of the insurance, unless the contract is concluded to the benefit of a child born and recognised or adopted by such persons.

Life insurance on the life of another person

Article 443. (1) A policy holder may conclude a life insurance contract with subject the life, health or bodily integrity of another person (insured person). That contract shall be effective only if concluded with the express written consent of the insured person.

(2) The insured person may terminate the insurance contract under Paragraph 1 at any time by a unilateral statement in writing sent to the insurer. In this case, if the contract has a savings part and the right of surrender has occurred, the insurer shall pay the surrender value of the insurance to the policy holder.

(3) Upon death of the policy holder before the insured person, unless the parties have agreed otherwise, any person who has a legal interest may replace the policy holder. If the policy holder is not replaced, the contract shall be terminated.

(4) In the case of Paragraph 3, sentence 2, if the contract has a savings part and the right of surrender has occurred, the insurer shall pay the surrender value of the insurance to the policy holder's heirs.

(5) The insurer shall not make payments under the insurance contract under Paragraph 1 if the policy holder, the insured or the third party beneficiary have intentionally caused the insured event.

(6) A person who has committed a crime in order to receive a benefit under life insurance of an insured person shall not be entitled to receive payments under the insurance contract.

Life insurance with a third party beneficiary

Article 444. (1) Upon conclusion of a life insurance contract and at any time during its term of validity, the policy holder may designate a third party beneficiary. The third party beneficiary may be designated revocably, in which case the policy holder may change the beneficiary at any time during the term of validity of the contract, or irrevocably, in which case the beneficiary cannot be changed during the term of validity of the contract.

(2) The third party beneficiary under life insurance is the person entitled to receive an insured amount under the terms and conditions of the insurance contract.

(3) For the conclusion, modification and termination of an insurance contract under Paragraph 1, the consent of the third party beneficiary shall not be required.

(4) Where an insurance contract under Paragraph 1 is concluded to the benefit of the children of the insured and those children are not identified by name, any children born after the conclusion of the contract shall also be beneficiaries, unless otherwise provided for in the insurance contract.

(5) Where an insurance contract under Paragraph 1 is concluded to the benefit of a spouse of the policy holder not identified by name, the right shall belong to the person who is married to the insured as of the date of occurrence of the insured event, unless otherwise provided for in the insurance contract.

(6) Where an insurance contract under Paragraph 1 identifies several third party beneficiaries, they shall have equal rights, unless otherwise agreed in the insurance contract. If a third party beneficiary refuses to receive or fails to receive his portion, his part shall be added to the portions of the other beneficiaries. If a third party beneficiary does not claim his portion of the insured amount until the expiry of the period of prescription, the insurer shall distribute it proportionately among the remaining beneficiaries. If in cases under sentence 3, within one year from the expiration of the period of prescription, the beneficiary has not received the additional portion, it shall remain with insurer.

(7) If the third party beneficiary dies before the insured person and according to the insurance contract under Paragraph 1 no other beneficiaries are identified, upon occurrence of the insured event the payment of the insured amount under the insurance contract shall be made to the insured person or the insured person's heirs, unless otherwise provided for in the insurance contract. Sentence 1 shall also apply in case of termination of a legal person where it is a third party beneficiary. If at the time of occurrence of the insured event there is no person authorised to receive the payment, it shall remain with the insurer after the expiry of the period of prescription.

(8) Third party beneficiaries or their legal heirs shall lose their rights under the insurance contract under Paragraph 1 if they have:

1. intentionally caused the insured event, or

2. incited or enabled the insured person to commit suicide or cause an insured event.

(9) Where the beneficiaries are several, the portion of the beneficiary under Paragraph 8 shall be distributed equally among the remaining beneficiaries, unless otherwise agreed in the insurance contract.

(10) If no other beneficiaries are identified in the cases under Paragraph 8, the insured amount shall be paid to the insured or the insured's heirs, unless otherwise provided for in the insurance contract.

(11) Where pursuant to a claim by the creditors of the policy holder the insurance contract under Paragraph 1 is cancelled following the procedure set out in the existing legislation, the third party beneficiary shall be liable for returning the insurance benefit up to the amount received, but not more than the premiums paid by the policy holder.

Right of third party beneficiaries under life insurance

Article 445. (1) The insured amount under life insurance shall not be included in the estate of the policy holder, the insured or the third party beneficiary even where their heirs are identified as beneficiaries.

(2) Where a third party beneficiary is an heir, the third party beneficiary shall be entitled to the insured amount even if the beneficiary renounces the inheritance.

Non-payment of premiums under life insurance with a savings element

Article 446. (1) Where a policy holder under life insurance with a savings element does not pay a contribution due in case of deferred payment of the premium, the insurer shall not have the right to pursue its payment in court.

(2) The insurer shall invite the policy holder in writing to pay the due contribution within a period which cannot be less than one month of receipt of the invitation.

(3) Where the due contribution is not paid within the period under Paragraph 2, the validity of the insurance contract may be continued with a reduced insured amount if the on-going premiums under the insurance contract have been paid for a period of at least two years or if 15 % or more of the insurance premiums have been paid. Otherwise, the insurer may terminate the contract.

(4) The reduced insured amount shall be determined based on the surrender value at the date of conversion, which shall be regarded as a single premium for a similar insurance cover for the remainder of the insurance period. The date of the conversion shall be the maturity date of the first unpaid premium contribution.

(5) In the cases under Paragraph 3, where the insured event occurs after the expiration of the period under Paragraph 2, the insured amount shall be regarded as reduced, respectively the contract shall be regarded as terminated.

Right to unilaterally terminate the contract

Article 447. (1) A natural person who has concluded an individual insurance contract for life insurance with a duration of more than 6 months shall be entitled to unilaterally terminate the contract within 30 days from the date of conclusion of the contract.

(2) The person under Paragraph 1 may exercise the right to terminate the insurance contract by means of a unilateral notification in writing addressed to the insurer. As of the date of receipt of the notification by the insurer, the insurance contract shall be terminated and the policy holder shall be released from the obligations thereunder and shall be entitled to a refund of the paid

insurance premium, after deduction of the portion corresponding to the time during which the insurer has borne the risk, if no insured event has occurred. The insurer shall refund the corresponding portion of the premium within 30 days of receipt of the notification under sentence 1.

Insured amount under life insurance

Article 448. (1) Upon occurrence of the insured event or the conditions indicated in the life insurance contract, the insurer shall be obliged to pay the insured amount or the portion thereof as defined in the insurance contract.

(2) The insured amount under Paragraph 1 shall also be paid in cases where the perpetrator of the damage is obliged to compensate the insured or has already compensated the insured, as well as where the insured has received payment under another insurance contract.

(3) The insurer shall make the payment within 15 business days from the date on which the evidence required to establish the insured event and the size of the benefit has been submitted.

(4) In determining the size of a benefit for incapacity caused by an insured event, except in the cases of loss of a limb or other human organs, the insurer may provide for a period for stabilisation of the incapacity, which cannot exceed one year from the date of occurrence of the insured event. In this case, the insurer shall determine and pay, within the period under Paragraph 3, a preliminary amount which cannot be less than the minimum undisputed size of the benefit.

(5) In case of death of an insured person who is also a policy holder under the contract, where the insurance has not been concluded to the benefit of third party beneficiaries, the insured amount shall be paid to the heirs of the insured.

(6) In life insurance contracts the insurer who has paid the insured amount cannot subrogate to any rights against the person who has caused the event.

(7) Upon occurrence of an insured event, only the person who is entitled to receive the insured amount shall be entitled to a direct claim against the insurer.

(8) If the contract stipulates that the insurer may refuse to pay a benefit or may pay a reduced benefit in case of illness, injury or chronic disease which has affected the damage or its consequences following an insured event, the insurer shall prove the grounds for the refusal or the reduced benefit.

Excluded risks under life insurance

Article 449. (1) Unless otherwise agreed, the insurer shall be released from its obligations under the insurance contract where:

1. the injury, damage to bodily integrity, incapacity or death are the result of the insured person committing an indictable offence;

2. the death of the insured person is the result of the execution of capital punishment imposed by a final judgement;

3. the injury, damage to bodily integrity, incapacity or death of the insured person have occurred in the course of a war, military action or as a result of an act of terrorism.

(2) The parties to the insurance contract may agree on the exclusion of other risks as well.

(3) In the cases under Paragraph 1 in the event of life insurance where the on-going premiums have been paid for at least two years, the insurer shall pay the surrender value of the

insurance to the persons who would have been entitled to receive the insured amount in case of occurrence of an insured event which is not an excluded risk.

Suicide

Article 450. (1) In case of insurance covering the risk of death, the insurer shall not be obliged to pay a benefit where, before three years have elapsed from the conclusion of the contract, the insured person has intentionally caused his own death or has attempted suicide, as a result of which the insured has suffered injury, damage to bodily integrity or incapacity. Sentence 1 shall not apply where the suicide, respectively attempted suicide, has been committed in a state of inability to understand the nature and meaning of one's own actions and to direct such actions.

(2) The period under Paragraph 1, sentence 1 may be extended with an explicit agreement between the parties to the insurance contract.

(3) In the case under Paragraph 1, where the insurer is not obliged to pay the insured amount, the insurer shall pay the surrender value of the insurance to the persons who would have been entitled to receive the insured amount in case of occurrence of an insured event which is not an excluded risk.

Surrender right under life insurance

Article 451. (1) In case of life insurance, at the request of the policy holder for termination of the insurance contract, the insurer shall pay the surrender value of the contract, if at least two years have elapsed from the start of the period of the insurance cover and all premiums for that period have been paid. The requirement that at least two years need to have elapsed shall not apply where 15 % or more of the insurance premiums have been paid. The surrender value shall be paid by the insurer within 15 business days of the request.

(2) The insurance contract shall indicate the amount of the surrender value for each year of the contractual term, as well as the conditions under which the policy holder may request payment of the surrender value.

(3) Where the contract is concluded by identifying a third party beneficiary and the beneficiary has declared to accept the arrangement to his benefit, the beneficiary shall have the right to receive the surrender value only if that right is explicitly set out in the contract.

Surrender value

Article 452. The surrender value is the agreed amount under insurance in respect of points 1 to 3 and 5, Section I of Annex No 1 which the insurer shall pay the insured or the third party beneficiary in case of lapse of the contract and which represents the value of the savings part of the charged premiums less the unrecovered acquisition costs, the due but unpaid premium contributions, the outstanding amount of a loan provided by the insurer under the contract, the surrender fee, if such a fee is provided for in the insurance contract. The value under sentence 1 shall be increased with the allocated income from the investment of the savings portion under the terms of the contract.

Loans against life insurance

Article 453. A loan may be granted by the insurer against the life insurance of the insured, up to the amount of the surrender value. The terms and conditions for the granting, repayment and interest on the loan shall be set out in the insurance contract. Where 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 insured amount less the sum total of the principal, interest and costs on the loan as of the date of occurrence of the insured event.

Provision of information

Article 454. (1) Before the conclusion of a life insurance contract and during the term of validity of the contract, the insurer shall have the right to receive detailed and accurate information on the age, sex, health and financial condition of the person whose life, health or bodily integrity are the subject of the insurance.

(2) Upon occurrence of an insured event, the insurer shall have the right to access all medical records in connection with the health status of the person whose life, health and bodily integrity are insured and may require it from all persons keeping such information, including under the Medical Institutions Act, the Health Insurance Act and the Health Act.

Misrepresentation of age

Article 455. Where the age of the insured is misrepresented, the benefit paid by the insurer shall be modified in the proportion of premium that would have been payable for the actual age in respect of the agreed premium. In case of misrepresented age, the insurer may terminate the contract unilaterally if only if it would not have concluded the contract if the true age were indicated.

Insurance as security for liabilities

Article 456. (1) Where a life insurance has been concluded to the benefit of a creditor as security for a liability of a natural person, that natural person or his heirs shall be entitled to a claim against the insurer even if they were not a party to the insurance contract and have paid the liability to the creditor upon occurrence of an insured event. Any third party that has lawfully paid the liability shall also be entitled to that right.

(2) The insurer may make all objections arising from the insurance contract.

Unit-linked and index-linked life insurance

Article 457. In case of unit-linked and index-linked life insurance, the insured shall bear the risk of the investment in assets selected by the insured, directly linked to the value of units in an UCITS as defined in Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ, L 302/32 of 17 November 2009) or to the value of assets contained in an internal fund held by the insurer.

Cover of risks under supplementary insurance

Article 458. (1) Supplementary insurance under Section I of Annex No 1 shall be concluded as ancillary cover to life insurance under points 1, 2 or 3 of the same section, and in particular insurance against personal injury, including incapacity, insurance against death resulting from an accident and insurance against disability resulting from an accident or illness.

(2) To cover the risks under supplementary insurance, the insurer shall make a single payment or annuity payments in accordance with the conditions laid down in the contract.

Chapter XLIII
ACCIDENT INSURANCE

Subject of the insurance contract

Article 459. (1) Accident insurance contracts shall be concluded against risks related to the life, health and bodily integrity of a natural person that have occurred as a result of an accident.

(2) An accident is any event resulting in death or bodily injury of the insured as a result of unforeseen and sudden effects of external origin which the insured has not caused intentionally. Unforeseeability shall be presumed until proven otherwise.

(3) An accident insurance contract may be concluded for fixed pecuniary benefits, of compensation to the extent of the damages incurred or as a combination of both types of payment.

(4) Article 397, Article 438, Paragraph 5, Articles 441, 442, Article 443, Paragraphs 1 to 3 and Paragraphs 5 and 6, Articles 444, 445, 448, 454 and 456 shall apply accordingly to accident insurance with fixed pecuniary benefits.

(5) Articles 397, 438, 441, Article 448, Paragraphs 3 to 5 and Paragraphs 7 to 8 and Article 454 shall apply accordingly to accident insurance with benefits to the extent of the damages incurred.

Excluded risks

Article 460. (1) Unless otherwise agreed, the insurer shall be released from its obligations under the insurance contract if the injury, damage to bodily integrity, disability or death have occurred:

1. if the insured has caused his own death intentionally;

2. as a result of the insured person committing an indictable offence;

3. in the course of a war, military action or as a result of an act of terrorism.

(2) The parties may agree on the exclusion of other risks as well.

PART V
COMPULSORY INSURANCE
TITLE I
COMPULSORY INSURANCE POLICIES
Chapter XLIV
GENERAL PROVISIONS

Types of compulsory insurance

Article 461. Compulsory insurance are:

1. Liability insurance of motorists under point 10.1, Section II, letter "A" of Annex No 1, hereinafter referred to as "compulsory liability insurance of motorists";

2. Accident insurance of passengers of public transport vehicles under point 1, Section II, letter "A" of Annex 1, hereinafter referred to as "compulsory accident insurance of passengers";

3. other insurance laid down in a law or international treaty, ratified, promulgated and entered into force for the Republic of Bulgaria.

Obligation of the insurer to conclude compulsory insurance contracts

Article 462. An insurer who pursues the business of compulsory insurance in the territory of the Republic of Bulgaria cannot refuse to conclude a contract for compulsory insurance.

Compulsory insurance against accidents at work

Article 463. Each insurer offering compulsory insurance against accidents at work under the right of establishment or the freedom to provide services shall be required to determine the Bulgarian legislation as the law applicable to the insurance contract.

Term of validity of compulsory insurance

Article 464. (1) The term of validity of compulsory insurance shall be determined by the parties, unless otherwise provided for in a statutory instrument.

(2) A compulsory insurance contract shall be renewed before its expiry except in cases where the insurance interest no longer exists.

Compulsory insurance contract with insured amount above the minimum requirements

Article 465. (1) A compulsory insurance contract may also be concluded for an insured amount above the minimum requirements established by a statutory instrument, in which case it is assumed that the obligation to conclude an insurance has been fulfilled.

(2) In the case of civil liability insurance with an insured amount above the minimum compulsory requirements established by a statutory instrument, for an insured amount exceeding the compulsory level of cover, a second insurance contract may be concluded with another insurer, except in the cases of liability insurance of motorists.

Control of the conclusion of compulsory insurance contracts

Article 466. (1) The control of the existence of a contract for compulsory insurance shall be exercised by the authorities to which such control is assigned by law.

(2) The control of the existence of a contract for compulsory accident insurance for employees at state institutions shall be exercised by the state authority superior to the respective institution and where there is no such authority – by the Public Financial Inspection Agency.

(3) The control of the existence of a contract for compulsory accident insurance of passengers shall be exercised by the Ministry of Transport Information Technology and Communications and by the Ministry of Interior.

Information provided to the European Commission on compulsory insurance

Article 467. (1) The Commission shall inform the European Commission of the compulsory insurance provided for in the Bulgarian legislation, stating:

1. the regulations concerning these types of insurance;

2. the requisites of the certification documents which have to be provided by the insurer to the insured in order to prove that the obligation to conclude the insurance has been fulfilled.

(2) Where a compulsory insurance has been concluded with an insurer from a Member State in accordance with the requirements of Paragraph 1, it shall be assumed that the obligation to conclude the insurance has been fulfilled.

Chapter XLV

COMPULSORY CIVIL LIABILITY INSURANCE

Compulsory insurance

Article 468. (1) Civil liability insurance the conclusion of which is subject to a legal obligation (compulsory insurance) shall be concluded with an insurer authorised to operate in the territory of the Republic of Bulgaria.

(2) The requirements of this Chapter shall also apply where the insurance contract provides cover above the minimum cover required by law.

(3) Unless a statutory instrument provides for otherwise, the minimum insured amount under compulsory civil liability insurance shall be BGN 500,000 per insured event and BGN 2,000,000 for all insured events for a period of one year.

Contract for compulsory professional liability insurance

Article 469. (1) Where a law does not provide for otherwise, in respect of compulsory professional liability insurance the insured event is the occurrence of a damage for which the insured is liable. The insured may be a natural or legal person.

(2) The rights and obligations under compulsory professional liability insurance shall lapse after the period of prescription under Article 378, Paragraph 2.

(3) Unless a statutory instrument provides for otherwise, an insurance contract for compulsory professional liability insurance shall cover the liability of the insured for damages caused by the insured during the pursuit of the business in connection with which the insurance contract is concluded in the territory of the Republic of Bulgaria. For the purposes of sentence 1 it shall be assumed that the pursuit of a business shall be in the territory of the Republic of Bulgaria if the insured is registered for, respectively its competence to exercise the relevant profession or activity in the territory of the Republic of Bulgaria is recognised and the business is pursued within the scope of this registration or competence.

(4) The insurer shall have the right of recourse against the insured only in the cases of Article 433.

(5) An insurance contract for compulsory professional liability insurance shall cover the liability of the insured, including of the insured's representatives, the persons employed by the insured and those persons to whom the insured has contracted the performance of activities and has included in the insurance contract.

(6) Unless a law provides for otherwise, upon termination of the business subject to compulsory insurance, the person shall conclude a supplementary insurance which covers a 5-year period following the termination of the business.

Order of settlement of claims

Article 470. (1) Where claims for damages arising from the same insured event exceed the insured amount (the limit of liability), the payments shall be made in the following order and shall be subject to the principle of proportionality within the same order:

1. claims for non-pecuniary and pecuniary damages resulting from bodily injury or death, unless the damaged party has received compensation from another insurer, through the social security system or from a third party;

2. claims for property damages incurred to natural and legal persons, unless they have received compensation from another insurer or a third party;

3. claims of insurers or third parties that are subrogated to the rights against the insurer with regard to non-pecuniary or other damages;

4. all other claims.

(2) Where the insured amount is exhausted to meet the claims under Paragraph 1, a person who was among those entitled under Paragraph 1 but did not take part in the allocation due to reasons beyond that person's control, cannot file a claim with the insurer at a later date, provided that the insurer did not foresee and should not have been obliged to foresee the filing of that claim pursuant to the documents submitted to it during the filing of the preceding claims.

Chapter XLVI
COMPULSORY ACCIDENT INSURANCE FOR PASSENGERS IN PUBLIC TRANSPORT VEHICLES

Obligated persons

Article 471. (1) Carriers pursuing the business of public transport of passengers shall be obliged to conclude and maintain compulsory accident insurance for passengers where the point of departure and the original destination are in the territory of the Republic of Bulgaria.

(2) The vehicles for public transport of passengers are:

1. rail transport vehicles;

2. trolleybuses and buses;

3. aircraft;

4. all types of naval vessels;

5. cableways and lifts;

6. taxis.

Object of insurance

Article 472. (1) The object of insurance under a compulsory accident insurance of passengers shall be the health, life and bodily integrity of passengers of public transport vehicles.

(2) Passengers under Paragraph 1 shall be the persons located in transport vehicle or in their immediate vicinity before embarking and after disembarking.

(3) The health, life and bodily integrity of the drivers of the transport vehicles and the service personnel shall not be the object of insurance.

(4) Public transport carriers may conclude voluntary accident insurance for the persons under Paragraph 3.

Effect of the compulsory accident insurance

Article 473. (1) The compulsory insurance under Article 471 shall be effective only in case that the insured event has occurred in the territory of the Republic of Bulgaria.

(2) The embarking and disembarking of passengers while the vehicle is in motion or outside the designated places shall terminate the effect of the insurance, unless disembarking from a vehicle in motion was due to an immediate danger to the life or health of the passenger.

(3) Where under the conditions of travel under Paragraph 1, extraordinary circumstances require a deviation of an aircraft or naval vessel, the insurance shall be valid for the duration of the deviation.

Insurance cover

Article 474. (1) The liability of the insurer for payment of the insured amount or the respective portion thereof arises in the cases where as a result of an accident covered under an insurance contract under Article 471, death or permanent incapacity is caused to a passenger.

(2) In case of an accident, the insured passenger or his heirs shall be entitled to claim the insured amount or the respective portion thereof from the insurer with which the contract is concluded.

Exceptions from the cover

Article 475. The insurer shall not liable to pay a benefit where the death or permanent incapacity caused to the passenger is the result of:

1. war, upheavals or acts of military nature, riots, civil unrest and similar;

2. an act of terrorism, except in the cases where the cover of this risk is expressly agreed with the insurer;

3. attempt to commit or committing a crime of general nature by the passenger;

4. attempted suicide or suicide by the passenger;

5. illness of any type whatsoever of the passenger, including epileptic seizures or seizures caused by other illnesses, haemorrhage, paralysis, gastrointestinal infections, food poisoning and others, except where an insured event inflicts a medical condition which results in death or bodily injury;

6. premature birth or abortion of a passenger, unless they are caused by the accident occurred;

7. temperature influences (cold, frostbite, sunstroke or heatstroke), surgery, radiation, injections and other medical treatments of the passenger to the extent that they are not a result of the accident occurred;

8. alcohol poisoning and injuries directly caused by alcohol poisoning, use of drugs or analogous substances by the passenger;

9. earthquake or atomic and nuclear explosions, radioactive products and contamination therefrom, radiation (ionizing) radiation.

Insured amount

Article 476. The minimum insured amount under compulsory accident insurance under Article 471 per event per passenger shall be BGN 50,000.

TITLE II
CIVIL LIABILITY OF MOTORISTS

Chapter XLVII
COMPULSORY LIABILITY INSURANCE OF MOTORISTS

Object of insurance and insurance cover

Article 477. (1) The object of insurance under compulsory liability insurance of motorists shall be the civil liability of the insured natural and legal persons for pecuniary and non-pecuniary damages caused by them to third parties related to the possession and/or use of motor vehicles, for which the insured are liable under the Bulgarian legislation or the legislation of the country where the damage has occurred.

(2) The insured persons under compulsory liability insurance of motorists shall be the owner, user and holder of a motor vehicle for which there is a valid insurance contract, as well as any person who physically and legally drives or uses the motor vehicle. The driver shall not be obliged to have an explicit authorisation in writing from the persons under sentence 1 in respect of the driving or use of the motor vehicle.

(3) Third parties under Paragraph 1 shall be all damaged parties, except the person liable for the damages caused, with the exclusion of any persons entitled as a result of his death. Entitled persons shall have the right to a compensation for the damages arising from their capacity of damaged parties.

(4) It shall not be permitted to make arrangements to exclude from the cover of the civil liability any damages caused to a damaged third party who was aware or should have been aware that the driver of the motor vehicle was under the influence of alcohol, drugs or other intoxicating substances during the road accident. In this case, the insurer may make objections to the insured for joint liability of the third damaged party for the damages sustained by him.

(5) The liability insurance of motorists shall not cover the liability of the insured in the capacity of a cargo carrier.

Injured party. Damaged party

Article 478. (1) An injured party is a person who has died or suffered bodily injury caused by motor vehicles.

(2) A damaged party is the person, including the injured party, entitled to a compensation for damages caused by a motor vehicle.

Liability insurance of motorists for trailers

Article 479. (1) Damages caused by a trailer under Article 481, Paragraph 1, sentence 2 and Paragraph 2, point 3, which is attached to a motor vehicle and is functionally dependent on that motor vehicle during movement, and/or where it has become detached during movement, shall be covered by the insurer under the compulsory liability insurance of motorists related to the possession and use of the towing motor vehicle.

(2) Damages caused by a trailer which is not attached to a motor vehicle and is not functionally dependent on a motor vehicle, which was not in motion, as well as in case of self-propulsion, shall be covered by the insurer under the compulsory liability insurance of motorists related to the possession and use of the trailer.

Effect of the contract for compulsory liability insurance of motorists

Article 480. (1) An insurance contract for compulsory liability insurance of motorists shall cover the liability of the insured for the damages caused in the territory of:

1. the Republic of Bulgaria in accordance with Bulgarian law;

2. a Member State in accordance with its law;

3. a third country where the damages were caused to persons from a Member State during travel between the territories of two Member States and provided that there is no national insurers' bureau which is responsible for that territory; in this case, the liability shall be covered under the law of the Member State in the territory of which the motor vehicle, subject of the insurance, of the offending driver is habitually located;

4. a third country the national insurers' bureau of which is a signatory to a multilateral agreement according to its law;

5. a third country the national insurers' bureau of which is a member of the green card system.

(2) An insurance contract for compulsory liability insurance of motorists shall provide cover in the territory of the Republic of Bulgaria, in the territory of the other Member States and in the territory of the third countries under Paragraph 1, points 4 and 5, on the basis of a single premium and during the entire term of the contract, including at any time within this term, when the motor vehicle is located in another Member State or in a third country under Paragraph 1, points 4 and 5.

(3) An insurance contract for compulsory liability insurance of motorists shall provide cover in each Member State in accordance with its law or the cover under this Code if that cover is higher.

(4) An insurance contract for compulsory liability insurance of motorists shall provide cover in any third country under Paragraph 1, points 4 and 5 in accordance with its law.

(5) The insurer shall not negotiate or require a supplementary premium or a co-payment of the premium or any other payments in any form whatsoever in connection with the cover of the civil liability of motorists outside the territory of the Republic of Bulgaria and within the territory of the counties the national bureaus of which are members of the green card system, including in the form of a refund of a discount provided at the conclusion of the insurance.

(6) The tariff of each insurer under compulsory liability insurance of motorists shall clearly indicate that the contracts provide cover for the territory of all countries under Paragraph 1 for the entire term of the contract, including at any time within this term, when the motor vehicle is located in the territory of one of the indicated countries.

(7) The driving of the motor vehicle within the territory under Paragraph 2 at any time within the term of the contract shall not constitute a material change of the risk within the meaning of Article 367.

Motor vehicle

Article 481. (1) For the purposes of compulsory insurance under this Chapter, a motor vehicle is any road vehicle propelled by its own engine, as well as trams, trolleybuses and self-propelled equipment under the Registration and Control of Agricultural and Forestry Machinery

Act. Trailers and semi-trailers shall also be considered motor vehicles under the Road Traffic Act.

(2) For the purposes of compulsory insurance under this Chapter, motor vehicles are not:

1. rail transport vehicles, except trams;

2. self-propelled machinery within the meaning of § 1, point 12 of the Additional Provisions of the Registration and Control of Agricultural and Forestry Machinery Act with engine capacity of up to 10 kW;

3. trailers of category O1 (up to 750 kg) under Ordinance No 60 on the type-approval of new motor vehicles and their trailers (promulgated, SG, issue 40/2009, corrected, issue 75/2012, issue 77/2013, and issue 17/2015).

(3) It shall not be permitted to drive motor vehicles on the roads open for public use within the meaning of Article 2, Paragraph 1 of the Road Traffic Act, without the driver being insured following the procedure set out in this Code.

Territory where the motor vehicle is habitually located

Article 482. (1) The territory where the motor vehicle is habitually located shall be the territory of the country:

1. where the registration number of the motor vehicle is issued, regardless of whether permanent or temporary;

2. where an insurance or another distinctive mark, analogous to the registration number under point 1, of the motor vehicle is issued – in cases where no registration is required for certain types of motor vehicles;

3. where the holder of the motor vehicle resides permanently – in cases where certain types of motor vehicles do not require neither a registration number nor an insurance or another distinctive mark.

(2) For the purposes of filing a claim with a guarantee fund or national insurers' bureau where the motor vehicle has no registration number, as well as where it has a registration number which does not correspond or no longer corresponds to that motor vehicle and it becomes involved in a road accident, the territory where the motor vehicle is habitually located shall be the territory of the country where the road accident has occurred.

Obligation for conclusion of a contract for compulsory liability insurance of motorists

Article 483. (1) A contract for liability insurance of motorists shall be concluded by any person who:

1. holds a motor vehicle which is registered in the territory of the Republic of Bulgaria and is not taken off the road; this requirement shall not prevent any other person other than the owner of the motor vehicle to conclude the insurance contract;

2. drives a motor vehicle from a third country upon entry into the territory of the Republic of Bulgaria, where that person has no valid insurance for the territory of the Republic of Bulgaria.

(2) The person under Paragraph 1, point 2 shall conclude liability insurance of motorists at the border checkpoint from which the person enters the territory of the Republic of Bulgaria. The person under Paragraph 1, point 2 shall have a valid liability insurance of motorists concluded at the border until that person leaves the territory of the Republic of Bulgaria.

(3) The person under Paragraph 1, point 2 shall not be required to conclude a contract for liability insurance of motorists at the boarder upon entry into the territory of the Republic of Bulgaria, provided that the person has a valid green card certificate.

(4) A contract for liability insurance of motorists at the border shall not be concluded for motor vehicles:

1. from another Member State;

2. where the payment of a compensation in respect of the civil liability of the offending driver is ensured by a competent authority of a Member State and the motor vehicle or the respective person is included in a list drawn up by the competent authority of the Member State indicating the motor vehicles or persons exempt from the obligation to conclude compulsory liability insurance of motorists and provided to the Republic of Bulgaria.

(5) Traders within the meaning of the Commerce Act importing and selling motor vehicles which are provided with temporary registration plates shall be obliged to conclude compulsory liability insurance of motorists of these temporary plates. The insurance shall be concluded only under the registration number of the temporary plates for the period of validity of temporary plates, but not more than one year.

(6) The owner of a motor vehicle with a registration number issued by a competent Bulgarian registration authority for which the owner has concluded a valid liability insurance of motorists at the border with an insurer in another Member State shall be obliged to conclude compulsory liability insurance of motorists for the territory of the Republic of Bulgaria.

(7) An owner of a motor vehicle participating in a race where compliance with the road traffic rules is not compulsory for the participants in the race shall be obliged to provide cover under liability insurance of motorists for his liability in connection with the participation in the race.

Prohibition to conclude insurance

Article 484. An insurer shall not be entitled to conclude compulsory liability insurance of motorists in case another such insurance exists for the same motor vehicle if the insurance periods of the two insurance policies overlap fully or partially.

Special requirements relating to inaccurately declared circumstances in connection with the conclusion of compulsory liability insurance of motorists

Article 485. (1) In case of an incorrectly declared or omitted circumstance about which the insurer has posed a written question, the insurer shall not terminate the contract for compulsory liability insurance of motorists on the grounds of Article 363, Paragraphs 1 and 3, Article 364, Paragraph 2 or Article 365.

(2) Where an inaccurately declared or omitted circumstance has affected the occurrence of the event or has resulted in an increase of the extent of the damages, the insurer shall not refuse payment to the damaged parties, nor reduce the amount of the insurance compensation.

(3) In the case of undeclared circumstances about which the insurer has posed a written question, the insurer shall have the right, within the term of Article 363, Paragraph 1, respectively Article 364, Paragraph 1, to require the difference between the agreed premium and the premium corresponding to the risk when taking into account the undeclared circumstance, which premium was effective at the date of conclusion of the insurance contract according to the tariff of the

insurer, together with the default interest. The insurer shall inform the beneficiary of insurance services of its right under sentence 1 before the conclusion of the insurance.

Special rules on the control of compulsory liability insurance of motorists

Article 486. (1) Control of the existence of a contract for compulsory liability insurance of motorists as part of the state border control shall be exercised in respect of:

1. motor vehicles habitually located in the territory of a third country and entering the territory of the Republic of Bulgaria from a third country, as well as in case that such motor vehicles are leaving the territory of the Republic of Bulgaria;

2. certain types of motor vehicles and vehicles with special registration numbers exempted from the obligation for conclusion of compulsory liability insurance of motorists under the law of the respective Member State and included in a list drawn up by that Member State and presented to the Republic Bulgaria;

3. motor vehicles habitually located in the territory of the Republic of Bulgaria where such motor vehicles are leaving the territory of the Republic of Bulgaria.

(2) No control shall be exercised for the existence of a contract for compulsory liability insurance of motorists for motor vehicles which are habitually located in the territory of another Member State or of the Swiss Confederation, the Principality of Andorra and the Republic of Serbia (countries the national insurers' bureaus of which are parties to the Multilateral Agreement), and in respect of motor vehicles habitually located in a third country when they enter the territory of the Republic of Bulgaria from the territory of another Member State. This shall not apply to random inspections by authorised control authorities carried out on other grounds. It shall be assumed that the motor vehicles under sentence 1 have implied cover for the civil liability of the offending driver.

(3) The bodies of the Chief Directorate "Border Police" shall not allow motor vehicles under Paragraph 1, points 1 and 3 to leave the Republic of Bulgaria without evidence of a concluded and valid compulsory liability insurance of motorists.

(4) Control of the existence of a contract for compulsory liability insurance of motorists for motor vehicles habitually located in the territory of the Republic of Bulgaria or in the territory of a third country shall be exercised by the Ministry of Interior.

Certification of the conclusion of an insurance contract

Article 487. (1) The existence of an insurance contract for compulsory liability insurance of motorists shall be certified by an insurance policy issued in accordance with Article 575, Paragraph 1 and mark issued by the Guarantee Fund.

(2) In case of agreed deferred payment of the insurance premium within an insurance period, the mark under Paragraph 1 shall also certify the period for which the insurance premium is paid. The insurer shall be obliged to issue the mark under Paragraph 1 for the entire period for which insurance premium is collected.

(3) In case of agreed deferred payment of the insurance premium within an insurance period, the insurer shall not have the right to issue the mark under Paragraph 1 for the entire term of the policy for liability insurance of motorists if the insurance premium is not collected in full.

(4) Upon conclusion of liability insurance of motorists, the insurer shall provide a bilateral form of a statement of findings regarding a road accident in duplicate and in a format as set out in 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 insurance policy for liability insurance of motorists without additional fees or other payments by the beneficiary of insurance services.

(2) In case of agreed deferred payment of the insurance premium, the insurer shall issue a green card certificate for the entire period for which insurance premium is paid.

(3) An insurer shall not have the right to issue a green card certificate for the entire term of the policy for liability insurance of motorists if the insurance premium is not paid in full.

(4) Where a green card certificate is issued in violation of Paragraph 3 for a period longer than that for which the insurance premium is paid, the insurer shall be liable for the duration and for the cover in respect of the third countries listed in the certificate.

(5) Where the insurance premium is paid in full, the green card certificate shall be issued for the entire term of the insurance policy for liability insurance of motorists.

Period of the compulsory liability insurance of motorists

Article 489. (1) Except as provided in Paragraph 2, the contract for compulsory liability insurance of motorists shall be concluded for one insurance period with a duration of one year.

(2) Where it is agreed between the parties, the contract for compulsory liability insurance of motorists may be concluded for a term of up to three insurance periods, each of them with a duration of one year. In the cases under sentence 1, the premium for each individual insurance period shall be determined at the conclusion of the contract.

(3) In case of multiannual contracts under Paragraph 2, the premium for the following insurance period or the first contribution under the premium for the following insurance period shall be paid not later than 15 days before the expiration of the current period.

(4) The conclusion of liability insurance of motorists for a shorter period than the period under Paragraph 1, but for not less than 30 days, shall be permitted in the following cases:

1. at the conclusion of insurance of motor vehicles which have a temporary or transit registration according to the existing Bulgarian legislation; in this case the insurance period must correspond to the term of validity of the registration of the motor vehicle, but it cannot be longer than one year;

2. at the conclusion of insurance for slow-moving motor vehicles;

3. at the conclusion of insurance for self-propelled machinery.

(5) Upon acquisition of a motor vehicle with a foreign registration number for the purposes of initial registration of a motor vehicle under the existing Bulgarian legislation, a liability insurance of motorists must be concluded for a period of 30 days with the VIN number of the motor vehicle, which insurance cannot be reissued. The right of ownership of a motor vehicle with a foreign registration number shall be proven to the insurer with the relevant legal documents for the acquisition, which shall be translated into Bulgarian.

(6) A compulsory liability insurance of motorists at the border may be issued for the same motor vehicle only for a period of up to 90 days and it may be reissued to the extent that the sum of all periods of all issued insurance for that vehicle cannot not exceed 180 days within a calendar year.

(7) The parties cannot agree upon entry into force of the insurance contract at an earlier time than the relevant time and the date of conclusion of the insurance contract.

Premiums under compulsory liability insurance of motorists

Article 490. (1) In case of a deferred payment, the instalments of the insurance premium shall be paid within the term agreed in the insurance contract.

(2) Upon termination of an insurance contract under Article 368, Paragraph 4, the insurer shall be obliged to submit information on the termination to the Information Centre of the Guarantee Fund simultaneously with the termination.

(3) In case of an increase of the insurance premium under Article 489, Paragraph 2 for the following insurance period at the initiative of the insurer due to increased risk, the insurer shall be obliged to inform the policy holder in writing not later than one month before the expiry of the current insurance period. In the cases under sentence 1, the policy holder shall have the right to terminate the insurance contract without penalties or other costs, such termination shall become effective from the end of the current insurance period. In the cases under sentences 1 and 2, the contract shall also be regarded as terminated upon expiry of the term of the current insurance period where the policy holder fails to pay the increased premium for the following insurance period.

(4) Upon termination of an insurance contract in accordance with Paragraph 3, sentence 1, the insurer shall be obliged to submit information regarding the time of termination of the contract, indicating the end of the current insurance period, to the Information Centre of the Guarantee Fund not later than the date of receipt of the prior notice. Paragraph 2 shall apply in the cases under Paragraph 3, sentence 1.

(5) The insurance premium under compulsory liability insurance of motorists shall be adjusted by the insurer in compliance with unified requirements for adjustment of the insurance premium depending on the driver's behaviour on the roads and/or the damages caused (bonus-malus system). The unified requirements, as well as the procedure and conditions for their application, shall be determined by a joint ordinance of the Commission, the Minister of Interior and the Minister of Transport, Information Technology and Communications, whereby the opinion of the Guarantee Fund shall also be taken into account upon elaboration of the ordinance.

Change of ownership

Article 491. (1) In case of change of ownership of an insured motor vehicle, the contract for compulsory liability insurance of motorists shall not be terminated. The transferor shall be obliged as part (appendix) of the contract for transfer of the right of ownership of a motor vehicle to provide to the transferee all documents certifying the concluded compulsory liability insurance of motorists. The transferor and the transferee shall notify the insurer of the transfer within 7 days.

(2) The transferee shall be jointly liable for the unpaid portion of the premium until the transfer.

(3) The insurer shall be entitled to require the premium from the transferor until it is informed of the transfer.

(4) Within the period under Paragraph 1, sentence 3, the transferee may unilaterally terminate the contract without giving any reasons.

(5) The insurer shall not be entitled to terminate the contract for compulsory liability insurance of motorists in case of change of ownership of an insured motor vehicle, regardless of when and how it was informed of this circumstance. In this case, in order to assess the risk, the insurer shall be entitled to require a co-payment of the insurance premium by the transferee.

(6) In case of change of the insurance premium due to increased risk arising from the change of ownership, the insurer shall provide written notice to the transferee about the size of the premium and the payment period. In case of failure to pay the premium within the period set by the insurer, the contract shall be terminated upon expiry of the period for payment of the increased premium.

Insured amount

Article 492. Compulsory liability insurance of motorists shall be concluded for any motor vehicle which is located in the territory of the Republic of Bulgaria and is not taken off the road for the following minimum insured amount (limit of liability):

1. for non-pecuniary and pecuniary damages resulting from bodily injury or death – BGN 10,000,000 for each event regardless of the number of injured parties;

2. for damage to property (goods) – BGN 2,000,000 for each event, regardless of the number of damaged parties.

Insurance cover under compulsory liability insurance of motorists

Article 493. (1) An insurer under compulsory liability insurance of motorists shall cover the liability of the insured for damages caused to third parties, including pedestrians, cyclists and other participants in the traffic, damages resulting from the possession or use of a motor vehicle during motion or immobility. In such cases, the insurer shall cover:

1. the non-pecuniary and pecuniary damages resulting from bodily injury or death;

2. the damages caused to the property of another;

3. the loss of profit which derives directly and immediately from the damage;

4. the reasonable costs incurred in relation to the filing of a claim under points 1 to 3, including the legal expenses awarded against the insured;

5. the interest under Article 429, Paragraph 2, point 2.

(2) The liability insurance of motorists shall also cover the liability for damages under Paragraph 1:

1. caused by the offending driver in the cases:

a) where the driver has not been explicitly or implicitly authorised to drive the motor vehicle, provided that the driver has not acquired possession of it by means of theft, robbery or crime under Article 346 of the Penal Code;

b) where the driver does not have a license to drive the relevant category of motor vehicles or the driver's license to drive the motor vehicle has been temporarily suspended;

c) where the latter has violated the legal requirements for roadworthiness of the motor vehicle;

2. where the driver is incapacitated;

3. caused by a device or installation of the motor vehicle, including damages from accidental detachment of a trailer, semi-trailer or side-car towed by that motor vehicle while in motion;

4. caused to third parties as a direct consequence of the opening of the doors of a motor vehicle while in motion or where the vehicle has been brought to a stop and no measures have been taken to ensure the safety of the other participants in the traffic, including those outside the motor vehicle;

5. caused as a result of a breakdown of the motor vehicle which has led to a road accident and has caused damage;

6. caused by the motor vehicle while in motion as a result of deterioration of the health of the driver which has prevented the driver from handling the motor vehicle;

7. arising from a motor vehicle in the capacity of property within the meaning of Article 50 of the Obligations and Contracts Act.

(3) The insurer may refuse payment to for those of the damaged parties for whom it can prove that they have voluntarily entered the motor vehicle and have been aware that possession of the motor vehicle has been acquired by means of theft, robbery or crime under Article 346 of the Penal Code.

(4) The insurance under Paragraph 1 shall also cover liability for damages caused in connection with the possession or use of a motor vehicle habitually located in the territory of the Republic of Bulgaria by a person who has acquired possession of the motor vehicle by means of theft, robbery or another crime, and the road accident has occurred in the territory of another Member State where the law provides for the insurer's liability in such cases.

Exceptions from the cover

Article 494. The insurer under compulsory liability insurance of motorists shall not pay compensation for:

1. the damages suffered by the offending driver of the motor vehicle;

2. the damages caused to the property of a family member of the insured;

3. the damages caused to the motor vehicle driven by the offending driver, as well as the damages caused to property transported by that motor vehicle;

4. the damages caused while using a motor vehicle for participation in races, provided that compliance with the road traffic rules is not compulsory for the participants in the race and unless otherwise agreed in the insurance contract;

5. the damages caused while using a motor vehicle during an act of terrorism or war, provided that the damage to the third parties is directly connected to such an act;

6. the damages caused by a motor vehicle transporting nuclear or other radioactive materials, as well as chemicals or other high-risk materials;

7. environmental damages constituting contamination or pollution under the Liability for Prevention and Remedying of Environmental Damage Act;

8. the damages arising from the loss or destruction of money, jewellery, securities, all kinds of documents, stamps, coins or other similar collections;

9. refunding of payments made by the state social security or health insurance system for or on the occasion of death or bodily injury resulting from an insured event;

10. interest and legal expenses, except in the cases of Article 429, Paragraphs 2 and 5 in compliance with the conditions of Article 429, Paragraph 3;

11. depreciation of the damaged property;

12. fines and other pecuniary sanctions imposed on the offending driver in connection with the insured event.

Obligations of the insured under liability insurance of motorists upon occurrence of an insured event

Article 495. (1) Upon occurrence of an insured event, the insured under liability insurance of motorists shall, unless that is objective impossible:

1. take the necessary steps to rescue the injured parties and limit the damage caused to property;

2. immediately inform the competent traffic control authorities, where this is provided for in a statutory instrument;

3. fulfil the obligations under Article 430 to notify the insurer under the liability insurance of motorists;

4. not leave the scene of the accident until the arrival of the competent authorities – in the cases provided for by law, except in case of necessity of emergency medical assistance in a hospital;

5. not consume alcohol or other intoxicating substances or drugs until the arrival of the competent authorities – in the cases provided for by law.

(2) The insured shall be obliged to provide the damaged party with the information necessary to file a claim with the insurer under the liability insurance of motorists, including:

1. the insured's name and address;

2. the name and address, respectively the company name and the address of the head office, of the owner of the motor vehicle, when other than the driver;

3. the registration number of the motor vehicle;

4. the company name and address of the head office of the insurer with which the contract for compulsory liability insurance of motorists is concluded and the number of the insurance policy.

(3) Upon occurrence of an insured event, the insured shall, together with the notification under Paragraph 1, point 3, provide details on the circumstances related to that event and subsequently provide assistance during the conduct of an investigation by the insurer with regard to that event.

(4) The insured shall, except in respect of the circumstances under Paragraphs 1 and 3, notify in writing the insurer under the liability insurance of motorists of the following facts and circumstances:

1. whether criminal or administrative proceedings have been initiated against the insured in connection with the occurrence of an insured event and the stage of those procedures;

2. whether the damaged parties have exercised their rights to claim compensation from third parties or authorities if the insured has become aware of such circumstances.

Obligations of the insurer under liability insurance of motorists in case of claims filed

Article 496. (1) The term for a final ruling on a claim under compulsory liability insurance of motorists cannot be more than three months from its filing under Article 380 with the insurer which has concluded the liability insurance of motorists or with its claims representative.

(2) In the term under Paragraph 1, the person with whom the claim is file shall:

1. determine and pay the amount of the compensation, or

2. give a reasoned reply to the claims filed, in case that:

a) the payment of a benefit is refused, or

b) the grounds for the claim have not been fully established, or

c) the extent of the damages has not been fully established.

(3) The insurer cannot refuse to rule on the legitimacy of the claim for compensation under compulsory liability insurance of motorists where any of the following documents has been submitted in order to certify the road accident:

1. a certificate of findings regarding a road accident;

2. certificate of road accident;

3. a certificate of a road accident established without an on-site visit by the bodies of the Ministry of Interior;

4. another certificate issued on legal grounds by the bodies of the Ministry of Interior;

5. a bilateral certificate of findings drawn up where the road accident has caused only damage to property which do not prevent the running of the vehicle under its own power and an agreement has been reached among the participants in the road accident regarding the circumstances associated with its occurrence.

(4) Where the documents under Paragraph 3 are insufficient to certify material circumstances associated with the occurrence of a road accident, the insurer may require the submission of documents and evidence drawn up by other competent authorities or persons. Sentence 1 shall not limit the right of the damaged parties to present evidence.

Default interest on the payable insurance benefit

Article 497. (1) The insurer shall pay the legal default interest on the amount of the insurance benefit if it has not determined and paid it on time, as of the earlier of the two dates:

1. the expiry of the term of 15 business days from the submission of all evidence under the Article 106, Paragraph 3;

2. the expiry of the term of Article 496, Paragraph 1, except where the damaged party has not presented evidence required by the insurer pursuant to Article 106, Paragraph 3.

(2) The interest payable by the insurer under Paragraph 1 and the default interest and legal expenses awarded against the insurer may exceed the insured amount under Article 492.

Obligations of the damaged party upon occurrence of an insured event

Article 498. (1) A damaged party wishing to receive an insurance benefit shall be obliged to file a written insurance claim with the insurer pursuant to Article 380, except where the insurer under a property insurance of the damaged party has subrogated to the damaged party's rights and has filed a claim on the grounds of Article 411.

(2) The damaged party shall be obliged to submit to the insurer under the liability insurance of motorists of the offending driver the documents available to the damaged party and relevant to the insured event and the damages incurred, and assist the insurer in establishing the circumstances related to the event and the extent of the damages.

(3) The damaged party may file a claim for a benefit with the court only if the insurer has failed to pay the benefit within the term under Article 496, refuses to pay a benefit or if the damaged party does not agree with the determined or paid amount of the benefit.

Determination of insurance benefits under liability insurance of motorists

Article 499. (1) In case of death or bodily injury of natural persons, the benefit shall be determined by an expert insurance commission of the insurer of the offending driver or by court order. The Commission may, by the ordinance under Article 504, adopt minimum requirements for the determination by insurers of insurance benefits in case of death or bodily injury of natural persons.

(2) In case of damage to property, the benefit cannot exceed the actual value of the damage caused. Benefits for damages to motor vehicles shall be determined in accordance with the claims settlement methodology for damages caused to motor vehicles, adopted by means of the ordinance under Article 504.

(3) The benefit under compulsory liability insurance of motorists shall be determined and paid in the currency in which the claim has been presented, except where investments in that currency are regulated, the currency is subject to transfer restrictions or due other similar reasons it is not appropriate to cover technical provisions; claims for benefits in respect of insured events occurring in the Republic of Bulgaria shall be filed in BGN.

(4) In case of an insured event for which a claim is filed for payment of a benefit with an insurer or with the Guarantee Fund, and if in the course of the claims settlement process a dispute arises between the Guarantee Fund and the insurer which has concluded the compulsory liability insurance of motorists regarding who should compensate the damaged party, the benefit shall be paid by the insurer. If it is concluded subsequently that the liability should be borne by the Guarantee Fund, it shall reimburse the insurer for the amount paid to the damaged party, together with the statutory interest from the date of the payment.

(5) Where the insured event has occurred outside the territory of the Republic of Bulgaria, if in the course of the claims settlement process a dispute arises between the Guarantee Fund under Article 518 and the insurer which has concluded the compulsory liability insurance of motorists regarding who should compensate the damaged party, and the bureau under Article 506 has paid a benefit following the procedure set out in the Internal Regulations of the Council of Bureaux,

the insurer shall reimburse the bureau for the paid amounts. If it is concluded subsequently that the liability should be borne by the Guarantee Fund, it shall reimburse the insurer for the amount paid by the bureau, together with the statutory interest from the date of the payment.

(6) Where the contribution of each participant to the occurrence of the insured event, the damages or their extent cannot be determined, the liability shall be apportioned equally among all participants and each party shall have the right to a compensation in the proportions for which it is not liable.

(7) Where multiple parties have caused the insured event, each insurer, respectively the Guarantee Fund under Article 518 or an institution authorised to perform guarantee payments analogous to the Guarantee Fund under Article 518, shall be liable to the damaged party in the proportion to which the parties causing the insured event are liable. Where the parties causing the insured event are jointly liable, the insurers, respectively the Guarantee Fund under Article 518 or an institution authorised to perform guarantee payments analogous to the Guarantee Fund under Article 518, shall also be jointly liable.

Right of recourse

Article 500. (1) Except as provided for in Article 433, points 1 and 2, the insurer shall be entitled to receive from the offending driver the benefits paid by the insurer, together with the paid interest and expenses, where the offending driver:

1. has committed, upon occurrence of the road accident, a violation under the Road Traffic Act by driving a motor vehicle under the influence of alcohol with blood alcohol concentration above the legally permissible norm or under the influence of drugs or other intoxicating substances, or has refused to undergo or has intentionally avoided to undergo a test for alcohol, drugs or other intoxicating substances;

2. has not stopped the motor vehicle and has not taken steps to remedy a breakdown or malfunction of the motor vehicle occurring while the motor vehicle was in motion which was a danger to road safety and the road accident has occurred as a result of that;

3. has left the scene of the road accident before the arrival of the traffic control authorities where an on-site visit by them is compulsory by law, except where the driver was in urgent need of medical assistance or there was another emergency; in this case the burden of proof shall be borne by the offending driver;

4. has caused the road accident intentionally;

5. has caused a road accident while committing a wilful crime within the meaning of the Penal Code, including while attempting to evade capture.

(2) The insurer shall be entitled to receive the benefit paid, together with the paid interest and expenses, from a person who does not have a license to drive the relevant category of motor vehicles or whose driver's license has been temporarily suspended. Sentence 1 shall not apply where the motor vehicle is educational and was driven by a trainee for a motor vehicle license during training, pursuant to the ordinance under Article 152, Paragraph 1, point 3 of the Road Traffic Act, and while taking an examination to obtain a driver's license, pursuant to the ordinance under Article 152, Paragraph 1, point 4 of the Road Traffic Act.

Settlement of relations between the insurer under property insurance of the damaged party and the Guarantee Fund

Article 501. (1) Where an insured event has occurred in the territory of the Republic of Bulgaria, the insurer under a property insurance which has subrogated to the rights of the insured against the offending driver of a motor vehicle for which no compulsory liability insurance of motorists has been concluded shall not be entitled to a compensation from the Guarantee Fund under Article 518.

(2) Where the insured event has occurred outside the territory of the Republic of Bulgaria, a Bulgarian insurer under property insurance which has subrogated to the rights of the insured against the offending driver of a motor vehicle for which no compulsory liability insurance of motorists has been concluded may exercise its rights against the institution authorised to perform guarantee payments, analogous to the Guarantee Fund under Article 518, in the Member State where the insured event has occurred, if the law of that Member State provides for this option.

(3) Where the insured event has occurred outside the territory of the Republic of Bulgaria, a foreign insurer under property insurance which has subrogated to the rights of the insured against the offending driver of a motor vehicle for which no compulsory liability insurance of motorists has been concluded may exercise its rights against the Guarantee Fund under Article 518, if the law of the Member State where the insured event has occurred provides for this option.

Certificate of previous insured events

Article 502. (1) A person who has concluded compulsory liability insurance of motorists shall have the right to receive at any time from the insurer with which the insurance contract was concluded a certificate of claims for compensation for damage caused in connection with the possession or use the motor vehicle for which the contract was concluded or of the absence of such claims – for a period of 5 years before the date of submission of the application.

(2) The insurer shall be obliged to issue the certificate within 15 days of the submission of the application. The certificate shall be issued in the Bulgarian language and against payment of the reasonable costs therefor.

(3) The certificate from the insurer must contain the following information: company name of the insurer; Personal Number/UIC or UIC under BULSTAT of the insured; names/company name of the insured; data on the motor vehicle – registration number, VIN; number of the insurance policy; period of the cover under the insurance policy; date of occurrence of the event and date of payment of the benefit; the damages claimed during the term of validity of the contract and the existence of remaining actual provisions under the unsettled claims; if the provision for claimed and unpaid damages is not released within three years of its establishment without insurance benefits paid under it, the insurer shall issue a certificate of that circumstance.

Claims representatives

Article 503. (1) An insurer that has received or wishes to receive authorisation for insurance under liability insurance of motorists shall be obliged to appoint a claims representative for this class of insurance in all Member States, except in the Member State of its head office. The appointment of a representative under sentence 1 shall not constitute establishment of a branch and shall not be considered an agency or residency of the insurer in the Member State concerned.

(2) A claims representative under Paragraph 1 for a Member State may be a natural person residing or a legal person established in that Member State. Natural persons who are directly

engaged in claims settlement shall be fluent in the official language of the Member State concerned.

(3) The claims representative may be employed by more than one insurer.

(4) The claims representative shall be responsible for processing and settling of claims of damaged parties residing in the Member State where the representative is appointed where:

1. compulsory liability insurance of motorists is concluded with the insurer which has appointed the representative for the motor vehicle used to cause the insured event;

2. the motor vehicle used to cause the insured event is habitually located in a Member State other than the Member State where the damaged party resides;

3. the insured event has occurred in a Member State other than the Member State where the damaged party resides, or in case that the accident has occurred in the territory of a third country the national bureau of which participates in the green card system with the participation of motor vehicles which are insured and habitually located in the territory of Member States.

(5) In the cases under Paragraph 4, the claims representative shall be authorised to collect all the information necessary to establish the occurrence of the insured event and the extent of the damages and to negotiate settlement of the claim out of court and to fully meet the obligations arising from these claims.

(6) The appointment of a representative under this Article shall not limit the right of damaged party to file claims directly with the insurer under the liability insurance of the offending driver or against the offending driver.

(7) Paragraphs 1 to 6 shall also apply accordingly to the activities of claims representatives operating in the Republic of Bulgaria on behalf of insurers with a head office in a Member State.

(8) The Guarantee Fund under Article 518 shall maintain a register of the claims representatives appointed by the insurers of the Member States to represent them in the territory of the Republic of Bulgaria, as well as of the claims representatives appointed by the insurers authorised to provide liability insurance of motorists.

Delegation

Article 504. (1) The Commission shall adopt an ordinance on the conditions and procedures for compulsory insurance under liability insurance of motorists and accident insurance of passengers, as well as on the procedures for their reporting.

(2) The ordinance under Paragraph 1 shall also regulate:

1. the unified numbering system for policies for liability insurance of motorists, policies for liability insurance of motorists concluded at the border, green card certificates and policies for compulsory accident insurance of passengers;

2. a unified methodology for settlement of claims for damages caused to motor vehicles;

3. the content of the policies for liability insurance of motorists.

Applicability of Chapters XLI, XLIV and XLV

Article 505. Chapters XLI, XLIV and XLV shall apply to compulsory liability insurance of motorists, unless otherwise provided for in this Title.

Chapter XLVIII

NATIONAL BUREAU OF BULGARIAN MOTOR INSURERS

Section I

General

Status of the National Bureau of Bulgarian Motor Insurers

Article 506. (1) The National Bureau of Bulgarian Motor Insurers, hereinafter referred to as "the Bureau" is a non-profit association with a head office in Sofia, registered under the Non-Profit Legal Entities Act.

(2) The Bureau is a national insurers' bureau representing the Republic of Bulgaria in the Council of Bureaux, which participates in and facilitates the operation of the green card system and the compulsory liability insurance of motorists in the Member States and in the countries signatories to the Multilateral Agreement.

(3) The Bureau perform the functions of a compensation body – by paying benefits in the cases of Article 515. The benefits payable by the compensation body are covered by the resources of the guarantee fund of the Bureau.

(4) The organisation and operations of the Bureau are regulated by this Code, the Internal Regulations of the Council of Bureaux and the statute of the Bureau.

Supervision

Article 507. (1) The Bureau shall be subject to supervision under this Code, where Article 576, Paragraph 1, Articles 579 and Articles 587 to 589 shall apply accordingly.

(2) Changes in the statute of the Bureau shall be submitted to the Commission.

Membership in the Bureau

Article 508. (1) Each insurer authorised under point 10.1, Section II, letter "A" of Annex No 1 or an insurer from a Member State which provides compulsory liability insurance of motorists in the Republic of Bulgaria as provided for in this Code must become a member of the Bureau before taking up activities under this type of insurance.

(2) The requirements for membership in the Bureau shall be set out in its statute. The members of the Bureau shall comply with the requirements of the statute of the Bureau, including by providing and maintaining a bank guarantee in accordance with the statute of the Bureau and a reinsurance contract in accordance with criteria set by the Bureau.

(3) Membership in the Bureau shall be terminated only with the withdrawal of the authorisation granted under Paragraph 1, respectively in case that the insurer from a Member State has ceased to provide compulsory liability insurance of motorists in the Republic of Bulgaria.

(4) The activity of providing compulsory liability insurance of motorists cannot be pursued in the Republic of Bulgaria without the insurer becoming a member of the Bureau.

Funding of the activities of the Bureau

Article 509. (1) The members of the Bureau shall pay to the benefit of the Bureau a membership fee and other pecuniary contributions as provided for in the statute.

(2) The due payments shall be determined in terms of grounds and size by a decision of the Management Board of the Bureau.

Correspondents of insurers

Article 510. (1) The Bureau shall approve for the territory of the Republic of Bulgaria the correspondents of the insurers that are members of the national bureaus participating in the green card system.

(2) The Bureau shall adopt rules for the approval of correspondents, as well as for interaction with them.

Insured events occurring in the territory of the Republic of Bulgaria

Article 511. (1) Upon occurrence of an insured event in the territory of the Republic of Bulgaria with the participation of an offending driver driving a motor vehicle which is habitually located in a country the national bureau of which is a member of the Council of Bureaux, the claim shall processed by:

1. the correspondent for the territory of the Republic of Bulgaria of the insurer of the offending driver;

2. the Bureau – in cases where there is no correspondent for the territory of the Republic of Bulgaria of the insurer of the offending driver or where there is a correspondent for the territory of the Republic of Bulgaria of the insurer of the offending driver, but in accordance with the Internal Regulations of the Council of Bureaux, the Bureau has taken a decision to liquidate the damage;

3. the Bureau – in cases where the motor vehicle of the offending driver is not insured and is habitually located in a Member State or in a third country the national bureau of which is a signatory to the Multilateral Agreement.

(2) Upon occurrence of an insured event in the territory of the Republic of Bulgaria with the participation of an offending driver driving a motor vehicle under Article 483, Paragraph 4, point 2, the claim shall be processed by the Bureau.

(3) In the cases of Paragraph 1, the damaged party may file a claim for a benefit with a court only if the correspondent or the Bureau have not ruled on the filed claim within the term under Article 496, Paragraph 1, the payment of the benefit is refused or if the damaged party does not agreed with the amount of benefit, with Article 380 applying accordingly. In the cases of Paragraph 2, the damaged party may file a claim for a benefit with a court only if the Bureau has not ruled on the filed claim within the term under Article 496, Paragraph 1, the payment of the benefit is refused or if the damaged party does not agreed with the amount of benefit, with Article 380 applying accordingly.

Processing of claims

Article 512. (1) Where a claim for benefits is filed with the Bureau or the correspondent, Article 496 shall apply.

(2) Paragraph 1 shall not apply where the Bureau acts as a Compensation Body.

Legitimatio ad processum

Article 513. (1) In case of a legal action arising from an insured event under Article 511, Paragraphs 1 or 2 and in accordance with the procedure set out in Article 511, Paragraph 3, the

Bureau shall have exclusive *legitimatio ad processum* before the competent Bulgarian court, unless the action is brought against the insurer of the offending driver. The correspondent of that insurer shall not have *legitimatio ad processum* in respect of the actions under sentence 1.

(2) In case of a legal action pursuant to Article 515, Paragraph 1, point 1 and in compliance with Article 516, Paragraph 8, the Bureau shall have exclusive *legitimatio ad processum* before the competent Bulgarian court. The representative of the insurer under Article 503 shall have no *legitimatio ad processum* in respect of the actions under sentence 1.

Provision of information to and by the Bureau

Article 514. (1) The Bureau shall have the right of access to information in the Information Centre of the Guarantee Fund only in relation to specific claims within the powers of the Bureau under this Code.

(2) The Bureau shall send the obtained information to the insurer and to the national insurers' bureau of the country where the motor vehicle is habitually located.

(3) Insurers shall provide statistical information to the Bureau within the terms and under the conditions set out in the statute of the Bureau.

(4) The Bureau shall comply with the Protection of Personal Data Act when it processes personal data.

Section II
Compensation Body

Compensation Body

Article 515. (1) In the capacity of a Compensation Body the Bureau shall pay benefits to damaged parties residing in the Republic of Bulgaria only where:

1. the insurer of the offending driver or its claims representative in the Republic of Bulgaria have not provided a reasoned reply to the items included in the claim within three months from the date on which the damaged party has filed a claim for benefits with the insurer or representative, or

2. the insurer of the offending driver has not appointed a claims representative in the Republic of Bulgaria.

(2) A damaged party residing in the Republic of Bulgaria shall be entitled to a benefit under Paragraph 1 if the following conditions are met:

1. the insurance contract of the offending driver is concluded with an insurer established in a Member State other than the Republic of Bulgaria;

2. the insured motor vehicle of the offending driver is habitually 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 in case that the accident has occurred in the territory of a third country the national bureau of which participates in the green card system – with the participation of motor vehicles which are insured and habitually located in the territory of Member States.

(3) In the capacity of a Compensation Body the Bureau shall also pay benefits to damaged parties residing in the Republic of Bulgaria where

1. the motor vehicle which has caused the insured event in a Member State other than the Republic of Bulgaria cannot be identified, or

2. within two months from the occurrence of the insured event in a Member State other than the Republic of Bulgaria, the insurer of the offending driver cannot be identified.

(4) Damaged parties cannot file claims with the Bureau in its capacity of a Compensation Body where:

1. under the conditions of Paragraph 1, point 2, they have filed their claims for benefits directly with the insurer or with its representative in the Republic of Bulgaria and have received a reasoned reply to the claim within the three-month period under Paragraph 1, point 1, or

2. they have filed their claim against the insurer with a court.

Proceedings before the Compensation Body

Article 516. (1) The damaged party must file a claim for payment of benefits with the Compensation Body by means of a written application accompanied by the evidence available to the party. In this case, Article 380 shall apply.

(2) The term for ruling of the Compensation Body shall be two months from the date of filing of the claim with it.

(3) Upon receipt of the insurance claim under Paragraph 1, the Compensation Body shall immediately notify that it has received a claim from the damaged party and that it would rule on the claim within two months of its filing, as follows:

1. the insurer of the offending driver and its claims representative in the Republic of Bulgaria;

2. the institution authorised to act as a compensation body in the Member State where the insurer is established;

3. the offending driver, if the driver's identity and address are known;

4. the guarantee fund of the Member State where the motor vehicle of the offending driver is located, where the insurer cannot be identified;

5. the guarantee fund of the Member State where the insured event has occurred and if the motor vehicle of the offending driver cannot be identified.

(4) The compensation body shall pay the statutory default interest on the paid insurance benefit from the date of expiry of the term under Paragraph 2 to the date of the payment.

(5) The proceedings before the Compensation Body shall be terminated if within the term for the decision under Paragraph 2 the damaged party receives compensation from the offending driver, from the insurer or from a third person, except where a benefit is received under life or accident insurance. Where the proceedings concern a claim for a benefit under Article 515, Paragraph 1, it shall also be terminated if within the term for the decision of the Compensation Body under Paragraph 2, the insurer or its claims representative have subsequently given a reasoned reply to the claim filed with them.

(6) The damaged party shall not be required to prove that the offending driver cannot or refuses to pay the benefit.

(7) The functions of the Compensation Body involve the settlement of claims in cases that can be objectively verified and therefore its activity is limited to verifying whether a claim for benefits has been filed in accordance with the established procedure and within the prescribed period, without ruling on the merits of the claim. Refusals of benefits under Article 515 shall be reasoned.

(8) The damaged party may file a claim for a benefit with the court only if the Compensation Body has not ruled on the filed claim within the period under Paragraph 2, has refused to pay a benefit or if the damaged party does not agreed with the amount of the benefit.

Reimbursement of paid benefits and subrogation to the rights of satisfied creditors

Article 517. (1) In the case of payment of a benefit under Article 515, Paragraph 1, the Compensation Body shall be entitled to a claim from the institution authorised to act as a compensation body in the Member State where the insurer of the offending driver is established.

(2) In case of payment of benefits under Article 515, Paragraph 3, the Compensation Body shall be entitled to a claim from:

1. the institution authorised to perform guarantee payments analogous to the Guarantee Fund under Article 518 in the Member State where the motor vehicle of the offending driver is habitually located, where the insurer cannot be identified;

2. the institution authorised to perform guarantee payments analogous to the Guarantee Fund under Article 518 in the Member State where the insured event has occurred, where the motor vehicle cannot be identified;

3. the institution authorised to perform guarantee payments analogous to the Guarantee Fund under Article 518 in the Member State where the insured event has occurred, where the motor vehicle is habitually located in the territory of a third country;

4. the institution authorised to perform guarantee payments analogous to the Guarantee Fund under Article 518 in the Member State which has included the motor vehicle in a list of motor vehicles exempt from the obligation to conclude compulsory liability insurance of motorists under Article 483, Paragraph 4.

(3) In the event of a claim to the Compensation Body from a compensation body in a Member State, it shall reimburse the full amount of the benefit paid and shall subrogate to the rights of the damaged party against the offending driver and its insurer or against the Guarantee Fund under Article 518 – in the case of an uninsured motor vehicle.

TITLE III
GUARANTEE FUND
Chapter XLIX
GENERAL PROVISIONS

Statute of the Guarantee Fund

Article 518. (1) The Guarantee Fund is a legal entity with a head office in Sofia.

(2) The Guarantee Fund may be restructured, terminated or wound-up only by law.

(3) Upon winding-up of the Guarantee Fund, after its liabilities are paid, the remainder of its property shall be distributed among the insurers in proportion to the contributions paid by

them, with the exception of those insurers whose liabilities to beneficiaries of insurance services have been paid by the compensation fund under Article 521, Paragraph 1, point 1.

(4) The Guarantee Fund shall exempt from payment of state and local taxes and fees in connection with the activity of the funds under Article 521, Paragraph 1.

Functions of the Guarantee Fund

Article 519. The Guarantee Fund shall:

1. pay benefits to damaged parties for damages caused by unidentified motor vehicles where the offending driver of the motor vehicle has not concluded a valid compulsory liability insurance of motorists or where compulsory accident insurance of passengers is not concluded;

2. ensure the claims of damaged parties for liability associated with motor vehicles habitually located in the Republic of Bulgaria, under the terms and procedures set out of this Code, in case of insolvency of insurers offering compulsory liability insurance of motorists and/or compulsory accident insurance of passengers, which insurers have a head office in the Republic of Bulgaria or are from a third country through a branch registered in the Republic of Bulgaria;

3. ensure the claims under insurance in respect of Section I of Annex No 1 in case of insolvency of insurers with a head office in the Republic of Bulgaria or from a third country through a branch registered in the Republic of Bulgaria;

4. establish and maintain an Information Centre that provides information to damaged parties in connection with compulsory liability insurance of motorists and compulsory accident insurance of passengers;

5. perform the functions set out in this Code in connection with insolvency of insurers;

6. establish and maintain an electronic information system for risk assessment, management and control, including for issuance of insurance policies for compulsory liability insurance of motorists and compulsory accident insurance of passengers.

Contributions to the Guarantee Fund

Article 520. (1) All insurers with a head office in the Republic of Bulgaria and insurers from third countries with a registered branch under the Commerce Act in the Republic of Bulgaria providing compulsory liability insurance of motorists and/or compulsory accident insurance of passengers or insurance under Section I of Annex No 1 shall be obliged to make contributions to the Guarantee Fund in the amount and manner as set out in this Code.

(2) Insurers from Member States that provide compulsory liability insurance of motorists and/or compulsory accident insurance of passengers in the Republic of Bulgaria under the right of establishment and freedom to provide services shall make contributions to the fund under Article 521, Paragraph 1, point 1. The contributions shall be determined on the same basis and under the same conditions as for the insurers under Paragraph 1.

Cash funds of the Guarantee Fund

Article 521. (1) The Guarantee Fund shall establish and manage as separate accounts:

1. a guarantee fund for claims of parties suffering damages caused by uninsured and unidentified motor vehicles, hereinafter referred to as "Fund for Uninsured Motor Vehicles";

2. a guarantee fund for claims in case of insolvency of an insurer under Article 519, points 2 and 3, hereinafter referred to as "Compensation Fund".

(2) The funds under Paragraph 1 shall be established and managed separately. Covering liabilities of either fund with resources from the other fund shall not be permitted.

(3) The transfer of resources from either fund to the other shall not be permitted, except temporarily in case of shortage of resources – by decision of the Commission at the proposal of the Management Board of the Guarantee Fund.

Non-recoverable contributions

Article 522. The contributions made by the insurers shall be non-recoverable, including in case of termination of an insurer.

Covering shortages of fund resources

Article 523. (1) If the resources in the funds under Article 521, Paragraph 1, points 1 or 2 are not sufficient to cover their liabilities under this Code, by decision of the Commission at the proposal of the Management Board of the Guarantee Fund, such a shortage shall be covered in one or more of the following manners:

1. use of the loans, including through issuance of debt securities, under terms and conditions defined by the Commission;

2. payment of advance annual contributions by the insurers and/or additional contributions; the amount of the advance contributions shall be determined based on the amount of the annual contributions for the preceding year;

3. increase of the amount of the annual contribution.

(2) The amount paid in advance under Paragraph 1, point 2 shall be deducted from the annual contribution payable by the insurer for the following year; overpaid amounts shall be refundable by 31 May of the year following the year to which they relate.

(3) The loans utilised by the Guarantee Fund may be secured with assets of the Guarantee Fund, including with future receivables of the Guarantee Fund from insurers for annual contributions.

Notification of non-payment of annual contributions

Article 524. In case that an insurer fails to pay a requisite contribution to a fund under Article 521, Paragraph 1 or interest due under Article 555, Paragraph 3 or Article 563, Paragraph 4 within a period of three months, the Management Board of the Guarantee Fund shall immediately notify the Commission.

Collection of information from the Guarantee Fund

Article 525. (1) At the request of the Management Board of the Guarantee Fund the Commission shall provide the information necessary to calculate the contributions payable by the insurers.

(2) The Management Board of the Guarantee Fund may use the obtained data solely for the performance of its assigned functions.

(3) The members of the Management Board of the Guarantee Fund and its employees shall not disclose personally or otherwise any information that has become known to them in the

performance of their duties, where such information is an insurance, commercial or other secret protected by law.

Requirements to the management and operations of the Guarantee Fund.

Article 526. The requirements of Chapters VII, VIII and X shall apply accordingly while Article 77, Paragraph 1, point 2, point 3, letter "h", Article 81, Article 82, Article 86, Paragraph 3, Articles 87 and 91 shall not apply to the management and operations of the Guarantee Fund.

Additional reporting requirements to the Guarantee Fund

Article 527. (1) The Guarantee Fund shall draw up financial statements in accordance with the international accounting standards.

(2) Additional reporting requirements to the Guarantee Fund shall be determined by the ordinance under Article 125, Paragraph 2.

(3) In order to ensure the capacity for the full and proper fulfilment of its liabilities, the Guarantee Fund shall establish a sufficient amount of technical provisions for future payments; the amount of the provisions shall be calculated based on the value of the liabilities expected to be paid in the future, and the costs associated with the payment of these liabilities, as well as the value of potential adverse risk deviations.

(4) The Guarantee Fund shall cover the gross amount of the technical provisions by corresponding assets in accordance with Part II, Titles II and IV.

Property and budget of the Guarantee Fund

Article 528. (1) The property of the Guarantee Fund shall include the assets in the separate accounts of the Fund for Uninsured Motor Vehicles and the Compensation Fund.

(2) The Guarantee Fund shall adopt a budget for each calendar year. The budget of the Guarantee Fund shall determine the extent of its administrative costs.

(3) The investments of the Guarantee Fund in assets for its own operations shall be determined annually together with the budget of the Guarantee Fund.

Adoption of the budget of the Guarantee Fund

Article 529. (1) The Commission shall approve the draft annual budget of the Guarantee Fund or return it for revision where it is in conflict with the provisions of this Code and its implementing instruments or it endangers the financial stability of the Guarantee Fund or the interests of the persons entitled to claims from the Guarantee Fund, or where the administrative costs of the Guarantee Fund are unreasonably inflated, and shall provide mandatory instructions.

(2) In the absence of an adopted annual budget of the Guarantee Fund by the beginning of the respective year, until its adoption the costs of the Guarantee Fund shall be incurred up to the amount of the costs for the corresponding period of the preceding year. In case of a necessity to incur higher costs, the Management Board shall incur such costs with the prior approval of the Commission.

Reinsurance contract of the Guarantee Fund

Article 530. (1) The Guarantee Fund shall purchase cover for its liabilities under this Code at the international reinsurance market in accordance with criteria set out by decision of the Commission. The Commission may exempt the Guarantee Fund from the obligation under sentence 1 upon sufficient financial capacity is built.

(2) The obligation of the Guarantee Fund under Paragraph 1 in respect of its responsibilities in connection with uninsured motor vehicles under compulsory liability insurance of motorists, as well as in connection with insolvency of insurers under such insurance shall also be fulfilled where a reinsurance contract is concluded by the Bureau under Article 506 if it provides cover for Guarantee Fund as well and if the requirements of the Commission are met.

Rules of procedure of the Guarantee Fund

Article 531. The Commission shall adopt rules of organisation and procedure of the Guarantee Fund, which shall be promulgated in the State Gazette.

Supervision of the activity of the Guarantee Fund

Article 532. (1) The Guarantee Fund shall be subject to supervision under this Code and the rules for supervision of the insurers shall be applied accordingly.

(2) The internal audit function and the compliance function of the Guarantee Fund shall submit their reports and their annual plans to the Deputy Chairperson.

Chapter L
MANAGEMENT OF THE GUARANTEE FUND

Bodies of the Guarantee Fund

Article 533. The bodies of the Guarantee Fund shall be:

1. Council of the Guarantee Fund;

2. Management Board;

3. two Executive Directors.

Composition of the Council of the Guarantee Fund

Article 534. The Council of the Guarantee Fund shall be composed of all insurers required to contribute to it.

Competence of the Council of the Guarantee Fund

Article 535. The Council of the Guarantee Fund shall:

1. elect and dismiss the members of the Management Board and the Executive Directors among them, designating one of the Executive Directors to exercise the powers of the Guarantee Fund severally and to represent it as a receiver in bankruptcy in case of insolvency of an insurer or reinsurer;

2. determine the remuneration of the members of the Management Board and the Executive Directors;

3. exercise control over the activity of the Management Board;

4. release the members of the Management Board from liability;

5. adopt the certified annual financial statements and the report of the Management Board of the Guarantee Fund;

6. adopt the annual budget of the Guarantee Fund, after the prior approval of the Commission;

7. propose to the Commission the size of the contributions under Article 554, point 1;

8. in case that the resources available in the Fund for Uninsured Motor Vehicles fall below the floor under Article 556, Paragraph 2 or in case of other funding needs for the activity of the Fund for Uninsured Motor Vehicles, propose to the Commission the size of the additional contributions under Article 554, point 2 according to the average market share of each of the insurers under this insurance for the last three calendar years;

9. adopt rules for investment of the resources of the funds under Article 521, Paragraph 1;

10. adopt and annually update the claims settlement methodology for damages caused by motor vehicles, and submit it to the Commission;

11. adopt and periodically update the methodology of the Guarantee Fund for determining the amount of benefit due in case of non-pecuniary and pecuniary damages resulting from bodily injury or death, including the criteria and economic and financial factors for compensation of the incurred damages and lost profit deriving directly and immediately from the damage;

12. select an external auditor – an international specialised audit company;

13. resolve other issues assigned to its competence by this Code or 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 meet at least twice a year. A meeting shall be valid in case that more than half of the insurers under Article 534 are present.

(2) In cases where the Management Board established a risk of shortage of available resources under Article 556, Paragraph 2 of the Guarantee Fund, the Management Board shall immediately inform the Commission and 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 at its own initiative or at the request of at least one third of the insurers under Article 534. The meeting shall be convened by decision of the Management Board by means of an invitation in writing 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 the meeting.

(2) Where the Management Board does not convene a meeting of the Council of the Guarantee Fund within one month of the request of the insurers under Paragraph 1, sentence 1, the Commission shall convene the meeting of the Council of the Guarantee Fund or authorise one of the insurers that have requested the meeting or their representative to convene the meeting.

(3) The invitation for the meeting must contain the date, time and place of the meeting, as well as the items included in the agenda and draft decisions on them. The Council of the Guarantee Fund may take decisions on matters not included in the agenda only if all insurers under Article 534 are represented at the meeting and they all agree that the matter be discussed.

Inclusion of items in the agenda

Article 538. After a meeting of the Council of the Guarantee Fund is convened following the procedure set out in Article 537, Paragraph 1, at least one third of the insurers under Article 534 may request the inclusion of items in the agenda and proposals for decisions on them. The proposals shall be sent in writing to all members of the Council of the Guarantee Fund and to the members of the Management Board not later than 7 days before the date of the meeting.

Right to information

Article 539. (1) The written materials related to the agenda of the meeting of the Council of the Guarantee Fund shall be available to the members of the Guarantee Fund not later than the date of dispatch of the invitations under Article 537, Paragraph 3.

(2) Where the agenda includes election of members of the Management Board or the selection of a registered auditor, the materials shall also include date on the names, permanent addresses and professional qualifications and experience of the proposed persons.

List of attendees. Representatives

Article 540. (1) At the meetings of the Council of the Guarantee Fund the insurers shall be represented by their legal representatives; 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 attending insurers shall be drawn up for the meeting of the Council of the Guarantee Fund. The persons representing the insurers shall certify their attendance with their signatures. The list shall be certified by the Chairperson and 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 it shall be legal if it is attended by more than half of the insurers under Article 534. The date of the new meeting convened due to the absence of a quorum must be indicated in the invitation for the original meeting.

(3) Each insurer under Article 534 shall be entitled to one vote in 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 a right to vote, unless they represent an insurer.

(4) The decisions of the Council of the Guarantee Fund shall be adopted by 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 delayed by the adopted decision.

Minutes of the meeting of the Council of the Guarantee Fund

Article 543. (1) Minutes shall be drawn up for each meeting of the Council of the Guarantee Fund, indicating:

1. the place and time of the meeting;

2. the names of the Chairperson and the Secretary, as well as of the tellers in case of voting;

3. the attendance of members of the Management Board and of other persons not representing insurers;

4. the substantive proposals made;

5. the voting held and the results thereof;

6. the objections raised.

(2) The minutes of the meeting shall be signed by the Chairperson and the Secretary of the meeting and by the tellers.

(3) The following shall be attached to the minutes:

1. the list of attendees;

2. the documents related to the convening of the meeting of the Council of the Guarantee Fund.

(4) The minutes and related materials shall be kept for at least 5 years.

Composition of the Management Board

Article 544. (1) The Management Board of the Guarantee Fund shall be composed of 7 members.

(2) Articles 79, 80, Article 83, Paragraph 1 and Article 84 shall apply accordingly to the members of the Management Board and to the Executive Directors.

(3) Insurers may also be members of the Management Board; the natural person representing the insurer in the Management Board must meet the requirements of Article 80 and Article 83, Paragraph 1.

(4) The relations between the Guarantee Fund and the members of the Management Board shall be regulated by assignment of management agreements. The agreement shall be concluded in writing on behalf of the Guarantee Fund by a person explicitly authorised by the Council of the Fund.

Mandate of the Management Board

Article 545. (1) The mandate of the Management Board shall be 4 years. A member of the Management Board may be re-elected without restrictions.

(2) Members of the Board may be dismissed before the expiration of the mandate for which they were elected.

Competence

Article 546. The Management Board shall:

1. elect a Chairperson of the Management Board from among its members who will convene and chair the meetings of the Board;

2. adopt its rules of procedure;

3. adopt a list of positions and rules for employee compensations of the Guarantee Fund;

4. organise the raising of funds for the Funds under Article 521, paragraph 1;

5. adopt the policies under Article 77 and rule on claims for benefits over a value determined in accordance with the rules for liquidation of damages and the rules of the Guarantee Fund;

6. decide on the investment of the resources of the Funds under Article 521, Paragraph 1 in accordance with the requirements of this Code and the policies of the Guarantee Fund;

7. adopt the draft annual budget of the Guarantee Fund and submit it to the Commission for approval;

8. organise and be in charge of the allocation of the administrative costs;

9. draw up the annual financial statements and report on the activity of the Guarantee Fund and submit them to the Council of the Guarantee Fund;

10. decide on the participation of the Guarantee Fund in specialised international organisations of bodies with similar subjects of activity;

11. approve agreements for cooperation of the Guarantee Fund with state institutions, authorities and public organisations in connection with its activity,

12. establish and certify the technical security of each insurer in connection with obtaining access to the information system of the Guarantee Fund;

13. select a responsible actuary and the heads of the other key functions of the Guarantee Fund;

14. exercise the other relevant powers of the management and controlling body within the meaning of Part Two;

15. review and resolve other issues related to the activity of the Guarantee Fund which are not in the exclusive competence of the Council of the Guarantee Fund.

Convening and holding of meetings of the Management Board

Article 547. (1) The Management Board shall meet at least once a month. The meetings shall be convened by the Chairperson at the Chairperson's initiative or at the request of a member.

(2) The meetings of the Management Board shall be valid if more than half of its members are in attendance. The decisions of the Management Board shall be adopted by a majority of more than half of its members.

(3) In exceptional cases and following the procedure set out in its rules, the Management Board may also adopt decisions *in absentia* if all members have stated their approval of the decision in writing.

Conflict of interest

Article 548. By the start of the meeting, each member of the Management Board shall inform the Chairperson in writing if the member or a person related to the member has interests in an issue under discussion and will not participate in the quorum and in the voting on the decision.

Minutes

Article 549. Minutes shall be drawn up for the decisions of the Management Board which shall be signed by all attending members, indicating how each of them voted on the issues under discussion.

Rights and obligations

Article 550. The members of the Management Board shall have equal rights and obligations regardless of the internal allocation of the functions among them and the assignment of management and representation rights to some of them.

Liability of the members of the Management Board

Article 551. (1) The members of the Management Board must provide a guarantee for their management in the amount of three gross monthly salaries and provide civil liability insurance for the insured amount and with the conditions as specified in the rules of the Guarantee Fund in order to cover the liability referred to in Paragraph 2.

(2) All members of the Management Board shall be liable for the damages they have caused to the Guarantee Fund.

Contracts with members of the Management Board and their related parties

Article 552. (1) The members of the Management Board shall notify the Management Board in writing when they or their related parties:

1. conclude contracts with the Guarantee Fund which are outside the normal scope of its activity or deviate significantly from the market conditions;

2. receive benefits in the capacity of damaged parties.

(2) The actions under Paragraph 1 shall be carried out only after a prior decision by the Management Board.

Executive Directors

Article 553. (1) The Executive Directors shall jointly:

1. represent the Guarantee Fund and manage its day-to-day operations;

2. appoint and dismiss employees of the Guarantee Fund;

3. dispose of the resources of the Guarantee Fund in accordance with this Code, the Rules of Organisation and Procedure of the Guarantee Fund and the decisions of the Management Board;

4. perform other activities assigned to them by the Management Board.

(2) Where the Guarantee Fund is a receiver in bankruptcy in insolvency proceedings of an insurer or reinsurer, Paragraph 1 shall not apply and the Guarantee Fund shall be represented in these proceedings solely by the Executive Director designated for that purpose by the Council of the Guarantee Fund in accordance with Article 535, point 1.

(3) Each of the Executive Directors shall report immediately to the Management Board regarding any occurring circumstances that are of material importance for the position of the Guarantee Fund.

(4) The Executive Director of the Guarantee Fund that exercises its powers and represents it in the capacity of receiver in bankruptcy proceedings of an insurer or reinsurer shall not be bound when acting in respect of the bankruptcy proceedings by the decisions of the Management Board and the Council of the Guarantee Fund.

(5) The Chairperson of the Management Board shall conclude management agreements with the Executives Directors. Where the Chairperson of the Management Board is also an Executive Director, the management agreement with the Chairperson shall be concluded by a member of the Management Board explicitly authorised by it.

Chapter LI
FUND FOR UNINSURED MOTOR VEHICLES OF THE

GUARANTEE FUND

Funding of the Fund for Uninsured Motor Vehicles

Article 554. The funds for the Fund for Uninsured Motor Vehicles under Article 521, Paragraph 1, point 1 shall be raised through:

1. contributions of the insurers under Article 520 which shall be determined on the basis of the concluded compulsory accident insurance of passengers and the concluded compulsory liability insurance of motorists, including insurance at the border under Article 483, Paragraph 2;

2. additional contributions of the insurers under Article 535, point 8;

3. fines and pecuniary sanctions under Article 638;

4. investment income of the Fund for Uninsured Motor Vehicles;

5. income from recourse claims of the Guarantee Fund;

6. other sources not prohibited by law.

Determination and payment of contributions to the Fund for Uninsured Motor Vehicles

Article 555. (1) At the proposal of the Council of the Guarantee Fund or at its own initiative, the Commission shall determine with a decision the size of the contributions under Article 554, point 1 and the term for their payment. The decision shall be published in the State Gazette. The contribution shall be paid by the policy holder together with the insurance premium or the first instalment thereof and shall be indicated on a separate line in the insurance policy.

(2) At the proposal of the Council of the Fund or at its own initiative, the Commission shall determine the size of the additional contributions under Article 554, point 2 and the term for their payment. The decision shall be published in the State Gazette.

(3) Insurers which fail to make the due instalments under Article 554, points 1 and 2, shall pay the statutory interest for the period of delay. The receivables of the Guarantee Fund for contributions and interest thereon shall be determined in terms of grounds and size by a decision of the Management Board.

Resources available in the Fund for Uninsured Motor Vehicles

Article 556. (1) The resources available in the Fund for Uninsured Motor Vehicles shall be the corresponding assets under the separate account, less any foreseeable liabilities, including liabilities under submitted but unpaid claims and liabilities under incurred but unfiled claims for events from past periods.

(2) The minimum amount of the 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 benefits to damaged person from the Fund for Uninsured Vehicle benefits in respect of:

1. pecuniary and non-pecuniary damages as a result of death or bodily injury caused in the territory of the Republic of Bulgaria by a motor vehicle that has left the scene of the accident and has not been identified (unidentified motor vehicle);

2. pecuniary and non-pecuniary damages as a result of death or bodily injury and damage to the property of another person caused:

a) in the territory of the Republic of Bulgaria, in the territory of another Member State or in the territory of a third country the national insurers' bureau of which is a signatory to the Multilateral Agreement, by a motor vehicle habitually located in the territory of the Republic of Bulgaria and for which no compulsory liability insurance of motorists is concluded;

b) in the territory of the Republic of Bulgaria or another Member State, by a motor vehicle delivered to the Republic of Bulgaria from another Member State which has not been formally registered in the Republic of Bulgaria, provided that the event occurs within 30 days of the receipt of the motor vehicle by the transferee and no compulsory liability insurance of motorists is concluded for the motor vehicle;

c) in the territory of the Republic of Bulgaria, by a motor vehicle habitually located in the territory of a third country and for which no insurance at the border or green card certificate is issued;

d) in the territory of the Republic of Bulgaria, by a motor vehicle habitually located in the territory of the Republic of Bulgaria or in the territory of another Member State and the possession of which was acquired by theft, robbery or another crime; in this case the Guarantee Fund shall pay a compensation for damages of more than BGN 400 caused to the property of damaged parties.

(2) The Guarantee Fund shall not compensate damages to property caused by an unidentified motor vehicle, unless significant bodily injuries have been caused by the unidentified motor vehicle, which necessitated hospitalisation for hospital care or caused death. In this case, the Guarantee Fund shall also compensate damages of more than BGN 500 caused to the property of all persons. Significant bodily injuries shall be defined in the Rules of Organisation and Procedure of the Guarantee Fund.

(3) The Guarantee Fund shall not compensate from the Fund for Uninsured Motor Vehicles any damages suffered by persons who were passengers of motor vehicles of their own accord while being aware that:

1. the possession of the vehicle was acquired by means of theft, robbery or crime of under Article 346 of the Penal Code, or

2. the vehicle was not insured and the Guarantee Fund has proven that the person was aware of that circumstance.

(4) The Guarantee Fund shall also pay benefits under compulsory accident insurance of passengers if the carrier did not have such insurance.

(5) The Guarantee Fund shall not pay benefits to the insurer under the property insurance of the motor vehicle of the damaged party in cases where the offending driver has no liability insurance of motorists for events occurring in the territory of Bulgaria.

Procedure and manner of payment by the Fund for Uninsured Motor Vehicles

Article 558. (1) The size of the benefit paid by the Guarantee Fund cannot exceed the minimum insured amount under the compulsory insurance determined for the year of occurrence of the road accident. The default interest of the Guarantee Fund shall be calculated and paid in accordance with Article 497.

(2) Chapters XLVI and XLVII shall apply accordingly to the determination and payment of benefits from the Guarantee Fund.

(3) In order to receive the benefit, the damaged party shall file the claim with any of the insurers authorised for and providing compulsory liability insurance of motorists, compulsory accident insurance of passengers, or with the Guarantee Fund. An insurer that has been granted authorisation and offers compulsory liability insurance of motorists, respectively compulsory accident insurance of passengers cannot refuse to accept a claim filed under the procedure set out in sentence 1, as well as to inspect the damaged property, if such an inspection is necessary. The insurer shall be obliged within 7 days of receipt of the claim of the damaged party to submit to the Guarantee Fund the entire documentation in respect of this claim. The Guarantee Fund shall collect additional evidence, calculate the amount and pay the benefit to the damaged person in accordance with Paragraph 2. The relationship between the Guarantee Fund and the insurer shall be governed by a contract.

(4) The damaged party shall not be required to prove that the offending driver cannot or refuses to pay the benefit.

(5) The damaged party may file a claim for a benefit with the court if the Guarantee Fund has failed to pay the benefit within the term under Article 496, refuses to pay a benefit or if the damaged party does not agree with the determined amount of the benefit, whereby Article 380 shall also apply.

(6) A payment from the Guarantee Fund to a damaged party through a representative shall be allowed only on the basis of an explicit written power of attorney with notarized signatures regarding a specific claim, which contains a statement that the damaged party is informed of the right to receive the payment personally. Where the Guarantee Fund pays a benefit through a representative, it shall notify the damaged party explicitly and in writing, also indicated amount of the benefit paid.

(7) After payment of the benefit under Article 557, Paragraphs 1 and 2, the Guarantee Fund shall subrogate to the rights of the damaged party up to the amount of the benefit paid and the interest, as well as the cost of its determination and payment.

(8) After payment of the benefit under Article 557, Paragraph 4, the Guarantee Fund shall have the right to a claim against the carrier up to the amount of the benefit paid and the interest, as well as the cost of its determination and payment.

Reimbursement of amounts by the Fund for Uninsured Motor Vehicles to the compensation body of a Member State

Article 559. (1) The Guarantee Fund shall reimburse amounts paid by a compensation body of a Member State where:

1. the motor vehicle of the offending driver is habitually located in the territory of the Republic of Bulgaria and within two months of occurrence of the insured event the insurer cannot be identified;

2. the insured event has occurred in the territory of the Republic of Bulgaria and the motor vehicle cannot be identified;

3. the insured event has occurred in the territory of the Republic of Bulgaria and is caused by a motor vehicle habitually located in the territory of a third country and within two months of occurrence of the insured event the insurer cannot be identified.

(2) The amounts under Paragraph 1 shall be reimbursed in full within 30 days of the written request of the compensation body concerned.

(3) After payment of the benefit under Paragraph 1, the Guarantee Fund shall subrogate to the rights of the damaged party up to the amount of the benefit paid and the interest, as well as the cost of its determination and payment.

Payments for preventive measures by the Fund for Uninsured Motor Vehicles

Article 560. (1) 5 % of the resources of the Fund for Uninsured Motor Vehicles raised under Article 554, point 1 during the previous year under compulsory liability insurance of motorists shall be utilised for investment costs for equipment and information and communication technologies for improvement of road safety. The resources shall be utilised for projects approved by a joint decision of the Commission and the Minister of Interior after taking into account the opinion of the Guarantee Fund. If necessary, the opinion of state authorities and non-governmental organisations involved in road safety shall also be requested.

(2) The projects under Paragraph 1 shall contain a financial justification for the specific activities and resources needed for them and shall be submitted by the Minister of Interior to the Commission not later than 1 April of the respective year.

(3) The contracts for implementation of the projects under Paragraph 1 shall be concluded by the Guarantee Fund. Ownership of the deliverables under these contracts shall be transferred to the authorities responsible for road safety free of charge, whereby Article 518, Paragraph 4 shall apply.

(4) In case that the projects under Paragraph 1 are not submitted to the Commission within the term under Paragraph 1 or the resources under Paragraph 1 projected for the respective year are not utilised under programmes adopted for the same year, the resources shall remain with the Guarantee Fund.

(5) The report on the activity of the Guarantee Fund under Article 535, point 5 shall include a detailed account of the utilisation of the resources under Paragraph 1.

(6) Paragraph 1 shall not apply where the amount of resources available to the Fund for Uninsured Motor Vehicle after deduction of the resources under Paragraph 1 is less than BGN 50,000,000. Where a shortage occurs after approval of the annual cost programme, the Management Board shall immediately notify the Commission, the Minister of Interior and the persons that are party to the contracts under Paragraph 3 and shall suspend funding. The Guarantee Fund and another person that is a party to a contract funded with the resources under Paragraph 1 shall not be liable for penalties and other damages where the funding of the contract has been suspended following the procedure set out in sentence 2.

Reimbursement of amounts paid by the Bureau

Article 561. (1) Where the Guarantee Fund is the ultimate debtor, it shall reimburse amounts from the Fund for Uninsured Motor Vehicles to the Bureau under Article 506 in case that the Bureau has paid compensations for damages in accordance with the international treaties to which it is a party.

(2) The Guarantee Fund shall also reimburse amounts from the Fund for Uninsured Motor Vehicles to the Bureau under Article 506 where in accordance with international treaties to which the Bureau is a party, it has paid the inherent cost of the processing of claims related to the road accidents under Paragraph 1, for which no compensation has been paid.

(3) The Guarantee Fund shall reimburse the amounts under Paragraph 1 or 2 within 15 days of receipt of a written request from the Bureau under Article 506. After the amounts are reimbursed, the Bureau shall provide the Guarantee Fund with documents available to it in relation to the amounts paid by it.

Compulsory liability insurance of motorists in connection with motor vehicles subject of special arrangements

Article 562. (1) Motor vehicles subject of special arrangements shall be the motor vehicles owned by the State, in the possession of the Ministry of Defence, the Ministry of Interior, State Agency "National Security", State Agency "Technical Operations" and other institutions, the data on which constitutes classified information under the applicable law.

(2) Each institution the motor vehicles of which are subject to special arrangements shall insure all of its vehicles with one insurer within the relevant insurance period. The insurer shall make the contribution under Article 554, point 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 the motor vehicle of which are insured and the registration number and/or VIN number of the insured motor vehicles.

(4) In connection with the reporting under Paragraph 3, the Guarantee Fund shall develop the necessary organisation and conditions for protection of the classified information and for compliance with the requirements of the Protection of Classified Information Act.

(5) Upon disclosure of information on motor vehicles subject of special arrangements to third parties, including a check for concluded liability insurance of motorists on the Internet page of the Guarantee Fund, these vehicles shall be indicated as uninsured, unless the respective institution under Paragraph 1 has instructed the Guarantee Fund otherwise. A claim for damages caused by motor vehicles subject of special arrangements shall be filed with the Guarantee Fund, unless the respective institution under Paragraph 1 has instructed the Guarantee Fund otherwise. Where the claim is settled by the Guarantee Fund, it shall be entitled to a reimbursement from the insurer of the full amount of the payment, together with the default interest from the date of the written request.

Chapter LII
COMPENSATION FUND

Funding of the Compensation Fund

Article 563. (1) The resources of the Compensation Fund under Article 521, Paragraph 1, point 2 shall be raised through:

1. annual contributions of the insurers, determined following the procedure set out in this Code;

2. income from investment of the resources of the Compensation Fund;

3. the amounts received by the Compensation Fund from the property of the bankrupt insurer in case of subrogation of the Guarantee Fund;

4. income from recourse claims;

5. other sources not prohibited by law.

(2) Each insurer under Article 520, Paragraph 1 shall make an annual contribution to the Compensation Fund in the amount determined by the Commission at the proposal of the Council of the Fund, which amount shall not be less than:

1. for each person insured under any contract for risk insurance in Section I of Annex No 1, providing coverage in the respective year – BGN 0.70;

2. for each person insured under all other contracts for insurance under Section I of Annex No 1, providing coverage in the respective year – BGN 1.00, but not more than 2 % of the annual premium due;

3. for each motor vehicle in relation to which insurance under point 10.1, Section II, letter "A" of Annex No 1 is concluded for the respective year – BGN 1.50;

4. for each seat, excluding the driver's seat, for which compulsory accident insurance of passengers has been concluded for the respective year – BGN 0.20.

(3) The insurers, including the branches of insurers from a third country, shall transfer the due annual contribution by 31 May of the year following the year to which the contribution is related.

(4) In case of non-payment of the contribution within the indicated term, interest shall be charged for the period of delay on the amount due, at the statutory rate.

(5) The contribution in connection with insurance under point 10.1, Section II, letter "A" of Annex No 1 shall be paid by the policy holder together with the insurance premium or the first instalment thereof and shall be indicated on a separate line in the insurance policy. The contribution in connection with the other types of insurance under Paragraph 2 shall be paid by the policy holder together with the insurance premium or the annual instalment thereof and shall be indicated on a separate line in the insurance policy.

Persons guaranteed by the Compensation Fund

Article 564. (1) The Guarantee Fund shall guarantee the claims of all persons under the insurance specified in Article 565, Paragraph 2.

(2) In case of transfer of a portfolio of contracts under Section I of Annex No 1 by the conservators of an insurer following the procedure set out under Article 599, Paragraph 2, the Commission may, by a decision, require the Guarantee Fund to finance a shortage of resources to cover the technical provisions of the insurer up to the guaranteed amount under Article 565, Paragraph 2.

Claims to a bankrupt insurer guaranteed by the Compensation Fund

Article 565. (1) Under the terms of this Code, the claims of the persons under Article 564, Paragraph 1 shall be guaranteed in case of the bankruptcy of:

1. an insurer having its head office in the Republic of Bulgaria;

2. a branch of a third-country insurer registered in the Republic of Bulgaria only for the business pursued by the branch in the country.

(2) All insurance claims under Paragraph 1 of the persons under Article 564 arising from an insurance contract for compulsory liability insurance of motorists, compulsory accident insurance of passengers and insurance under Section I of Annex No 1 shall be guaranteed as follows:

1. under compulsory liability insurance of motorists, compulsory accident insurance of passengers – in full, up to the minimum compulsory insured amount established by this Code;

2. under the types of insurance under Section I of Annex No 1 of one person with one insurer, regardless of the number of the claims of the authorised person and their amount – up to BGN 196,000.

(3) Claims for default interest of the insurer under insurance claims due shall not be guaranteed.

(4) For the purposes of paragraph 2, insurance claims are the claims within the meaning of Article 602, Paragraph 3.

(5) In the case of payment by the Bureau under Article 506 in lieu of a bankrupt insurer Article 565, Paragraph 1 to the benefit for persons under Paragraph 2 for events occurring outside the territory of the Republic of Bulgaria, the Bureau shall be entitled to a claim against the Guarantee Fund under the terms and following the procedures set out in this Part.

Exceptions

Article 566. (1) In the event of a bankruptcy of an insurer, no guaranteed insurance claims shall be paid under Article 565, Paragraph 2 to:

1. persons holding shares entitling them to 1 % or more than 1 % of the votes in the general meeting of the insurer;

2. the members of the management and controlling bodies of the insurer, the manager of the branch of an insurer from a third country registered in the Republic of Bulgaria, as well as other persons who were authorised to manage or represent the insurer or the branch of an insurer from a third country registered in the Republic of Bulgaria;

3. the head and employees of the compliance function, the internal audit function of the insurer and of the registered auditors selected following the established statutory procedure to certify the annual statements of the insurer;

4. persons that are related parties to the insurer, persons that participate in the insurer and persons that are related parties to persons participating in the insurer, as well as persons under points 1 to 3 in such persons;

5. persons that are responsible for the insolvency of the insurer or have benefited from it;

6. spouses, relative in a direct or collateral line to the second degree of consanguinity inclusive, of natural persons under points 1 to 5.

(2) No guarantee shall be provided in connection with insurance claims arising from or related to transactions and activities constituting money laundering within the meaning of Article 2 of the Measures against Money Laundering Act and terrorism financing within the meaning of the Measures against Terrorism Financing Act, if the perpetrator has been convicted with a final judgement.

(3) The circumstances justifying the exceptions under Paragraphs 1 and 2 shall be established as of the date of the Commission's decision to withdraw the authorisation for the pursuit of the business of insurance.

Functions of the Guarantee Fund in connection with the Compensation Fund

Article 567. The Guarantee Fund, under the terms and following the procedure set out in this Chapter, shall:

1. collect the annual contributions from the insurers;

2. pay the guaranteed amount of the insurance claims;

3. pay the costs related to bankruptcy proceedings against an insurer;

4. purchase reinsurance coverage at the international market against its obligations in case of bankruptcy of insurers in accordance with criteria set by a decision of the Commission.

Terms and procedure for payment of benefits under guaranteed insurance claims

Article 568. (1) The obligations of the respective insurer to beneficiaries of insurance services under Article 564 shall be covered with the resources of the Compensation Fund, after the entry into force of the decision declaring the bankruptcy of the insurer.

(2) The guaranteed funds shall be paid by the Compensation Fund by bank transfer.

(3) Within 15 days of approval of the list of accepted claims, the Guarantee Fund shall disclose in at least two national daily newspapers the date from which authorised beneficiaries of insurance services can receive benefits from the Compensation Fund, as well as the bank through which these benefits will be paid.

(4) The payment of benefits from the Compensation Fund under undisputed insurance claims shall begin not later than 45 days from the date of the publication under Paragraph 3. For subsequent additionally lodged and accepted claims approved by court, the term under sentence 1 shall be 15 days.

(5) Where the guaranteed claim is denominated in foreign currency, the beneficiary of insurance services shall be paid the BGN equivalent of the guaranteed amount of the claim at the exchange rate of the Bulgarian National Bank on the starting day of payment of the guarantee under the claims.

(6) The amount of the obligations of the respective insurer to beneficiaries of insurance services shall be reduced by the amount of the benefits paid.

(7) The beneficiaries of insurance services shall obtain satisfaction for their claims above the amounts received from the Compensation Fund from the property of the insurer in accordance with this Code.

Subrogation

Article 569. (1) From the date of publication of the final list of accepted claims, the Guarantee Fund shall subrogate to the rights of beneficiaries of insurance services against the insurer up to the guaranteed amounts, regardless of the date on which the Guarantee Fund has made paid benefits to each of the beneficiaries of insurance services.

(2) The Guarantee Fund shall not pay interest on the guaranteed amounts.

Restriction of advertising

Article 570. The insurers covered by the system for guarantee of insurance claims shall not advertise guarantees of insurance claims in amounts exceeding those set out in this Part.

Chapter LIII

INFORMATION CENTRE OF THE GUARANTEE FUND

Information Centre

Article 571. (1) The Guarantee Fund shall develop and maintain an Information Centre where it shall keep electronic registers of:

1. the insurance policies under point 10.1, Section II, letter "A" of Annex No 1, for green card certificates, for contracts for insurance at the border, as well as for insurance policies for compulsory accident insurance of passengers of public transport vehicles;

2. the filed and paid claims under the types of insurance referred to in points 3 and 10.1, Section II, letter "A" of Annex No 1, filed against insurers having their head office in the Republic of Bulgaria and against insurers from third countries operating through a branch in the Republic of Bulgaria, as well as the filed and paid claims for the types of insurance referred to in point 10.1, Section II, letter "A" of Annex No 1 filed against insurers operating in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services;

3. motor vehicles habitually located in the territory of the Republic of Bulgaria;

4. insurers offering insurance under point 10.1, of Section II, letter "A" of Annex No 1, including those operating in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services;

5. the claims representatives of:

a) insurers offering compulsory liability insurance of motorists appointed for the Republic of Bulgaria by insurers with a head office in a Member State;

b) insurers with a head office in the Republic of Bulgaria, appointed in the Member States;

6. carriers authorised for public transport of passengers or goods;

7. insurers offering compulsory accident insurance of passengers in the Republic of Bulgaria, including those operating under the right of establishment or the freedom to provide services;

8. motor vehicles in each Member State which are exempt from the obligation to conclude a compulsory liability insurance of motorists, as well as the authorities authorised to pay benefits to persons suffering damages due to such vehicles; the information under this point shall be collected following the procedure set out in Article 572, Paragraph 4;

9. road accidents and participants therein.

(2) The term for storage of the information under Paragraph 1 shall be 50 years.

(3) Access to the data of the Information Centre shall be registered. All requests for access and transactions for provision of data stored in the Information Centre shall be registered in an automated log containing the following required elements:

1. identification of the applicant or recipient;

2. qualified time stamp of the transaction for requesting or provision of data;

3. scope of the requested or received data;

4. status of the transaction (completed or cancelled).

(4) The content, scope and format of the data under Paragraph 1, the procedure for their collection, processing, storage and protection and the terms and procedure for registration and provision of access to them shall be determined by a joint ordinance of the Commission, the Minister of Interior and the Minister of Transport, Information Technology and Communications, whereby the opinion of the Guarantee Fund shall also be taken into account upon elaboration of the ordinance.

(5) The Guarantee Fund shall provide information under Paragraph 1 in connection with the insured event of the entitled persons under the terms and following the procedure specified by this Code and the ordinance under Paragraph 4

(6) The insurers and the Bureau under Article 506 shall have right of access to the information held by the Guarantee Fund under the terms and following the procedure specified by the ordinance under Paragraph 4.

(7) The Commission, the Ministry of Interior and Executive Agency "Automobile Administration" shall be entitled to full and free access to the information held by the Guarantee Fund under the terms and following the procedure specified by the ordinance under Paragraph 4.

(8) The Information Centre of the Guarantee Fund shall comply with the Protection of Personal Data Act then it processes personal data.

Disclosure of information

Article 572. (1) The Guarantee Fund shall provide the damaged parties and to all persons involved in a road accident caused by a motor vehicle in connection with which liability insurance of motorists is concluded with the following information:

1. the company name and the address of the head office the insurer;

2. the number of the insurance contract;

3. the name and address, respectively the company name and address of the head office of the claims representative in the Member State of residence of the damaged party.

(2) The Guarantee Fund shall also provide information on the identity and address of the owner, habitual driver or registered holder of the motor vehicle according to its registration documents where the damaged party has a legitimate interest in their receipt.

(3) The Guarantee Fund shall provide the damaged party, in respect of the party's right to receive benefits under accident insurance of passengers, with name and address of the head office of the insurer and the number of concluded insurance contract, as well as information on the company name and address of the head office of the carrier, where the injured party has a legitimate interest in their receipt.

(4) For the purposes of the Information Centre in connection with the provision of the information under Paragraph 1 on insurance contracts concluded outside the Republic of Bulgaria or in connection with motor vehicles habitually located outside the Republic of Bulgaria, the Guarantee Fund shall require the necessary data from the information centres in the Member States. At the request of the information centres in the Member States, the Guarantee Fund, through the Information Centre, shall be obliged to provide information from the register.

(5) Where the Information Centre of the Guarantee Fund does not have information on the identity or address of the persons under Paragraph 2, respectively the company name or address of the head office of the persons under Paragraph 3, it shall obtain it on the basis of a written

request from the insurer that has concluded the respective insurance contract, or from the competent state authority that keeps the registers of the owners of motor vehicles or of the carriers or from any other authority that has the relevant data.

(6) In order to be provided with the information under Paragraphs 1, 2 or 3, the damaged party shall stated in the request the exact date and place of occurrence of the insured event and the registration number of the motor vehicle, as well as other information needed to identify it, if known to the party.

(7) The Guarantee Fund shall provide the information under this Article that it has available not later than three days after receipt of a written request from the damaged party. Regarding the information under Paragraph 5, the term may be extended; however it cannot be longer than 15 days after receipt of the written request from the damaged party. The information shall be provided free of charge.

(8) The right of access to the information of the entitled 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 to the information centres of the Member States data on the claims representatives of the insurers under Article 571, Paragraph 1, point 5, letter "b". The Guarantee Fund, through the Information Centre, shall require from the information centres of the Member States data on the claims representatives of the insurers under Article 571, Paragraph 1, point 5, letter "a".

Provision of information to the Guarantee Fund for the purposes of the Information Centre

Article 573. The information under Article 571, Paragraph 1 shall be provided as follows:

1. under point 1 – by insurers with a head office in the Republic of Bulgaria – on all insurance contracts concluded under the insurance, including on their operations under the right of establishment or the freedom to provide services, and by insurers operating in the territory of the Republic Bulgaria under the right of establishment or the freedom to provide services, as well as by insurers from third countries operating through a branch registered in the Republic of Bulgaria – on the business of the branch in the country;

2. under point 2 – on the filed and paid claims under point 10.1, Section II, letter "A" of Annex No 1, by insurers with a head office in the Republic of Bulgaria – on all insurance contracts concluded under the insurance, including on their operations under the right of establishment or the freedom to provide services, and by insurers from Member States operating in the country under the right of establishment or the freedom to provide services, as well as by insurers from third countries operating through a branch registered in the Republic of Bulgaria – on the business of the branch in the country;

3. under point 2 – on the filed and paid claims under point 3 of Section II, letter "A" of Annex No 1, by insurers with a head office in the Republic of Bulgaria – on all insurance contracts concluded under the insurance, including on their operations under the right of establishment or the freedom to provide services, as well as by insurers from third countries operating through a branch registered in the Republic of Bulgaria – on the business of the branch in the country;

4. under point 3 – by the Ministry of Interior;

5. under points 4 and 7 – by the Commission;

6. under point 5, letter "a" and point 8 – by the information centres of the other Member States in accordance with Article 572;

7. under point 5, letter "b" – by insurers with a head office in the Republic of Bulgaria, as well as insurers from third countries operating through a branch registered in the Republic of Bulgaria;

8. under point 6 – by Executive Agency "Automobile Administration";

9. under point 9 – by the Ministry of Interior and by insurers with a head office in the Republic of Bulgaria and insurers from third countries operating through a branch registered in the Republic of Bulgaria, as well as insurers concluding in the territory of the Republic of Bulgaria, under the right of establishment or the freedom to provide services, insurance under point10.1, Section II, letter "A" of Annex No 1 – for road accidents with a motor vehicle insured by them which is habitually located in the territory of the Republic of Bulgaria.

Exchange of information and interactions 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 motor vehicles in the Republic of Bulgaria;

2. exercise control under the Road Traffic Act;

3. exercise control over persons performing periodic roadworthiness inspections of road vehicles;

4. exercise control over the public transport of passengers and cargo.

(2) The information to be exchanged between the Information Centre and the state authorities under Paragraph 1 shall be processed and stored for the following needs:

1. automatic entry in registers kept under Article 571 with data from primary data administrators;

2. automated comparison and validation of data provided to the Information Centre by entities other than the authorities under Paragraph 1 with data, provided by the primary data administrators;

3. implementation of the functions of the Bureau under Article 514;

4. implementation of the functions of the Guarantee Fund under Paragraph 10, Article 519, points 4 and 6, Article 572 and Article 575, Paragraph 4;

5. prevention and investigation of crimes by the competent state authorities.

(3) The Ministry of Interior shall provide to the Information Centre data on:

1. motor vehicles registered in the Republic of Bulgaria, with information on:

a) registration number;

b) type of registration – permanent, temporary, transit;

c) term of validity of the registration;

d) identification number of the vehicle – VIN number (chassis number);

e) brand (model), type of motor vehicle, colour, mass;

f) type of engine, engine volume, number of engine, maximum engine capacity;

g) number of seats;

h) date of first registration;

i) name/company name, personal number/personal foreigner's number/unified identification code/court registration and address/registered address of the owner of the motor vehicle according to the registration certificate;

k) name/company name, personal number/personal foreigner's number/unified identification code/court registration and address/registered address of the user of the motor vehicle according to the registration certificate;

l) date the motor vehicle is taken off the road;

m) date of termination of the registration of the motor vehicle;

n) date of deregistration of the motor vehicle;

o) restrictions imposed by competent state authorities or judicial authorities;

2. temporary registration plates provided to traders performing import and sale of motor vehicles with information on:

a) registration number;

b) term of validity of the registration number;

c) name/company name, personal number/personal foreigner's number/unified identification code/court registration and address/registered address of the trader;

d) date of return of the plate;

e) date of termination of registration;

3. data under the terms and following the procedure of the ordinance under Article 125a, Paragraph 2 of the Road Traffic Act regarding registered rad accidents and participants in them, including information on the insurance according to the documents presented by drivers of motor vehicles.

(4) Executive Agency "Automobile Administration" shall provides to the Information Centre data on:

1. registered public carriers of passengers and cargo, with information on:

a) UIC and name of the carrier;

b) registered address and other contact addresses of the carrier;

c) date of registration of the carrier;

d) date of termination of registration of the carrier;

2. the date of the periodic roadworthiness inspection of the motor vehicles.

(5) The Information Centre shall provides the Ministry of Interior with data under the terms and following the procedure set out in the ordinance under Article125a, Paragraph 2 of the Road Traffic Act on caused road accidents and participants in them that are documented with bilateral certificates and notified to the Centre as of the end of the previous business day.

(6) The Information Centre shall provide the Ministry of Interior with data on current and terminated insurance contracts for compulsory liability insurance of motorists.

(7) The Information Centre shall provide Executive Agency "Automobile Administration" with data on current and terminated insurance contracts for compulsory accident insurance of passengers and on current and terminated insurance contracts for compulsory liability insurance of motorists.

(8) (Effective on 1 July 2016 – SG, issue 102/2015) The exchange of the data under Paragraphs 3 to 7 shall be made electronically in real time through automated interfaces between the information systems of the authorities under Paragraph 1, subject to the rules for interoperability and information security.

(9) The conditions, procedures and manners of exchange of information, data formats and classifiers used, as well as the interaction between the Information Centre, the state authorities and other legitimate stakeholders shall be defined in the ordinance under Article 571, Paragraph 4.

(10) The Information Centre shall notify the owners of motor vehicles for which no contract for compulsory liability insurance of motorists has been concluded or the concluded insurance contract has been terminated and not renewed, and shall set a term of 14 days from the date of the notification for them to submit evidence for the existence of a concluded and valid insurance contract for this insurance.

(11) The competent authorities under Paragraph 1 shall take measures to take off the road motor vehicles or vehicles for public transport of passengers and/or to impose appropriate administrative penalties where a compulsory insurance has not been concluded. Where within the term under Paragraph 10 no evidence has been provided for a concluded contract for compulsory liability insurance of motorists, the Guarantee Fund shall inform the authority under Paragraph 1, point 1 to terminate the registration of the motor vehicle.

(12) The data of the Information Centre – until proven otherwise, shall certify the insurer, the number of the contract for compulsory liability insurance of motorists or accident insurance of passengers, the starting and ending date of the coverage, the registration number and the VIN (chassis) number of the motor vehicle.

Information system

Article 575. (1) The Guarantee Fund shall develop and maintain an electronic information system for the purpose of Article 571 and for risk assessment, management and control, including for issuance of policies and provision of electronic administrative services.

(2) The development and maintenance of the information system under Paragraph 1 shall be based on the following principles:

1. ensuring the timeliness and accuracy of filed and stored data;

2. ensuring a suitable environment for exchange of data;

3. ensuring regulated and controlled access to the data in the electronic information system in compliance with the law;

4. ensuring interoperability and information security.

(3) The collection and storage of the information under Paragraph 1 and the insurers' access to it shall be regulated by the ordinance under Article 571, Paragraph 4 and by the rules of the Guarantee Fund.

(4) The information system under Paragraph 1 shall include data on potential adjustments of the insurance premium depending on the driver's behaviour on the roads and/or the damages caused (bonus-malus system).

(5) The information system shall support an automated interface for provision of information for re-use in machine-readable format, conforming to an official open standard, following a procedure set out in a law.

PART VI
INSURANCE SUPERVISION
Chapter LIV
ON-GOING SUPERVISION

Scope of on-going supervision

Article 576. (1) The on-going supervision on insurers and reinsurers with a head office in the Republic of Bulgaria shall be carried out by the Commission and the Deputy Chairperson – over their entire business pursued in the territory of the Republic of Bulgaria. Supervision of the financial position under Article 578 shall also be carried out by the Commission and the Deputy Chairperson regarding their business pursued in the territory of the Member States under the right of establishment or the freedom to provide services.

(2) The on-going supervision of insurers from Member States operating in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services shall be carried out by the Commission, respectively by the Deputy Chairperson, regarding their business in the territory of the Republic of Bulgaria, except for supervision of their financial situation within the meaning of Article 578, which shall be carried out by the competent authorities of their home Member State.

(3) The on-going supervision on insurers from a third country operating in the territory of the Republic of Bulgaria through a branch shall be carried out by the Commission, respectively the Deputy Chairperson, over the entire business pursued by the branch in the country. Where under the conditions of Article 62, Paragraph 3 competent supervisory authorities under this Code have been selected, on-going supervision shall be carried out in accordance with Paragraph 1, and where the authorities of another Member State have been selected, on-going supervision shall be carried out in accordance with Paragraph 2.

(4) The Deputy Chairperson shall exercise on-going supervision over the entire business of insurance intermediaries residing or domiciled in the Republic of Bulgaria, ensure continued compliance with the conditions for their pursuit of business and take the measures under this Code to remedy established breaches.

General principles of supervision

Article 577. (1) The supervision of the insurers under Article 576, Paragraphs 1 and 3 shall be based on a current assessment of the risks to which they are exposed and shall take a long-term view. The Commission and the Deputy Chairperson shall exercise on-going supervision

over the business of the insurers and reinsurers and, where applicable, insurance holding companies and mixed-activity insurance holding companies, in order to determine whether their business is carried out in a reliable and secure manner and whether the requirements of this Code, its implementing instruments and the instruments of the European Commission implementing Directive 2009/138/EC are met.

(2) Insurance supervision shall include an appropriate combination of off-site activities and on-site inspections.

(3) The legal framework under Paragraph 1 shall be applied in a manner consistent with the nature, scale and complexity of the risk inherent in the business of the respective insurer or reinsurer.

(4) The Commission and the Deputy Chairperson shall supervise the distribution of insurance products and the settlement of insurance claims regarding their compliance with the requirements of this Code and other applicable instruments of the competent authorities of the European Union in this area.

Supervision of financial position

Article 578. (1) The supervision of financial position shall include control of the entire business of the insurer or reinsurer, of its solvency, of the establishment of technical provisions, assets used to cover them and eligible own funds in accordance with the provisions of Part II, Title III and Title IV.

(2) The supervision under Paragraph 1 shall include supervision of the technical resources for provision of immediate travel assistance by insurers authorised under point 18, Section II, letter "A" of Annex No 1. Upon inspection of the technical resources under sentence 1, the Minister of Transport, Information Technology and Communications, the Minister of Health and other competent authorities shall be obliged to provide support to the Commission and the Deputy Chairperson.

(3) In exercising supervision under Paragraph 1, the Commission, after having informed the competent authority of the Member State of the branch in advance, may carry out on-site inspections independently or jointly with that authority.

(4) In order to exercise its powers under the national legislation, a competent authority of a Member State may, having notified the Commission in advance thereof, perform on-site inspections in branches registered in the territory of the Republic of Bulgaria of insurers or reinsurers having their head office in that Member State. The Commission may send a representative to participate in the inspection.

(5) Where the Commission is unable in practice to carrying out the inspection under Paragraph 3, it may request the assistance of the European Authority following the procedure set out in Article 19, Paragraphs 1 to 3 and paragraph 6 of Regulation (EU) No 1094/2010.

(6) The European Authority shall have the right to participate in inspections carried out jointly by the Commission and the competent authorities of another Member State.

Powers of the competent authorities

Article 579. (1) In the exercise of on-going supervision Articled 18 and 19 of the Financial Supervision Commission Act shall apply.

(2) Insurers and reinsurers domiciled in a Member State shall submit to the Commission and the Deputy Chairperson the documents and information required for the supervision under Article 576, Paragraph 2.

(3) The Commission and the Deputy Chairperson shall published the annual and periodic financial statements of the insurers and reinsurers, the imposed coercive administrative measures, where it is provided for in this Code or in the directly applicable law of the European Union, and the imposed administrative penalties under the terms and following the procedure set out in the ordinance under Article 30, Paragraph 2 of the Financial Supervision Commission Act.

(4) The Deputy Chairperson may not prohibit the conclusion of a reinsurance contract or a retrocession contract with a reinsurer authorised under this Code or with a reinsurer from another Member State, respectively with an insurer authorised under this Code or with an insurer from another Member State, on grounds directly related to the financial stability of the reinsurer, respectively insurer.

Notices

Article 580. In cases where the Commission considers that the activities of an insurer, respectively reinsurer, domiciled in another Member State, covering risks in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services, jeopardise its financial stability, the Commission shall notify the competent authority of the home Member State of the insurer thereof.

Disclosure of information concerning insurance supervision and provision of information to the European Authority

Article 581. (1) The Commission shall disclose the following information in relation to insurance supervision:

1. the laws, regulations and administrative rules in the field of insurance regulation;

2. the general criteria and methods, including the tools developed in accordance with Article 583, used in the supervisory review process;

3. aggregate statistical data on key aspects of the application of the prudential framework, established by an instrument of the European Commission;

4. the manner of exercise of the options provided for in Directive 2009/138/EC;

5. the objectives of the supervision and its main functions and activities.

(2) The disclosure provided for in Paragraph 1 shall be sufficient to enable a comparison of the supervisory approaches adopted by the supervisory authorities of the different Member States.

(3) The disclosure shall be made in a format specified by an instrument of the European Commission and the information shall be updated in a timely manner. The information referred to in Paragraph 1 shall be published on the Internet page of the Commission.

(4) The Commission shall submit to the Authority the information under Article 52, paragraph 1 of Directive 2009/138/EC.

(5) The Commission shall notify the European Commission and the European Authority of number and type of the cases of:

1. refusal of local insurers to send a notification of pursuing business under the right of establishment or the freedom to provide services in another Member State;

2. coercive measures or administrative penalties imposed on insurers from other Member States pursuing business the country under the right of establishment or the freedom to provide services.

Supervisory review process

Article 582. (1) The Deputy Chairperson shall review and evaluate the strategies, processes and reporting procedures established by the insurer or reinsurer in order to ensure compliance with this Code, its implementing instruments and the instruments of the European Commission implementing Directive 2009/138/EC (supervisory review process).

(2) The supervisory review process include:

1. assessment of the qualitative requirements relating to the system of governance of the insurer or reinsurer, and

2. assessment of the risks to which the respective person is exposed or may be exposed, and

3. assessment of the ability of the insurer or reinsurer to assess the risks under point 2, taking into account the circumstances under which it operates.

(3) The Deputy Chairperson shall perform supervisory reviews of the compliance with the requirements to:

1. the system of governance, including the own-risk and solvency assessment;

2. the technical provisions;

3. the Solvency Capital Requirement, respectively solvency margin, and the Minimum Capital Requirement, respectively the minimum capital guarantee;

4. the investment rules;

5. the quality and quantity of own funds;

6. the full or partial internal model, including whether those requirements are fulfilled on an on-going basis where the insurer or reinsurer uses such a model.

(4) The Commission and the Deputy Chairperson shall develop and implement appropriate monitoring tools and methods that enable them to identify deteriorating financial conditions in an insurer or reinsurer and to monitor how that deterioration is remedied.

(5) The Deputy Chairperson shall assess the adequacy of the methods and practices of the insurer, respectively reinsurer, designed to identify possible future events or future changes in economic conditions that could have adverse effects on the overall financial standing of the person concerned.

(6) The Deputy Chairperson shall assess the ability of the insurer or reinsurer to withstand those possible events or future changes in economic conditions.

(7) Where the supervisory review process establishes weaknesses or deficiencies, the Deputy Chairperson shall require the relevant insurer or reinsurer to remedy them in the timeframe set out in this Code or set by the competent authority time and to take all measures set out in this Code and necessary to achieve this result.

(8) The supervisory review process under Paragraphs 1 to 4 and 6 shall be carried out on a regular basis.

(9) The Deputy Chairperson shall set the minimum frequency and scope of the supervisory review process, taking into account the nature, scale and complexity of the activities of the relevant insurer or reinsurer.

Additional tools for quantitative assessment

Article 583. (1) Within the supervisory review process and in addition to the calculation of the Solvency Capital Requirement, the Deputy Chairperson shall have the power to develop, where appropriate, necessary quantitative tools to assess the ability of the insurers or reinsurers to cope with possible events or future changes in economic conditions that could have unfavourable effects on their overall financial standing.

(2) At the proposal of the Deputy Chairperson, the Commission may require that regular stress-tests are performed by the insurers and reinsurers.

Capital add-on

Article 584. (1) Following the supervisory review process, at the proposal of the Deputy Chairperson, the Commission may in exceptional circumstances set a capital add-on for an insurer or reinsurer by a decision stating the reasons.

1. where the Deputy Chairperson concludes that the risk profile of the insurer or reinsurer deviates significantly from the assumptions underlying the Solvency Capital Requirement, as calculated using the standard formula and:

(a) the requirement to use an internal model under Article 190 is inappropriate or has been ineffective; or

(b) while a partial or full internal model is being developed in accordance with Article 190;

2. where the Deputy Chairperson concludes that the risk profile of the insurer or reinsurer deviates significantly from the assumptions underlying the Solvency Capital Requirement, as calculated using an internal model or partial internal model, because certain quantifiable risks are captured insufficiently and the adaptation of the model to better reflect the given risk profile has failed within an appropriate timeframe;

3. where the Deputy Chairperson concludes that the system of governance of the insurer or reinsurer deviates significantly from the standards laid down in Articles 76 to 79 and Articles 86 to 100 and that those deviations prevent it from being able to properly identify, measure, monitor, manage and report the risks that it is or could be exposed to and that the application of other measures is in itself unlikely to improve the deficiencies sufficiently within an appropriate timeframe;

4. where an insurer or reinsurer applies the matching adjustment or the transitional measures, the Commission concludes that its risk profile deviates significantly from the assumptions underlying those adjustments and transitional measures.

(2) In the cases under Paragraph 1, points 1 and 2, the capital add-on shall be calculated in such a manner that the person will comply with the requirements under Article 170, Paragraph 3. In the circumstances set out in Paragraph 1, point 3 the capital add-on shall be proportionate to the material risks arising from the deficiencies which gave rise to the decision to set the add-on. In the circumstances set out in Paragraph 1, point 4 the capital add-on shall be proportionate to the material risks arising from the established deficiencies.

(3) In the cases under Paragraph 1, points 2 and 3, the Commission and the Deputy Chairperson shall take all measures against the insurer or reinsurer to remedy the circumstances that have led to the imposition of a capital add-on.

(4) The Commission shall review the capital add-on at least once a year and shall cancel it when the insurer or reinsurer has remedied the circumstances leading to its imposition.

(5) The Solvency Capital Requirement including the capital add-on imposed shall replace the inadequate Solvency Capital Requirement. For the purposes of the calculation of the risk, where it is calculated separately, the Solvency Capital Requirement shall be taken into account without the capital add-on imposed under Paragraph1, point 3.

(6) The additional conditions and procedures for the imposition and cancellation of the capital add-on and the methodologies for its calculation shall be determined by an instrument of the European Commission.

Exchange of information with competent authorities

Article 585. (1) The Commission and the Deputy Chairperson shall take into account the opinion of the competent authorities carrying out insurance supervision in another Member State prior to granting authorisation to an insurer or reinsurer:

1. the parent company of which is an insurer or reinsurer authorised in that Member State;

2. the parent company of which has a subsidiary that is an insurer or reinsurer authorised in that Member State;

3. which is controlled by another natural or legal person exercising control over an insurer or reinsurer authorised in that Member State.

(2) The Commission and the Deputy Chairperson shall take into account the opinion of the Bulgarian National Bank and the authorities carrying out banking supervision in another Member State prior to granting authorisation to an insurer or reinsurer:

1. the parent undertaking of which is a credit institution authorised in the Republic of Bulgaria or in the other Member State;

2. the parent company of which has a subsidiary which is a credit institution authorised in the Republic of Bulgaria or in the other Member State, or

3. which is controlled by another legal or natural person exercising control over a credit institution authorised in the Republic of Bulgaria or in the other Member State.

(3) The Commission and the Deputy Chairperson shall take into account the opinion of the competent authorities carrying out supervision of the investment intermediaries in the Member States prior to granting authorisation to an insurer or reinsurer:

1. the parent undertaking of which is an investment intermediary authorised in the other Member State;

2. the parent undertaking of which has a subsidiary that is an investment intermediary authorised in the other Member State, or

3. which it is controlled by another natural or legal person exercising control over an investment intermediary authorised in the other Member State.

(4) The Commission and the Deputy Chairperson shall, upon request of the competent authorities under Paragraphs 1 to 3, provide their opinion in cases where an insurer or reinsurer with a head office in the Republic of Bulgaria, or a natural or legal person controlling an insurer or reinsurer with a head office in the Republic of Bulgaria, exercises control over an insurer, bank or investment intermediary, subject to the supervision of these authorities.

(5) Exchange of information under Paragraphs 1 to 3 shall be carried out when assessing the suitability of shareholders and the qualifications and good repute of the members of the management and controlling bodies, the other persons that manage or represent the insurer or reinsurer, or carry out key functions and that are associated with the management of another undertaking within the group. That information shall be provided both for the purpose of proceedings related to the granting of authorisation or the acquisition of a qualified holding, and in connection with the on-going supervision carried out over the activities of such companies.

(6) Where an insurer or reinsurer with a head office in the Republic of Bulgaria is directly or indirectly connected with an insurer or reinsurer domiciled in a Member State or those insurers or reinsurers have a common participating undertaking, the Commission and Deputy Chairperson shall exchange with the competent authorities of such Member State any information which is relevant to the supervision of the insurers and reinsurers that are part of the group. The information shall be provided at the request of the interested party, as well as *ex-officio* where it is considered that the information is essential to the relevant supervisory authority.

(7) The Commission and Deputy Chairperson shall also exchange with the competent authorities carrying out insurance supervision in the Member States other documents and information for the needs of the supervision of insurers and reinsurers.

(8) The Commission and Deputy Chairperson shall exchange with competent authorities of the other Member States all information necessary for the supervision of the activities of the insurance intermediaries.

Supervision of general terms and conditions

Article 586. Insurers with a head office in the Republic of Bulgaria, branches of insurers from third country registered in the Republic of Bulgaria and insurers from other Member States operating in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services shall be required by order of the Deputy Chairperson to submit their general terms and conditions of insurance. The Deputy Chairperson shall require their amendment where deviations from the statutory provisions are established.

Chapter LV
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 where it is established that an insurer, reinsurer, its employees, any of the persons under Article 80, persons that conclude transactions for the account of the insurer or reinsurer, shareholders or association members holding directly, together with or through related

persons 10 % or more than 10 % of the voting rights in the general meeting or of the capital of an insurer or reinsurer, have committed action or allowed inactions which could lead or have led to:

1. breach of the provisions of this Code, of its implementing instruments, of the directly applicable law of the European Union, of acts of the Commission or the Deputy Chairperson or of the policies of the insurer or reinsurer under Article 77;

2. obstructing the exercise of insurance supervision;

3. endangering the financial or organisational stability of an insurer or reinsurer;

4. endangering the interests of the beneficiaries of insurance services.

(2) In the cases under Paragraph 1, the Deputy Chairperson may impose the following coercive administrative measures:

1. require in writing that specific measures are taken to prevent or discontinue the breaches committed or remedy their harmful consequences;

2. require that action is taken to achieve compliance with the prudent person principle;

3. under an agenda determined by it, convene a general meeting of the shareholders, respectively association members, or schedule a meeting of the management or controlling bodies to take a decision on the measures to be taken;

4. send representatives of the Commission to the sessions of the general meeting of the shareholders, respectively association members, of the management and controlling bodies;

5. oblige an insurer offering the compulsory insurance to conclude a contract with a person to whom it has refused the conclusion of a contract;

6. impose additional requirements to the insurer or reinsurer in relation to reporting;

7. oblige the insurer or reinsurer to dismiss the manager of one or more key functions, persons holding managerial positions and/or to revoke the powers of persons concluding transactions for the account of the insurer or reinsurer;

8. require that the insurer or reinsurer terminate a contract under Article 111, Paragraph 5.

(3) In the cases under Paragraph 1, the Commission, at the proposal of the Deputy Chairperson, may:

1. require in writing that the insurer or reinsurer take the necessary action to dismiss one or more persons authorised to manage or represent it, or one or more persons under Article 80, as well as the audit company;

2. require in writing that a shareholder transfer the shares held by the shareholder within a specified term;

3. restrict or prohibit the free disposal of assets in cases of a breach under Article 123 or under other provisions related to the establishment of technical provisions, in case of established non-compliance with the Minimum Capital Requirement, respectively the minimum capital guarantee, as well as the Solvency Capital Requirement, respectively the solvency margin, also in case that the authorisation of the insurer or reinsurer is withdrawn;

4. temporarily prohibit, for a period of up to 12 months, a shareholder from exercising the shareholder's voting rights;

5. appoint conservators for a period of up to one year;

6. prohibit the conclusion of new insurance or reinsurance contracts for all or individual classes of insurance, the extension of the term of already concluded contracts and the expansion of their coverage for a term of not more than 6 months.

7. impose measures to rehabilitate the financial condition of the insurer or reinsurer;

8. oblige the insurer or reinsurer to increase its own funds within a specified term;

9. temporarily ban the payment of dividends;

10. appoint an audit company, actuary, appraiser or another independent expert to carry out financial, actuarial or other inspections at the expense of the insurer or reinsurer.

11. apply the measures under Article 145, Paragraph 1, Article 174, Article 189, Paragraph 2, Article 190, Article 199, Paragraph 2, Article 211, Paragraph 5, Article 212, Paragraph 3, Article 213, Paragraph 3, Article 215, Paragraph 3, Article 217, Article 237, Paragraph 6, Article 253, Article 254, Paragraph 2, Article 255, Paragraph 7 and Article 261, Paragraph 5.

(4) The withdrawal of authorisation under Articles 40 or 63 shall also constitute a coercive administrative measure, except in the cases where the person has expressly surrendered the granted authorisation. In the cases of Articles 40 or 63, the Commission shall prohibit the free disposal of assets of the insurer until the initiation of the winding-up or bankruptcy proceedings.

(5) The Commission may inform the public about the measures imposed under Paragraphs 2 to 4 or about activities that threaten the interests of the insured.

(6) When applying coercive administrative measures under Paragraph 2, points 2 to 4, Paragraph 3, points 3, 5, and 6 and Paragraph 4, the provisions of the Administrative Procedure Code regarding explanations and objections of interested parties shall not apply.

(7) The coercive administrative measures under Paragraph 2 , points 1 and 6 and Paragraph 3, points 1 and 8 may also be imposed on insurance brokers.

(8) Depending on the nature of the transferred business, the Deputy Chairperson may also impose the coercive measures under Paragraph 2 to third parties to which an insurer or reinsurer has transferred activities.

(9) At the request of the Deputy Chairperson, respectively of the Commission the circumstances shall be entered, respectively the acts shall be announced, under Paragraph 2, point 3 and under Paragraphs 3 to 5 of the trade register.

Proceedings for imposition of coercive administrative measures

Article 588. (1) Proceedings for imposition of coercive administrative measures shall be initiated at the initiative of the Deputy Chairperson.

(2) The notifications and communications in respect of proceedings for imposition of coercive administrative measures shall be served pursuant to Article 61 of the Administrative Procedure Code.

(3) If the notifications and communications are not received at the address, phone, fax or e-mail address indicated by the persons or entered in the relevant register under Article 30, Paragraph 1 of the Financial Supervision Commission Act, they shall be deemed as served by displaying them in the designated place in the building of the Commission. In the cases under the first sentence, a notice of the notification shall also be published on the Commission's website.

This circumstance shall be certified by a certificate drawn up by officials appointed by an order of the Deputy Chairperson.

(4) The coercive administrative measures under Article 587, Paragraph 2 shall be imposed by a reasoned decision of the Deputy Chairperson in writing, and the coercive administrative measures under Article 587, Paragraph 3 – by a reasoned decision of the Commission in writing. The decisions shall be communicated to the interested person within 7 days of their ruling.

(5) The decision for imposition of coercive administrative measures shall be immediately enforceable, regardless of whether it is appealed or not. The appeal of a decision for imposition of a coercive administrative measure shall not suspend its effect.

Applicability of the Administrative Procedure Code

Article 589. The Administrative Procedure Code shall apply to proceedings for imposition of coercive administrative measures, unless this Code provides for otherwise.

Reorganisation measures and applicable law

Article 590. (1) In exercising supervision over insurers under Article 576, Paragraph 1, the Commission and the Deputy Chairperson shall apply reorganisation measures with respect to the insurer and its branches in other Member States.

(2) The reorganisation measures shall be regulated by the Bulgarian law, unless this Code provides for otherwise.

(3) The reorganisation measures under the Bulgarian law shall be applied in the Member States without further formality, including against third parties, even when such measures are not provided for in the respective Member States or are applied under different conditions.

(4) The reorganisation measures under the Bulgarian law shall become effective in all Member States when they become effective pursuant to the Bulgarian law.

(5) In exercising the supervision under Article 576, Paragraph 3, the Commission and the Deputy Chairperson shall apply reorganisation measures in respect of the branch of an insurer from a third country in the Republic of Bulgaria and, where relevant, coordinate their actions with the supervisory authorities in other Member States where the same insurer has other branches.

Section II
Special rules of proceedings for imposition of coercive administrative measures

Informing Member States of coercive administrative measures

Article 591. (1) The Deputy Chairperson shall inform the competent authorities of the Member States in which an insurer or reinsurer with a head office in the Republic of Bulgaria pursues business under the right of establishment or the freedom to provide services of the imposed coercive administrative measures under Article 587, Paragraph 3, points 3 and 7 and shall indicate whether they need to impose the same measures.

(2) Where in connection with the withdrawal of the authorisation of an insurer or reinsurer with a head office in the Republic of Bulgaria which pursues business under the right of establishment or the freedom to provide services the Commission has imposed a coercive

administrative measure under Article 587, Paragraph 3, point 3, it shall propose to the competent authorities of the respective Member States to impose the same measure.

Actions of the Commission upon its notification of imposed coercive administrative measure on an insurer or reinsurer with a head office in another Member State

Article 592. (1) Where the Commission is notified by the respective competent authority of the home Member State of an imposed restriction or ban for disposal of assets, as well as of imposed measures in connection with the implementation of a short-term plan against an insurer or reinsurer pursuing business in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services, it shall impose the same measures against the insurer or reinsurer, if it has been requested to do so.

(2) Where the Commission is notified by the respective competent authority of the home Member State of the withdrawal of the authorisation of an insurer or reinsurer pursuing business in the territory of the Republic of Bulgaria under the right of establishment or the freedom to provide services, the Commission shall take the necessary measures to prevent the insurer or reinsurer from concluding new insurance, respectively reinsurance contracts, extending of the term of concluded contracts, increasing the insured amounts and expanding the scope of their cover. In collaboration with the competent authorities of the home Member State, the Commission shall take all necessary measures to safeguard the interests of the insured, including by restricting the right of the insurer, respectively reinsurer, to dispose of its assets.

Coercive administrative measures against an insurer or reinsurer from another Member State

Article 593. (1) Where it finds that an insurer from another Member State pursuing business in the Republic of Bulgaria under the right of establishment or the freedom to provide services is in breach of this Code or its implementing instruments, the Deputy Chairperson shall instruct in writing the suspension and remedy within a set period of the committed breaches and the adverse effects thereof.

(2) Where the breaches are not remedied within the set term, the Deputy Chairperson shall notify the competent authority in the home Member State of the insurer thereof and of the need to take the respective measures.

(3) Where despite the measures imposed by the competent authorities of the home Member State or where such measures have proven to be inappropriate or insufficient or if such measures have not been imposed and the insurer continues to breach this Code or its implementing instruments, the Deputy Chairperson may, after notifying the competent authorities of the home Member State of the insurer, take the necessary measures to stop such breaches and impose sanctions, and in particularly severe cases – ban it from concluding new insurance contracts in the Republic of Bulgaria. The Commission may also refer the issue to the European Authority and request assistance following the procedure set out in Article 19 of Regulation (EU) No 1094/2010.

(4) In exceptional cases, the Deputy Chairperson may impose the measures under Paragraph 3 without a prior notification to the competent authority of the home Member State of the insurer pursuant to Paragraphs 2 and 3.

(5) Paragraphs 1, 3 and 4 shall also apply to reinsurers with a head office in a Member State. The notification under Paragraph 2 shall be made simultaneously with the issue of the instruction under Paragraph 1.

Actions of the Commission

Article 594. Where the Commission is notified by the respective competent authority of the Member State of the branch or the place of provision of services in respect of an insurer or reinsurer with a head office in the Republic of Bulgaria that is in breach of the law of the country in the territory of which it pursues business under the right of establishment or the freedom to provide services, the Commission, respectively the Deputy Chairperson, shall impose the respective coercive administrative measures under Article 587 and notify the competent authorities of the respective Member State of the measures taken.

Special rules for participation in administrative, administrative-penal and judicial proceedings. Serving of documents

Article 595. (1) An insurer, reinsurer, insurance or reinsurance intermediary from a Member State or a third country which has established a branch in the Republic of Bulgaria shall participate in administrative, administrative-penal and judicial proceedings before Bulgarian administrative or court authorities through the authorised representative of the branch. The actions performed by and against the authorised representative shall be binding for the insurer, reinsurer or intermediary. The documents serviced in accordance with the established procedure to the registered address of the branch shall be deemed as served to the insurer, reinsurer or intermediary. This provision shall apply accordingly to insurers, reinsurers and insurance intermediaries with a head office in the Republic of Bulgaria which pursue business in a Member State under the right of establishment.

(2) In case of proceedings for imposition of coercive administrative measures and imposition of administrative sanctions for breaches committed by an insurer, reinsurer, insurance or reinsurance intermediary from a Member State which pursues business in the territory of the Republic of Bulgaria under the freedom to provide services, the Commission, its Chairperson or the Deputy Chairperson shall send documents and notices in accordance with the procedure set out in the law of the home Member State of the person and may require from the competent authorities of the other Member States to provide assistance for the serving or notification. Where such a procedure is not provided for and the serving of documents or the notification cannot be performed with the assistance of the competent authorities, the documents and notifications shall be sent by registered mail with return receipt to the registered address of the person in the Member State of its head office and shall be deemed as served on the date of receipt recorded in the return receipt.

(3) In case of proceedings for imposition of coercive administrative measures and imposition of administrative sanctions for breaches committed by an insurer, reinsurer, insurance or reinsurance intermediary having its head office in the Republic of Bulgaria which pursues business in the territory of a Member State under the freedom to provide services, the competent authority from the country of the place of provision of services shall send documents and notices by registered mail with return receipt to the registered address of the person in the Republic of Bulgaria. The documents and notifications shall be deemed as served on the date of receipt recorded in the return receipt. Where the law of the country of the place of provision of services does not provide for a notification following the procedure set out in sentences 1 and 2, the Deputy Chairperson shall arrange the serving of the documents and notifications on behalf of the competent authority of the Member State.

Reorganisation measures imposed by competent authorities in other Member States

Article 596. (1) In exercising supervision over an insurer having its head office in another Member State, the respective supervisory authority shall impose reorganisation measures against it and against its branches in other Member States.

(2) The reorganisation measures shall be regulated by the law at the head office of the insurer, unless this Code provides for otherwise.

(3) The reorganisation measures under the law at the head office of the insurer shall be applied in the Republic of Bulgaria without further formality, including against third parties, even when such measures are not provided for in the Republic of Bulgaria or are applied under different conditions.

(4) The reorganisation measures under the law at the head office of the insurer shall become effective in the Republic of Bulgaria when they become effective pursuant to the applicable law.

Chapter LVI
CONSERVATORS

Conservatorship

Article 597. (1) The Commission may appoint one or more conservators for an insurer or reinsurer where:

1. there are material omissions in its governance or multiple or severe breaches of this Code, its implementing instruments, the directly applicable law of the European Union, the statute or other instruments of the insurer, respectively reinsurer, and/or

2. the person misrepresents the results of its activities or otherwise obstructs the exercise of insurance supervision, and/or

3. the person is in the process of implementing a plan to achieve solvency or a short-term plan.

(2) A conservator shall be appointed with a decision of the Commission which shall be entered into the Trade Register and shall be announced in another appropriate manner.

(3) A conservator shall also be appointed when the authorisation of an insurer or reinsurer is withdrawn, until the court appointment of a receiver in bankruptcy or until the entry of a liquidator in the Trade Register.

(4) After the decision under Paragraph 2 is served, the rights of the management and supervisory boards, respectively of the board of directors of the insurer or reinsurer, shall lapse, with the exception of their right to appeal the decision in court. The powers of the general meeting of the shareholders, respectively association members, shall also lapse, with the exception of their right to decide on the termination of the insurer or reinsurer. Such a decision shall not affect the powers of the conservator. The conservator may also convene the general meeting of the shareholders, respectively association members, under an agenda which cannot be modified by the general meeting. The other bodies of the insurer, respectively reinsurer, may continue to function under the control of the conservator.

(5) The conservatorship under Paragraph 1 shall have a duration of one year from the date of issue of the decision, unless it provides for a shorter term or the Commission allows its early termination. Where at the end of the term set in the decision the conditions for introduction of the

conservatorship continue to apply, it may be extended by a new decision of the Commission for a period not longer than one year.

Conservators

Article 598. (1) The Commission may dismiss or replace a conservator where this is necessary for the good governance of the insurer or reinsurer, as well as where the person no longer meets the requirements under Paragraph 3.

(2) The remuneration of the conservator shall be determined by the Commission and paid by the insurer or reinsurer.

(3) The conservator:

1. shall meet the requirements for qualifications and good repute applicable to the members of the management board or board of directors of an insurer or reinsurer;

2. cannot be a spouse or relative in a direct or collateral line to the fourth degree of consanguinity inclusive or by marriage to the third degree inclusive with a member of a management or supervisory body or with another person managing or representing the insurer or reinsurer in the last days before the date of appointment of the conservator;

3. cannot be in such a relationship with the insurer or reinsurer or with its debtors or creditors which may give rise to reasonable doubts as to the conservator's impartiality.

(4) The absence of a conflict of interest under Paragraph 3, point 2 and 3 shall be certified by means of a declaration to the Commission.

(5) An employee from the administration of the Commission may also be appointed as conservator of an insurer or reinsurer.

Powers of the conservators

Article 599. (1) A conservator exercises all functions and powers in respect of the management and representation of the insurer or reinsurer, including the functions of an employer. The conservator shall determine the situation of the undertaking, remedy breaches and manage the undertaking in the best interests of the insured and the beneficiaries. The powers of the conservators shall not be limited by the statute of the insurer or reinsurer.

(2) A conservator may take measures to transfer a portfolio pursuant to this Code, transfer the commercial undertaking of the insurer, respectively reinsurer, or of its assets and/or liabilities only after the approval of the Commission.

(3) After the approval of the Commission, the conservator may file lawsuits to establish the liability of the members of management or supervisory bodies of the insurer or reinsurer, as well as of other persons managing and representing the insurer, of the persons holding key positions, as well as of the audit company.

(4) With the approval of the Deputy Chairperson, the conservator may replace any person performing key functions within the meaning of this Code. With the approval of the Commission, the conservator may replace the audit company.

(5) With the approval of the Deputy Chairperson, the conservator may convene the general meeting of the insurer or reinsurer, with Article 597, Paragraph 4, sentence 4 applying accordingly.

(6) The Commission, respectively the Deputy Chairperson, shall give or refuse approval under Paragraphs 2 to 5 by a decision.

(7) The insurer shall be represented by the conservator, and where there are more than one conservators – only jointly by two conservators. Actions performed on behalf of the insurer or reinsurer in violation of sentence 1 shall be null and void.

(8) The conservator shall have unlimited access to and control of all premises, possessions and documents of the insurer or reinsurer. All employees of the insurer or reinsurer shall support the conservator in the exercise of the conservator's powers. At the request of the conservator or of the Commission, the police shall provide assistance for the exercise of the powers of the conservator.

(9) The Commission and the Deputy Chairperson shall issue mandatory instructions to the conservator in connection with the exercise of the conservator's functions.

(10) Each month, as well as immediately upon request, the conservator shall submit to the Commission reports with the content and in the format indicated by the Deputy Chairperson.

Assumption of duties

Article 600. (1) Conservators shall assume their duties as of the decision of the Commission to appoint them.

(2) At the request of the Commission, the police authorities shall be obliged to provide assistance to ensure the access of the conservator to all premises used by the insurer, respectively reinsurer, including to premises that have been known to be used by the insurer. Where necessary and with the prior approval of the Deputy Chairperson, the conservator shall order the sealing and inventory of premises, property and/or archives of the insurer or reinsurer.

Completion of the activity of the conservator

Article 601. (1) At the end of the term for which the conservator is appointed, the conservator shall draw up a final activity report and submit it to the Commission.

(2) The Conservator shall draw up financial statements as of the date of completion of the conservator's activity and shall submit it to the Commission.

(3) The conservator shall perform his duties until the entry of the new management bodies, respectively the liquidator or receiver in bankruptcy of the insurer, respectively reinsurer.

PART VII
WINDING-UP AND BANKRUPTCY
Chapter LVII
WINDING-UP AND BANKRUPTCY
Section I
Winding-up

Termination

Article 602. (1) The insurer, respectively reinsurer, shall be terminated:

1. voluntarily – only by decision of the general meeting and in compliance with the provisions of Articles 603 and 604;

2. compulsory – upon withdrawal of the authorisation under Article 40, Paragraph 1, points 1 and 4 and Paragraph 2, points 1 to 8;

3. upon declaration of bankruptcy.

(2) Upon winding-up and bankruptcy of an insurer or reinsurer, the claims of creditors from Member States or from third countries shall be satisfied in the same manner as the claims of creditors from the Republic of Bulgaria.

(3) For the purposes of this Part, insurance claim means any claim of a beneficiary of insurance services under an insurance contract, including claim of surrender value and refund of a premium under an insurance contract which was not concluded or did not become effective, or in case of lapse of an insurance contract. Amounts set aside for beneficiaries of insurance services when some elements of the debt are not yet known are also regarded as insurance claims.

Voluntary termination of an insurer or reinsurer

Article 603. (1) Voluntary termination of an insurer or reinsurer shall be effected by decision of the general meeting and after obtaining the permission of the Commission. For the issuance of a permission for termination, the insurer, respectively reinsurer, shall file an application, with which the following shall be enclosed:

1. minutes of the general meeting where the decision for voluntary termination was taken, and a proposal for the appointment of a liquidator;

2. winding-up plan adopted by the general meeting which contains:

a) the term within which the winding-up will be completed;

b) the remuneration of the liquidator or liquidators;

c) a proposal for transfer of the portfolio of insurance or reinsurance contracts;

d) the size of the property – as a total and by types, cash, tangible and intangible non-current and current assets, financial assets, receivables;

e) the size of the liabilities – as a total and by types, under the insurance, respectively reinsurance, portfolio and other payables;

f) schedule for repayment of the liabilities;

g) plan for collection of the receivables;

h) winding-up costs;

i) projection for the size of the property after the creditors have obtained satisfaction;

k) managerial, organisational, legal, financial, technical and other actions for implementation of the plan;

3. a contract with another insurer, respectively reinsurer, for transfer of the insurance, respectively reinsurance, portfolio;

4. the documents under Article 220, Paragraph 1.

(2) The contract for portfolio transfer under Paragraph 1, point 3 may be concluded with more than one insurer, respectively reinsurer, and shall provide for the transfer of all insurance or reinsurance contracts, including contracts under which claims for benefits are filed, as well as of the assets held to cover the technical provisions.

(3) After the decision under Article 602, Paragraph 1, point 1 is taken, the insurer, respectively reinsurer, shall discontinue the conclusion of new contracts and the extension of the term and the expansion of the cover of existing contracts.

Issuance of a permission for voluntary termination of an insurer or reinsurer

Article 604. (1) The Commission shall rule within two months from receipt of the application under Article 603, Paragraph 1. If irregularities are found or if additional information is needed, Article 34, Paragraphs 2, 4 and 5 shall apply, where the term to remedy the irregularities or provide additional information shall not be shorter than 15 days.

(2) Simultaneously with the decision for termination, the Commission shall withdraw the authorisation of the insurer, respectively reinsurer.

(3) The procedure for approval for the winding-up plan shall also apply to any subsequent modifications thereof, as well as in cases of proposals for replacement of the liquidator. Article 266, Paragraph 4 of the Commerce Act shall not apply.

(4) Where an insurer, respectively reinsurer, in the process of winding up has submitted proof of the completion of the liquidation of the insurance and reinsurance portfolio and the settlement of all insurance and reinsurance debts, at the request of the liquidation the Commission shall issue a decision for completion of the liquidation of the insurance and reinsurance decisions.

(5) The Registry Agency shall register a deletion of the insurer, respectively reinsurer, after submission of the decision under Paragraph 4 of the Commission, provided that the remainder of the property is distributed.

(6) After the issuance of the decision under Paragraph 4, the insurer, respectively reinsurer, in the process of winding up may continue to pursue business with a subject other than insurance or reinsurance, provided that the remainder of the property is not distributed. After the registration in the Trade Register of the continuation of the business, the company or association shall bear full liability for newly established debts of the insurer, respectively reinsurer.

(7) Subsequent modification to the winding-up plan shall be made following the procedure for its adoption and subsequent approval.

Registration of the termination

Article 605. (1) The insurer, respectively the reinsurer, shall submit to the Registry Agency the necessary documents for registration of the termination and for initiation of winding-up proceedings within three business days after obtaining the permission under Article 604, Paragraph 2, enclosing also a certified copy of the decision of the Commission.

(2) The insurer, respectively reinsurer, shall submit to the Commission a certificate of the registration under Paragraph 1 within three business days of the registration.

Compulsory termination

Article 606. (1) In the cases under Article 602, Paragraph 1, point 2, the winding-up proceedings shall be initiated with a decision of the Commission. The decision shall contain the grounds for the withdrawal of the authorisation and for termination of the insurer, respectively reinsurer, and shall appoint a liquidator, determine the liquidator's remuneration and a period for completion of the winding-up. The decision shall be sent to the Registry Agency for entry into the Trade Register.

(2) The Registry Agency shall register the termination of the insurer, respectively reinsurer, and the name of the liquidator.

(3) Within three months of appointment, the liquidator shall draw up and submit to the Deputy Chairperson the winding-up plan under Article 603, Paragraph 1, point 2. The plan may provide for the transfer of the insurance, respectively reinsurance, portfolio.

(4) Within one month of receipt of the winding-up plan, the Commission, at the proposal of the Deputy Chairperson, shall rule on a decision to approve the plan or identify different conditions therein.

(5) The procedure for approval for the winding-up plan shall also apply to any subsequent modifications thereof, as well as in cases of proposals for replacement of the liquidator.

(6) Where an insurer, respectively reinsurer, in the process of winding up has submitted proof of the completion of the liquidation of the insurance and reinsurance portfolio and the settlement of all insurance and reinsurance debts, at the request of the liquidation the Commission shall issue a decision for completion of the liquidation of the insurance and reinsurance liabilities.

(7) The Registry Agency shall register a deletion of the insurer, respectively reinsurer, after submission of the decision under Paragraph 6 of the Commission, provided that the remainder of the property is distributed.

Liquidator

Article 607. (1) Liquidator is a natural person meeting the requirements of Article 80, Paragraph 1. The Guarantee Fund under Article 606, Paragraph 1 may also be a liquidator after obtaining the consent of its Management Board.

(2) Where the actions of the liquidation are in breach of the provisions of this Code, its implementing instruments, the approved winding-up plan, or endangers the rights of the insured or the fulfilment of the obligations under reinsurance contracts, the Deputy Chairperson shall issue mandatory instructions to the liquidator in connection with the liquidator's actions, which shall be immediately enforceable.

(3) In the cases under Paragraph 2, the Commission may dismiss the liquidator and send its decision thereof to the Registry Agency for registration.

Reports of the liquidator

Article 608. The liquidator shall inform the Commission of the progress of the proceedings and submit a balance sheet and a report to it for each quarter not later than the end of the month following the quarter. At the request of the Deputy Chairperson, liquidators shall be obliged to provide information about their activities and about the situation of the insurer, respectively reinsurer, in the process of wining-up in the manner and within the term determined by the Deputy Chairperson.

Lodging claims by creditors

Article 609. The claims of the insured persons entered in the accounting records of the insurer shall be regarded as lodged.

Powers of liquidators in the other Member States

Article 610. (1) Liquidators may exercise the powers vested in them under the Bulgarian law in the territory of the other Member States, in compliance with their legislation, including the rules for disposal of assets and notification of employees.

(2) Where provided for in the winding-up plan, the liquidator may appoint persons in another Member State to facilitate the winding-up proceedings in the respective Member State and provide assistance for overcoming of difficulties faced by creditors in that Member State.

Applicability of the Commerce Act and the Cooperatives Act

Article 611. Unless otherwise provided for in this Section, the winding-up rules under the Commerce Act, respectively the Association Act, shall apply.

Section II
Bankruptcy

Grounds for initiation of bankruptcy proceedings

Article 612. (1) Bankruptcy proceedings shall be initiated in respect of an insolvent insurer. An insurance is insolvent where the circumstances under Article 40, Paragraph 1, point 2, or Paragraph 2, point 9 or 10 exist in respect of it and the Commission has withdrawn its authorisation on any of those grounds.

(2) Bankruptcy proceedings shall also be initiated where in the course of the winding-up proceedings it is established that the total value of the debts of the insurer, including its technical provisions calculated pursuant to this Code, its implementing instruments and the directly applicable law of the European Union exceed the total value of the insurer's assets.

(3) An insurer that becomes insolvent shall notify the Commission within 15 days thereof.

(4) The notification under Paragraph 3 shall be submitted by the management body, respectively by the conservator or liquidator of the insurer.

Initiation of bankruptcy proceedings

Article 613. (1) Bankruptcy proceedings for an insurer may be initiated solely at the request of the Commission.

(2) The request shall indicate only the grounds for withdrawal of the authorisation, with an enclosed certified copy of the decision to withdraw the authorisation for the pursuit of the business of insurance.

(3) The court shall initiate the case on the date of receipt of the request under Paragraph 1 and shall schedule a hearing not later than 14 days after its initiation.

(4) The request under Paragraph 1 shall be reviewed by the court in a closed hearing with the participation of a prosecutor, with the insurer, the Commission and the Guarantee Fund summoned as participants.

(5) The insurer in respect of which the initiation of bankruptcy proceedings is requested shall be represented at the trial by the Commission-appointed conservator or by persons authorised by the conservator.

(6) Shareholders holding more than 5 % of the capital of the insurer at the date of withdrawal of the authorisation to pursue the business of insurance may join the proceedings for hearing of the request of the Commission.

(7) If the act of the Commission under Article 40 has become effective, the court shall initiate bankruptcy proceedings against the insurer.

(8) In case that the act of the Commission under Article 40 has not become effective because it is being appealed in court, the court shall suspend the proceedings until the conclusion of the administrative dispute.

(9) The Commission, the insurer and the Guarantee Fund shall be summoned to the trial following the procedure set out in the Civil Procedure Code not later than three days prior to the date for which the hearing is scheduled.

(10) The court shall pass its ruling within 7 days after the hearing where the review of the case has been concluded.

Ruling of the court for initiation of bankruptcy proceedings

Article 614. (1) If the request of the Commission meets the requirements of Article 613, Paragraph 2, in its ruling the court shall:

1. declare the insolvency and determine its starting date;

2. initiate bankruptcy proceedings;

3. declare the insurer bankrupt.

4. terminate the powers of the bodies of the insurer;

5. places the property of the insurer under general interdiction and attachment;

6. revokes the right of the insurer to manage and dispose of its property, including the bankruptcy estate;

7. orders initiation of the sale of the property included in the bankruptcy estate and distribution of its redeemed value;

8. appoints the Guarantee Fund as receiver in bankruptcy.

(2) As of the date of the ruling under Paragraph 1, all insurance contract shall be considered as terminated. Where there is no surrender value under the contract, the insurer shall refund the portion of the premium corresponding to the unexpired period, after deduction of the acquisition costs. Where the right of surrender value has occurred under the contract, the insurance shall refund the surrender value.

(3) On the date of the ruling on the initiation of bankruptcy proceedings or not later than the following business day, the court shall send a copy of the ruling to the Commission.

(4) The ruling under Paragraph 1 shall be entered into the Trade Register and shall be subject to appeal and cassation appeal under the general procedure. The term for the appeal shall be 7 days.

Receiver in bankruptcy

Article 615. (1) The Guarantee Fund shall act as receiver in bankruptcy for insurers undergoing 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, points 1, 2, 4 to 7, 9, 10 and 13 to 15 of the Commerce Act shall be exercised by the Executive Director of the Guarantee Fund appointed under Article 535, point 1.

(3) In the performance of his duties, the Executive Director of the Guarantee Fund under Paragraph 2 shall be supported by the administration of the Guarantee Fund.

(4) The bankruptcy costs shall be covered by the Compensation Fund, with regard to which it shall have a right of claim against the bankruptcy estate.

(5) The Guarantee Fund shall collect the receivables of the insurer undergoing bankruptcy proceedings in an account of the Compensation Fund.

Reports of the receiver in bankruptcy

Article 616. The receiver in bankruptcy shall inform the court and the Commission of the progress of the proceedings and submit a report in writing for each quarter, not later than the 15th day of the month following the quarter it relates to. At the request of the Commission, the receiver in bankruptcy shall immediately provide information on his activities and on the progress of the bankruptcy proceedings.

Lodging the claims

Article 617. (1) Creditors shall lodge their claims in writing with the receiver in bankruptcy within two months of the registration of the ruling under Article 614.

(2) Creditors under Paragraph 1 shall indicate in their application the grounds, size of the claim, privileges and collateral, their mailing address, and shall enclose written evidence.

(3) Insurance claims filed under Article 106, Paragraph 2, shall be regarded as lodged. That shall not prejudice the right of the beneficiaries of insurance services to lodge their claims with the receiver in bankruptcy within the term under Paragraph 1.

(4) Insurance claims that are submitted after the deadline under Paragraph 1 shall be satisfied in the order of their filing after the settlement of the claims under Article 620, Point 6.

Sale of the assets of the insurer

Article 618. (1) The Commission or the receiver in bankruptcy may request the court to authorise the sale of the insurer as an undertaking only to an insurers authorised for the classes of insurance subject of the transfer.

(2) Where a request under Paragraph 1 is made by the receiver in bankruptcy, the court shall approve the sale after receiving a written opinion from the Commission. The opinion shall be submitted not later than 30 days after the request.

(3) Transfer of ownership before the final payment of the price shall not be allowed.

Register of assets to cover provisions

Article 619. (1) Every insurer shall maintain at its headquarters and with the Commission a special register of the assets to cover its gross technical provisions invested in accordance with the requirements of this Code.

(2) A mixed-activity insurer shall maintain a separate register of its activities under Sections I and II of Annex No 1.

(3) The total value of the assets included in the register under Paragraph 1 at any time shall be at least equal to the value of the gross technical provisions of the insurer.

(4) The following cannot be used as assets to cover provisions:

1. property rights encumbered by pledges, mortgages or other encumbrances;

2. investments in subsidiaries;

3. receivables outstanding for more than three months after their due date.

(5) In case of a ban of the free disposal of assets of the insurer, disposition transactions carried out with assets included in the register under Paragraph 1, as well as transactions and actions in breach of Paragraph 4, point 1 shall be null void.

(6) Receivables under reinsurance contracts can be used as assets to cover provisions where they are concluded with a reinsurer from a Member State or a third-country reinsurer under the provisions of Article 66 and if they expressly agreed that the reinsurer shall cover its obligations under the contract to the Guarantee Fund as well, where the reinsurance contract is transferred to the Guarantee Fund as an asset to cover provisions.

Precedence of creditors

Article 620. In the distribution of sold property, the obligations shall be paid in the following order:

1. claims secured by a pledge or mortgage – by the amount received from the sale of the collateral;

2. claims regarding which a lien is placed – from the value of the property under lien;

3. bankruptcy costs;

4. claims under contracts for compulsory insurance;

5. claims under life insurance;

6. claims under the other classes of insurance;

7. claims of the Guarantee Fund under Article 569;

8. claims arising from employment relations arising before the date of the decision to initiate bankruptcy proceedings;

9. public claims of the State and the municipalities, such as taxes, duties, fees, compulsory social security contributions and others, arising before the date of the decision to initiate bankruptcy proceedings;

10. other unsecured claims arising before the date of the decision to initiate bankruptcy proceedings;

11. claims under Article 616, Paragraph 2, point 1 of the Commerce Act;

12. claims under Article 616, Paragraph 2, point 2 of the Commerce Act;

13. claims under Article 616, Paragraph 2, point 3 of the Commerce Act;

14. claims under Article 616, Paragraph 2, point 4 of the Commerce Act.

Powers of receivers in bankruptcy in the other Member States

Article 621. (1) Receivers in bankruptcy may exercise the powers vested in them under the Bulgarian law in the territory of the other Member States, in compliance with their legislation, including the rules for disposal of assets and notification of employees.

(2) With the approval of the bankruptcy court, the receiver in bankruptcy may appoint persons in another Member State to facilitate the bankruptcy proceedings in that Member State and provide assistance for overcoming any difficulties of creditors from that Member State.

Applicability

Article 622. (1) This Section and Section III shall apply to reinsurers accordingly.

(2) Inasmuch as this section and Section III do not provide for otherwise, the provisions of the Commerce Act shall apply, with the exception of Articles 607, 608, 610, 611, Article 614, Paragraphs 2 to 4, Articles 615, 625, Article 629, Paragraph 1, Articles 631, 631a, 635, 656, Article 658, Paragraph 1, points 3, 11 and 12, Articles 666 to 684, 696 to 709, 734, 740, 741 and 743.

Section III
Special rules for winding-up and bankruptcy proceedings

Effect of the decision to initiate winding-up or bankruptcy proceedings

Article 623. (1) The registration of the initiation of winding-up proceedings and the court decision for initiation of bankruptcy proceedings against an insurer with a head office in the Republic of Bulgaria shall have effect for all of its branches in the territory of the other Member States and third countries.

(2) Simultaneously with the entry in the trade register of the initiation of winding-up proceedings and the announcement in the trade register of the court decision for initiation of bankruptcy proceedings, the Registry Agency shall send the court decision for publication in the Official Journal of the European Union, together with information on the applicable law, competence court and entered liquidator, respectively receiver in bankruptcy.

(3) The Commission shall immediately inform the respective competent authorities of other Member States of the entry of the initiation of insolvency proceedings or the decision for initiation of bankruptcy proceedings against the insurer and of its legal consequences.

Effect of the decision for initiation of winding-up or bankruptcy proceedings of an insurer authorised in another Member State

Article 624. (1) The decision to initiate winding-up or bankruptcy proceedings of an insurer authorised in another Member State shall become effective in the Republic of Bulgaria from the time it becomes effective in the respective Member State.

(2) Where the Commission has been notified of the initiation of a winding-up or bankruptcy proceedings by the competent authority of another Member State, the Commission shall take measures to inform the public.

(3) The notification under Paragraph 2 shall include information on the administrative or judicial authority which is responsible for the winding-up or bankruptcy in the respective Member State, the applicable law and the appointed liquidator or receiver in bankruptcy.

Powers of the liquidator or receiver in bankruptcy

Article 625. (1) The appointment of a liquidator or receiver in bankruptcy of an insurer authorised in another Member State shall be evidenced by a certified copy of the decision of the competent authority for appointment, together with the Bulgarian translation, which does not need to be legalised.

(2) The liquidator or receiver in bankruptcy under Paragraph 1 may exercise in the Republic of Bulgaria all the powers vested in him under the law of the Member State where the insurer has been granted authorisation, except use of coercion and ruling on disputes.

(3) In exercising his powers, the liquidator or receiver in bankruptcy under Paragraph 1 shall observe the laws of the Republic of Bulgaria, including the rules for disposal of assets and notification of employees.

(4) In compliance with the legislation of the home Member State of the insurer, the liquidator or receiver in bankruptcy may appoint persons in the Republic of Bulgaria to facilitate the winding-up, respectively the bankruptcy, proceedings in that Member State and provide assistance for overcoming difficulties of creditors from that Member State.

Registration in a public register

Article 626. (1) The liquidator or receiver in bankruptcy under Article 625, Paragraph 1 may request the registration of the decision to initiate liquidation or bankruptcy proceedings in the relevant public registers that are kept in the Republic of Bulgaria. The person under sentence 1 shall be obliged to request registration where registration in the registers is required.

(2) The liquidator or receiver in bankruptcy of a local insurer may request the registration of the decision to initiate liquidation or bankruptcy proceedings in the relevant public registers that are kept in other Member States. The person under sentence 1 shall be obliged to request registration where registration in the registers is required. The registration costs shall represent winding-up, respectively bankruptcy, costs.

Notification of the known creditors from the Member States

Article 627. (1) The liquidator or receiver in bankruptcy shall send a written notice in a format determined by the Deputy Chairperson to the known creditors domiciled or established in another Member State regarding the initiated winding-up or bankruptcy proceedings. The notice shall indicate their right to lodge their claims, the authority before which they are to be lodged, the term for their submission and the consequences of non-compliance with the term, as well as whether creditors with preferential or secured claims have to lodge their claims.

(2) The notice under Paragraph 1 shall be drawn up in the Bulgarian language and shall be entitled "Invitation to Lodge a Claim. Attention, Deadline!", Respectively "Invitation to Submit Statements in Connection with a Claim. Attention, Deadline!" in all official languagesof the European Union.

(3) The notice under Paragraph 1 to creditors whose claims arise from an insurance contract shall state their right to submit written statements, and the consequences of the winding-up or bankruptcy for their rights and obligations, and shall be drawn up in the official language of the Member State of their permanent residence or domicile.

Submission of claims by creditors from Member States

Article 628. (1) Creditors residing or domiciled in another Member State shall enjoy the same rights as creditors residing or domiciled in the Republic of Bulgaria and shall be entitled to lodge their claims, respectively to present statements in connection with their claims.

(2) The creditors under Paragraph 1 shall lodge their claims by stating the type of the claim, its amount, the date of its occurrence and whether it is based on a pledge, mortgage, right of lien of title under a sales contract or other privilege, and shall present evidence.

(3) Claims, respectively statements relating thereto, shall be presented in the official language of the Member State of residence or domicile, entitled "Lodgement of Claim", respectively "Statements in Connection with a Claim" in the Bulgarian language.

Provision of information on the progress of proceedings

Article 629. (1) The liquidator or receiver in bankruptcy shall publish in an appropriate manner periodic reports on their activities.

(2) Upon request by the respective competent authorities of the other Member States, the Commission shall provide information on the progress of the winding-up or bankruptcy proceedings.

Applicable law

Article 630. (1) The Bulgarian law shall apply in respect of winding-up or bankruptcy proceedings of an insurer, unless otherwise provided for in this Section.

(2) Regarding employment contracts and employment relations, the provisions of the law of the Member State applicable to these contracts and relations shall apply.

(3) Regarding contracts which confer right of use or transfer ownership of immovable property which is located in the territory of a Member State, the law of that Member State shall apply.

(4) Regarding the rights of the insurer in immovable property, vessel or aircraft registered in a public register in a Member State, the law of that Member State shall apply.

Consequences from initiation of winding-up or bankruptcy proceedings

Article 631. (1) The initiation of the winding-up or bankruptcy proceedings shall not affect the property and security interests of creditors or third parties in respect of the property of the insurer, including tangible or intangible assets, movable or immovable property, individually or in aggregate, which at the date of initiation of the proceedings is located in the territory of another Member State.

(2) The rights under Paragraph 1 shall include:

1. the right to dispose of that property and to obtain satisfaction from the proceeds of or income from it by virtue of a lien or a mortgage;

2. the exclusive right to have a claim met when guaranteed by a lien or by assignment of the claim by way of a guarantee;

3. the right to demand the return and/or restitution of the property by any third party having possession or use of it without legal grounds;

4. the right to the beneficial use of the property;

5. any right recorded in a public register and enforceable against third parties, under which a property or security right may be acquired under points 1 to 4.

(3) The initiation of winding-up or bankruptcy proceedings against an insurer shall not affect:

1. the rights of the seller under a contract concluded with the insurer for sale with retention of title until payment of the price, where at the date of initiation of the proceedings the property is located in the territory of another Member State;

2. the right of the purchaser to acquire ownership on the property sold by the insurer, and it is not constitute grounds for termination or cancellation of the sales contract if the property is

delivered to the buyer, where at the date of initiation of the proceedings the property is located in the territory of another Member State;

3. the right of set-off of the creditors of the insurer, where offsetting is permitted under the law applicable to the claim of the insurer.

(4) Apart from the cases under Paragraphs 1 and 2, the consequences of the initiation of winding-up or bankruptcy proceedings for the rights and obligations under transactions concluded on a regulated market shall be governed by the law applicable to this regulated market.

(5) If after the initiation of the winding-up or bankruptcy proceedings, the insurer has disposed, against a consideration, of immovable property, vessel or aircraft subject to registration in a public register, as well as of transferable or other securities the existence or transfer of which presupposes registration in a register or account kept lawfully, or which are included in a central depository system governed by the law of another Member State, the validity of the transaction or action shall be governed by the law of the Member State in the territory of which the property is located, respectively where the register, account or depository system is kept.

(6) The effect of the initiated winding-up or bankruptcy proceedings on a pending lawsuit concerning a property or right divested by the insurer shall be governed by the law of the Member State where the seat of the court where the lawsuit is heard is located.

Rights of the liquidator, receiver in bankruptcy and creditors to preserve the property of the insurer

Article 632. (1) The provisions of Article 631, Paragraphs 1, 3 and 4 shall not restrict the rights of the liquidator, the receiver in bankruptcy or the creditors under the Commerce Act and the Obligations and Contracts Act to refer to nullity or require acts or transactions in respect of creditors to be declared null or void.

(2) The liquidator, receiver in bankruptcy or creditors cannot invoke nullity or require the declaration of nullity or invalidity with respect to the creditors of actions or transactions under the Commerce Act and the Obligations and Contracts Act if a third person that has acquired rights in them proves that the action or transaction are governed by the law of another Member State and that according to that law they are valid.

Application of the rules for winding-up and bankruptcy in implementation of coercive administrative measures

Article 633. (1) Article 623, Paragraphs 1 and 3, Articles 624, 630 and 631 shall apply accordingly in respect of the imposition of the coercive administrative measures under Article 587, Paragraph 3, points 3 and 7.

(2) The decision to impose a measure under Paragraph 1 shall be published in the State Gazette and in the Official Journal of the European Union together with information on the applicable law, the competent authority which supervises the implementation of the reorganisation measure and the appointed conservator, if one has been appointed.

Treatment of branches of insurers from third countries upon implementation of coercive administrative measures, winding-up or bankruptcy

Article 634. (1) Where against a branch of an insurer from a third country authorised in the Republic of Bulgaria there are grounds for imposition of coercive administrative measures under Article 587, liquidation or bankruptcy, the Commission and the Deputy Chairperson shall

exercise their powers independently of the actions of the competent authorities in another Member State in respect of a branch of the same insurer from a third country authorised there.

(2) In the cases under Paragraph 1, the Commission and the Deputy Chairperson shall coordinate their actions with the competent authorities of the other Member State for the purposes of the relevant proceedings, where necessary and possible.

(3) The conservator, liquidator or receiver in bankruptcy of a branch of an insurer from a third country authorised in the Republic of Bulgaria shall interact with other similar bodies appointed in other branches of the insurer authorised in another Member State for the purposes of the relevant proceedings, where necessary and possible.

(4) In order to implement this part of the reorganisation measures and the winding-up proceedings of a branch of an insurer from a third country located in a Member State, the following definitions shall apply:

1. "home Member State" means the Member State in which the branch has been authorised;

2. "supervisory authorities" means the supervisory authorities of the home Member State;

3. "competent authorities" means the competent authorities of the home Member State.

PART VIII
ADMINISTRATIVE PENAL PROVISIONS

Responsibility for activities in breach of the terms and provisions of this Code

Article 635. (1) The following shall be imposed on a person that performs or allows the pursuit of insurance without being granted authorisation following the procedure set out in this Code or in breach of the right of establishment or the freedom to provide services:

1. fine from BGN 2,000 to BGN 10,000 – for natural persons;

2. pecuniary sanction from BGN 50,000 to BGN 200,000 – for legal persons or sole traders.

(2) The pecuniary sanction under Paragraph 1, point 2 shall also be imposed on insurers providing insurance for classes of insurance for which it has not been granted authorisation.

(3) In case of a repeated violation, the sanction under Paragraph 1, point 1 shall be from BGN 4,000 to BGN 20,000, and under Paragraph 1 point 2 and Paragraph 2 – from BGN 100,000 to BGN 400,000.

(4) The following shall be imposed on a person that performs or allows the pursuit of the business of insurance broker or insurance agent without being registered under this Code in the register under Article 30, Paragraph 1, point 11 of the Financial Supervision Commission Act or in breach of the right of establishment or the freedom to provide services:

1. fine from BGN 2,000 to BGN 10,000 – for natural persons;

2. pecuniary sanction from BGN 5,000 to BGN 50,000 – for legal persons or sole traders.

(5) In case of a repeated violation, the sanction under Paragraph 4, point 1 shall be from BGN 4,000 to BGN 20,000, and under Paragraph 4, point 2 – from BGN 10,000 to BGN 100,000.

(6) Paragraphs 4 and 5 shall not apply to persons that pursue the business of insurance mediation under Article 294, Paragraph 3.

(7) The sanction under Paragraph 4, point 2 and Paragraph 5 shall also be used to penalise an insurer or reinsurer which uses, in its activity in the territory of the Republic of Bulgaria, the mediation services of persons under Paragraph 4, provided that these persons do not pursue the business of insurance mediation under Article 294, Paragraph 3.

(8) The following shall be imposed on an insurance intermediary – legal entity or sole trader, that confers rights of a person that is not its employee, as well as an insurance agent – natural person who confers rights to another person to carry out sale of insurance products and collect insurance premiums or contributions, including by providing access to the information system of an insurer or providing forms for issue of policies or collection of premiums or contributions:

1. fine from BGN 2,000 to BGN 10,000 – for natural persons;

2. pecuniary sanction from BGN 5,000 to BGN 50,000 – for legal persons or sole traders.

(9) In case of a repeated violation, the sanction under Paragraph 8, point 1 shall be from BGN 4,000 to BGN 20,000, and under Paragraph 8, point 2 – from BGN 10,000 to BGN 100,000.

Responsibility in case of failure to comply with the requirements for the technical provisions

Article 636. (1) A pecuniary sanction from BGN 10,000 to BGN 40,000, and in case of repeated violation – from BGN 20,000 to BGN 80,000 shall be imposed on an insurer, respectively reinsurer, which commits or allows a breach of Article 118, Paragraph 1, Article 121, Paragraph 1, Article 119, Article 199, Paragraph 1 and Article 205.

(2) A person that participates in the management of an insurer, respectively reinsurer, and a person performing key or managerial functions within an insurer, respectively reinsurer, that commits or allows or participates in the committing of a breach of Article 118, Paragraph 1, Article 121, Paragraph 1, Article 119, Article 199, Paragraph 1 and Article 205 shall be penalised by means of a fine from BGN 2,000 to BGN 10,000, and for repeated violation – from BGN 5,000 to BGN 20,000

Responsibility for failure to implement a coercive administrative measure

Article 637. (1) The following shall be imposed on a person that fails to implement a coercive administrative measure imposed by the Commission or by the Deputy Chairperson:

1. fine from BGN 1,000 to BGN 2,000 – for natural persons;

2. pecuniary sanction from BGN 4,000 to BGN 40,000 – for legal persons or sole traders.

(2) In case of a repeated violation, the sanction under Paragraph 1, point 1 shall be from BGN 2,000 to BGN 4,000, and under Paragraph 1, point 2 – from BGN 8,000 to BGN 80,000.

Responsibility for non-conclusion of compulsory insurance

Article 638. (1) The following shall be imposed on a person under Article 483, Paragraph 1, point 1 that fails to fulfil the obligation to conclude a compulsory civil liability of motorists insurance:

1. fine of BGN 250 – for natural persons;

2. pecuniary sanction of BGN 2,000 – for legal persons or sole traders.

(2) In case of a repeated violation, the sanction under Paragraph 1, point 1 shall be BGN 800, and under Paragraph 1, point 2 – BGN 4,000.

(3) A person that is not the owner of and drives a motor vehicle in relation to the possession and use of which there is no concluded and effective contract for compulsory insurance of motorists shall be penalised by means of a fine of BGN 400.

(4) Where it has been established by means of automated technical equipment or system that a motor vehicle is operated without a concluded and effective insurance contract for compulsory liability insurance of motorists, the fine or pecuniary sanction under Paragraph 1 shall be imposed on the owner of the motor vehicle.

(5) In case of a repeated violation, the sanction under Paragraph 3 shall be BGN 800.

(6) In case of a repeated violation, the sanction under Paragraph 4 shall be BGN 800 for natural persons and BGN 4,000 for legal persons or sole traders.

(7) A pecuniary sanction from BGN 5,000 to BGN 20,000, and for a repeated violation – from BGN 10,000 to BGN 40,000 shall be imposed on an insurer that commits a breach of Article 462.

Responsibility in respect of placement of signs, marks or other indications

Article 639. A person that drives a motor vehicle fitted with signs, marks or other indications in breach of the prohibition of Article 288, Paragraph 4, except those under Article 288, Paragraph 6, or those in the form of micro engravings that do not, directly or indirectly, indicate the presence of a concluded insurance contract, shall be penalised with a fine of BGN 50.

Responsibility for breach of the procedure for acquisition and disposal of a qualifying holding in an insurance company

Article 640. (1) The following shall be imposed on a person that acquires or transfers shares of an insurance company in breach of Article 68, Paragraphs 1 and 2 or the prohibition of Article 71, Paragraph 4:

1. fine from BGN 2,000 to BGN 10,000 – for natural persons, regardless of whether acquiring or transferring the shares in his name or for another's account;

2. pecuniary sanction from BGN 5,000 to BGN 15,000 – for natural persons.

(2) The following shall be imposed on a person that acquires or transfers shares of an insurance company in breach of Article 73:

1. fine from BGN 2,000 to BGN 5,000 – for natural persons, regardless of whether acquiring or transferring the shares in his name or for another's account;

2. pecuniary sanction from BGN 5,000 to BGN 10,000 – for natural persons.

Responsibility for misrepresentation

Article 641. (1) A member of a management or controlling body of an insurer, reinsurer or insurance intermediary, insurance holding company, mixed-activity insurance holding company or other person that manages or represents it, that provides or allows the provision of misrepresentations in connection with the exercise of insurance supervision shall be penalised by means of a fine from BGN 10,000 to BGN 50,000, unless the act constitutes a crime.

(2) The Deputy Chairperson may require a temporary deprivation of the right to practice an activity in the capacity of a person under Paragraph 1.

(3) Regarding the breach of Paragraph 1, a pecuniary sanction from BGN 20,000 to BGN 100,000 shall be imposed on the insurer.

Responsibility in respect of the introduction of a requirement for placement of signs, marks or other indications

Article 642. A pecuniary sanction from BGN 30,000 to BGN 60,000, and for a repeated violation – from BGN 60,000 to BGN 120,000 shall be imposed on an insurer that commits or allows a breach of Article 288, Paragraph 5.

Responsibility of the conservator, liquidator and receiver in bankruptcy

Article 643. A conservator, liquidator or receiver in bankruptcy that does not fulfil or violates a decree or order of the Commission, of its Chairperson or the Deputy Chairperson, shall be fined from BGN 1,000 to BGN 10,000.

Responsibility for breaches of the legal framework

Article 644. (1) The following shall be imposed on a person that commits or allows a breach of the provisions of this Code, its implementing instruments or the directly applicable law of the European Union, except the cases of Articles 635 to 643, of a decree or order of the Commission, of its Chairperson or the Deputy Chairperson:

1. fine from BGN 500 to BGN 3000 – for natural persons;

2. pecuniary sanction from BGN 1,000 to BGN 20,000 – for legal persons or sole traders.

(2) In case of a repeated violation, the sanction under Paragraph 1, point 1 shall be from BGN 1,000 to BGN 6,000, and under Paragraph 1, point 2 – from BGN 2,000 to BGN 40,000.

Responsibility for non-payment of pecuniary sanctions under penal decrees

Article 645. A Person that within one month from the entry into force of a penal decree does not pay the imposed pecuniary sanction shall pay an interest at the statutory rate for the period from the date following the expiry of the one-month period to the date of payment.

Liability of the lessor in case of failure to comply with the requirements regarding the insurance of leasing property

Article 646. (1) A pecuniary sanction from BGN 5,000 to BGN 10,000 shall be imposed on a lessor that fails to comply with the obligation under Article 384, Paragraph 1 or 2.

(2) In case of a repeated violation, the sanction under Paragraph 1 shall be from BGN 10,000 to BGN 20,000.

Proceedings for imposition of an administrative sanction

Article 647. (1) The acts for establishment of administrative violations shall be drawn up by officials authorised by the Deputy Chairperson, and in the cases under Article 638, Paragraphs 1 to 3 and 5 and Article 639 – by the officials of the controlling bodies under the Road Traffic Act.

(2) The penal decree shall be issued by the Deputy Chairperson, and for violations under Article 638, Paragraphs 1 to 3 and 5 and Article 639 – by the Director of the Regional Directorate of the Ministry of Interior in the section of which the breach is established, or by officials authorised by the Director.

(3) Where it has been established and photographed by means of automated technical equipment or system that a motor vehicle is operated without a concluded and effective insurance contract for compulsory liability insurance of motorists, an electronic traffic ticket shall be issued in the absence of a controlling body and an offender following the terms and procedure set out in the Road Traffic Act. The electronic traffic ticket shall be sent to the owner of the motor vehicle by registered mail with return receipt requested. The owner shall be obliged to pay the fine or the pecuniary sanction under Article 638, Paragraphs 4 and 6 within 14 days of its receipt. Article 189, Paragraph 5 of the Road Traffic Act shall not apply.

(4) The establishment of the violations, the issuance, appeal and execution of penal decrees shall be made following the procedure set out in the Administrative Violations and Sanctions Act.

ADDITIONAL PROVISIONS

§ 1. For the purposes of this Code:

1. "Insured" means the person whose pecuniary and/or non-pecuniary assets are subject to insurance coverage under an insurance contract.

2. "Policy holder" means the person that is a party to the insurance contract. The policy holder may, under the conditions of the insurance contract, be an insured person or a third party beneficiary.

3. "Insurance risk" means objectively the likelihood of occurrence of a damaging event, the occurrence of which is uncertain, unknown and independent of the will of the insured, the policy holder or the third party beneficiary.

4. "Insured event" means the occurrence of a risk covered by insurance in the period of insurance coverage.

5. "Damage" is an adverse change affecting, impairing or destroying human wealth – property, rights, bodily integrity, health and mental status.

6. "Member State" means a member state of the European Union or another country which is a party to the Agreement on the European Economic Area.

7. "Third country" means a country which is not a Member State within the meaning of point 6.

8. "An insurer from a third country" means a person domiciled in a third country, which if it has a had office in the Republic of Bulgaria shall be subject to the obligation to receive an insurance authorisation under this Code.

9. "A reinsurer from a third country" means a person domiciled in a third country, which if it has a had office in the Republic of Bulgaria shall be subject to the obligation to receive a reinsurance authorisation under this Code.

10. "Home Member State" means the Member State:

a) where the head office of the insurer covering the risk, respectively the Member State where the head office of the reinsurer, is located;

b) where the insurance broker or insurance agent – natural person, resides and operates, respectively the Member State where the head office of the insurance broker or insurance agent – legal person is located.

11. "Host Member State" means a Member State:

a) other than the home Member State where the insurer or reinsurer has a branch or provides services; for the purposes of insurance, the Member State of provision of the services is the Member State where the risk is situated, in case that the risk is covered by an insurer or a branch situated in another Member State;

b) where the insurance broker or insurance agent has a branch or provides services.

12. "Member State in which the risk is situated" means:

a) the Member State in which the property is situated in case that the insurance contract covers risks in respect of real estate, including buildings and belongings therein, provided that they are insured under the same contract;

b) the Member State in which a vehicle is registered, where the insurance relates to risks associated with a vehicle under points 3 to 6, Section II of Annex No 1; where a motor vehicle is delivered from one Member State to another, it is assumed that the risk is located in the country of destination from the acceptance of the delivery by the purchaser for a period of 30 days, even if the motor vehicle has not been formally registered;

c) the Member State in which the policy has concluded an insurance contract, regardless of its class, with respect to travel or tourism risks, provided that the maximum duration of the contract shall not exceed 4 months;

d) in all other cases, the risk is located in:

aa) the Member State of residence of the policy holder, if the insured is a natural person, or

bb) the Member State where the legal entity to which the insurance contract refers is established, if the policy holder is a legal entity.

13. "Branch" means a legal form under which an insurer or reinsurer resides permanently in the territory of a Member State by establishing an office managed by its employees or other persons, expressly and permanently authorised by the insurer to act on its behalf.

14. "A branch of an insurer from a third country" means a branch registered under the Commerce Act of an insurer or reinsurer domiciled in a third country.

15. "Establishment" of a legal person means a head office or a branch of a legal person.

16. "Financial undertaking" means one or more of the following persons operating in a Member State or third country:

a) a credit institution, a financial institution of Article 3, Paragraph 1 of the Credit Institutions Act or an ancillary services company under Article 2, Paragraph 4 of the same Act;

b) an insurer, a reinsurer or an insurance holding company;

c) an investment intermediary;

d) a mixed-activity financial holding company.

17. "Control" exists where a certain person (controller):

a) holds more than half of the voting rights in the general meeting of another legal person (subsidiary), or

b) is entitled to appoint more than half of the members of the management or controlling body of another legal person (subsidiary) and is also a shareholder or a partner in that person, or

c) has the right to exercise decisive influence over a legal person (subsidiary) under a contract concluded with that person or under its articles of association or statute if this is permissible under the law applicable to the subsidiary, or

d) is a shareholder or a partner in a company, and:

a) more than half of the members of the management or controlling bodies of the legal person (subsidiary) that have performed the relevant functions during the previous and current financial year and until the preparation of the consolidated financial statements are determined solely as a result of the exercise of its voting rights, or

bb) which controls independently under a contract with other shareholders or partners of that legal person (subsidiary) more than half of the votes in the general meeting of that legal person, or

e) may otherwise, at the discretion of the competent authorities, exercise decisive influence on the decision-making in relation to the activities of another legal person (subsidiary).

In the cases under letters "a", "b" and "d", the votes of its subsidiaries over which it exercises control, as well as the votes of persons acting in their own name but for its account or for the account of its subsidiary shall be added to the votes of the controller.

In the cases under letters "a", "b" and "d", the votes of the controller shall be reduced by the votes attaching to shares held for the account of a person that is neither the controller, nor its subsidiary, and the votes attaching to shares that are subject to a pledge, if the rights thereof are exercised by order and in the interest of the pledgor.

In the cases under letters "a" and "d", the votes of the controller shall be reduced by the votes attaching to shares held by the subsidiary itself through a person that it controls, or through a person that acts in its own name but for the account of the controller and the subsidiary.

18. "Participation" means the ownership, direct or by way of control, of 20 % or more than 20 % of the voting rights or capital of a company.

19. "Parent company" means a legal person that exercises control over one or more undertakings (subsidiaries).

20. "Subsidiary" means a legal person controlled by another legal person (parent undertaking). Legal persons that are subsidiaries of the subsidiary shall also be considered subsidiaries of the parent undertaking.

21. "Close links" exist where two or more natural or legal persons are linked by control or participation or where two or more natural or legal persons are permanently linked to one and the same person by a control relationship.

22. "Related parties" are two or more natural or legal persons related in any of the following manners:

a) by a control relationship;

b) permanently to one and same person by a control relationship;

c) through holding by one of them, directly or through a person controlled by it, of 20 % or more than 20 % of the voting rights in the general meeting or of capital of the other person;

d) by holding directly or through control of 20 % or more than 20 % of the voting rights in the general meeting or of the capital of a third party;

e) a third party holding directly or through control 20 % or more than 20 % of the voting rights in the general meeting or of the capital of these persons.

Related parties are also the spouses, relatives in a direct line without limitations and relatives in a collateral line to the third degree of consanguinity inclusive, and by marriage to the third degree inclusive.

23. "Household" means the persons, irrespective of their familial relationship, co-habiting together and having a common budget.

24. "Members of the family" means the spouse, children up to the age of 18, and if they continue their education – up to 26 years of age, and if they are incapacitated or permanently unable to work – regardless of their age.

25. "Acquisition costs" means the costs arising from the conclusion or renewal of insurance contracts, which may be:

a) direct – acquisition commissions (not including cash commissions upon payment of periodic premiums on long-term insurance under Section I of Annex No 1), costs for the preparation of insurance contracts and their inclusion in the insurance portfolio;

b) indirect – for advertising and administrative costs related to the preparation of offers, conclusion of contracts and renewal of existing contracts.

26. "Deferred acquisition costs" means acquisition costs related to the unexpired period of an insurance cover under effective at the end of the reporting period and enforced during the same period insurance contracts that are brought forward to subsequent reporting periods.

27. "Administrative costs" means the costs of servicing of insurance and reinsurance contracts and management of the insurance portfolio.

28. "Cedent" means an insurer or reinsurer which transfers all or part of the risks under concluded insurance contracts and pays reinsurance premiums to a reinsurer or an insurer that pursues the business of inward reinsurance.

29. "Retrocession" means the transfer of risks accepted under a reinsurance contract to another reinsurer or insurer that pursues the business of inward reinsurance.

30. A regulated market means:

a) a market within the meaning of Article 73 of the Markets in Financial Instruments Act where it refers to a regulated market in a Member State;

b) a market, where it refers to a third country, which meets the following criteria:

aa) it is recognised by the home Member State and fulfils requirements in line with the requirements of Directive 2004/39/EC; and

bb) the financial instruments dealt in on that market are of a quality comparable to that of the instruments dealt in on the regulated market of the home Member State.

31. "Large risks" means the risks under the classes of insurances under Section II of Annex No 1, as follows:

a) under points 4 to 7, 11 and 12 – in all cases;

b) under points 14 and 15 – where the policyholder/insured pursues commercial or professional activity and the risks are associated with that business or profession;

c) under points 3, 8 to 10, 13 and 16 – provided that the insured meets at least two of the following three criteria:

aa) balance sheet total – higher than the BGN equivalent of EUR 6,200,000;

bb) net turnover – higher than the BGN equivalent of EUR 12,800,000;

cc) average number of employees of the insured persons during the financial year – 250.

If the insured is part of a group for which consolidated financial statements under Article 31 of the Accounting Act are prepared, the criteria under letter "c" shall apply on the basis of the consolidated financial statements.

32. "Durable medium" means paper or any other medium that allows the beneficiary to store information in a manner ensuring future access to that information for a period corresponding to the purposes for which it is created and which allows the reproduction of that information without it being changed.

33. "Motorist" means the owner, user, keeper or driver of a motor vehicle who, in connection with its holding or use, may cause damage to third parties.

34. "Green card certificate" means an international certificate for insurance issued on behalf of a national bureau under point 35 in accordance with Recommendation No 5 adopted on 25 January 1949 by the Subcommittee of the Committee on Road Transport of the Economic Commission for Europe of the United Nations.

35. "National bureau" means a professional organisation of insurers established in accordance with Recommendation No 5 adopted on 25 January 1949 by the Subcommittee of the Committee on Road Transport of the Economic Commission for Europe of the United Nations and uniting insurers authorised to pursue the business of insurance in the territory of a country that have the right to provide liability insurance for use of road motor vehicles.

36. "Multilateral Agreement" means the Agreement between national insurers' bureaux of the Member States of the European Economic Area and of other associate countries, concluded in Rethymno, Crete, on 30 May 2002, as subsequently amended and supplemented, and any other agreement concluded between the national insurers' bureaux of the Member States with each other and/or with the national insurers' bureaux of other countries in pursuance of Article 2, letter "a" and/or Article 8, Paragraph 1, point 2 of Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability 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. "Reasonableness" means an objective criterion for due diligence that a conscientious, prudent and competent person applies in a critical and comprehensive assessment of the available information on the circumstances related to the decision-making.

38. "Special care" means the assistance provided by a nurse, physical therapist or another qualified person that aims to enhance the healing process.

39. "Palliative care" means care to alleviate the condition of terminally ill persons, which care is not intended for or could not lead to their recovery.

40. "Underwriting risk" means the risk of loss or of adverse change in the value of insurance liabilities, due to inadequate pricing and provisioning assumptions.

41. "Market risk" means the risk of loss or of adverse change in the financial situation resulting, directly or indirectly, from fluctuations in the level and in the volatility of market prices of assets, liabilities and financial instruments.

42. "Credit risk" means the risk of loss or of adverse change in the financial situation, resulting from fluctuations in the credit standing of issuers of securities, counterparties and any debtors to which insurance and reinsurance undertakings are exposed, in the form of counterparty default risk, or spread risk, or market risk concentrations.

43. "Operational risk" means the risk of loss arising from inadequate or failed internal processes, personnel or systems, or from external events.

44. "Liquidity risk" means the risk that insurance and reinsurance undertakings are unable to realise investments and other assets in order to settle their financial obligations when they fall due.

45. "Concentration risk" means all risk exposures with a loss potential which is large enough to threaten the solvency or the financial position of insurance and reinsurance undertakings.

46. "Risk-mitigation techniques means all techniques which enable insurance and reinsurance undertakings to transfer part or all of their risks to another person".

47. "Diversification effect" means the reduction in the risk exposure of insurance and reinsurance undertakings and groups related to the diversification of their business, resulting from the fact that the adverse outcome from one risk can be offset by a more favourable outcome from another risk, where those risks are not fully correlated.

48. "Probability distribution forecast" means a mathematical function that assigns to an exhaustive set of mutually exclusive future events a probability of realisation.

49. "Risk measure" means a mathematical function which assigns a monetary amount to a given probability distribution forecast and increases monotonically with the level of risk exposure underlying that probability distribution forecast.

50. "Qualifying central counterparty" means a central counterparty that has been either authorised in accordance with Article 14 of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ, L 201/1 of 27 July 2012) or recognised in accordance with Article 25 of the same Regulation.

51. "Repeated violation" means the violation committed within one year from the entry into force of the penal decree which imposes a sanction for the same violation.

52. "Systematic violations" means thirty or more administrative violations of this Code or its implementing instruments committed within one year, or thirty or more identical administrative violations committed within a period of three consecutive years.

§ 2. Promotional materials and other signs indicating the relationship between an insurer and an insured cannot be placed on the insured movable or immovable property, unless the law provides for otherwise.

§ 3. The documents required under this Code and issued in a language other than Bulgarian shall be accompanied by a translation into the Bulgarian language and shall be legalised in accordance with the requirements of the existing legislation. In case of discrepancy between the texts, the text of the Bulgarian translation shall prevail.

§ 4. (1) In accordance with Article 300 of Directive 2009/138/EC, the amounts thereunder shall be reviewed every 5 years, starting from 31 December 2015, whereby their value in EUR shall be increased by the percentage increase of the European Index of Consumer Prices published by Eurostat, provided that this percentage exceeds the last review by 5 %. The result shall be rounded up to whole EUR 100,000.

(2) The floors of the insured amount of the compulsory insurance and of own funds of the insurance intermediary shall be reviewed every 5 years, whereby their value in EUR shall be increased by the percentage increase of the European Index of Consumer Prices published by Eurostat for the period since the last review. The first review shall be performed on 15 January 2008. The result is rounded up a whole EUR.

(3) In connection with the expiration of the suspensive period under § 28, point 3 in conjunction with § 27 of the Transitional and Final Provisions of the repealed Code on Insurance, the floors of the insured amount under Article 492 shall be reviewed every five years as of 11 June 2012 according to the European Index of Consumer Prices, which floors shall be increased by the percentage indicated by this Index and the result shall be rounded up to whole EUR 10,000.

(4) The Commission shall promptly draw up proposals for amendment of the provisions of this Code in accordance with Paragraphs 1 to 3.

§ 5. (1) Directive 91/371/EEC of 20 June 1991 on the implementation of the Agreement between the European Economic Community and the Swiss Confederation concerning direct insurance other than life assurance, establishment of a branch to carry out insurance activities by classes of insurance under Section II of Annex No 1 in the Swiss Confederation by an insurer with a head office in the Republic of Bulgaria, respectively in the Republic of Bulgaria by an insurer with a head office in the Swiss Confederation, as well as regarding the supervision of those activities, 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 announce the procedure for implementation of the Agreement in accordance with Article 9, Paragraph 1 of the Financial Supervision Commission Act.

§ 6. (1) At the request of an insurer and or reinsurer, the Commission shall issue a certificate containing updated information on the authorisation of the insurer and the classes of insurance in respect of which it is entitled to operate.

(2) Where for the purpose of assessing the qualifications and reliability in accordance with Directive 2009/138/EC in another Member State, it is required that a Bulgarian citizen or a person residing in the Republic of Bulgaria provide evidence for the absence of previous bankruptcies, that fact shall be evidenced with a declaration under Article 313 of the Penal Code with a notarised certification of the signature.

§ 7. This Code transposes the requirements of:

1. Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation.

2. Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and 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 on the taking up and pursuit of the business of Insurance and Reinsurance (Solvency II).

4. Articles 4 and 6 of Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities 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 amending Directive 2009/138/EC (Solvency II) as regards the date for its transposition and the date of its application, and the date of repeal of 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 amending Directive 2009/138/EC (Solvency II) as regards the date for its transposition and the date of its application, and the date of repeal of 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 amending 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 respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ, L 153/1 of 22 May 2014).

8. Articles 91, 92 and 93 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ, L 173/349, 12 June 2014).

TRANSITIONAL AND FINAL PROVISIONS

§ 8. (1) Part II shall not apply until the dates set out in Paragraph 2 for an insurer, respectively reinsurer, which, by 1 January 2016, ceases to conduct new insurance or reinsurance contracts and exclusively administers its existing portfolio where either:

1. the insurer, respectively reinsurer, has notified the Commission that it will terminate its activity before 1 January 2019; or

2. the insurer, respectively reinsurer, is subject to reorganisation measures and conservators have been appointed.

(2) Part II shall apply:

1. from 1 January 2019 or before that date for an insurer or reinsurer under Paragraph 1, point 1, where the Deputy Chairperson is not satisfied with the progress that has been made towards terminating the person's activity;

2. from 1 January 2021 or before that date for an insurer or reinsurer under Paragraph 1, point 2, where the Deputy Chairperson is not satisfied with the progress that has been made towards terminating the person's activity.

(3) Paragraphs 1 and 2 shall apply only if the following conditions are met simultaneously:

1. the insurer, respectively reinsurer, is not part of a group, or if it is, all insurers, respectively reinsurers, that are part of the group cease to conduct new insurance or reinsurance contracts;

2. the insurer, respectively reinsurer, shall provide the Commission with an annual report setting out what progress has been made in terminating its activity;

3. the insurer, respectively reinsurer, has notified the Commission that it wishes to apply transitional measures under Paragraph 1.

(4) In the cases under Paragraph 2, the Deputy Chairperson shall determine, by a decision, the date from which the requirements of Part II shall apply to the insurer, respectively reinsurer.

(5) Notwithstanding Paragraphs 1 and 2, the insurer under Paragraph 1 or 2, respectively the reinsurer, may pursue its activity in compliance with Part II.

(6) The Commission shall draw up a list of the insurers and reinsurers which make use of the transitional measures under Paragraph 1 and communicate that list to the supervisory authorities of the other Member States.

§ 9. (1) Each insurer, respectively reinsurer, shall submit the annual information under Article 126, Paragraph 1, point 2 within the following terms:

1. the information regarding financial year 2015 – not later than 31 March after the end of the financial year;

2. the information regarding financial year 2016 – not later than 20 weeks after the end of the financial year;

3. the information regarding financial year 2017 – not later than 18 weeks after the end of the financial year;

4. the information regarding financial year 2018 – not later than 16 weeks after the end of the financial year;

5. the information regarding financial year 2019 and each successive year – within the terms set out in Regulation 2015/35.

(2) Within the terms under Paragraph 1, each insurer, respectively reinsurer, shall also disclose the report on its solvency and financial condition.

(3) Each insurer, respectively reinsurer, shall submit the quarterly information under Article 126, Paragraph 1, point 3 by the following deadlines:

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 *et seq.* – not later than the end of the month following the quarter.

(4) Paragraphs 1 to 3 shall apply respectively to the periodic information submitted by an insurer or reinsurer, participating company, insurance holding company or mixed insurance holding company at the head of a group, as well as to the report on solvency and financial condition of the group, whereby each of the deadlines referred to in Paragraphs 1 to 3 shall be extended by 6 weeks.

§ 10. (1) With respect to insurers and reinsurers investing in tradable securities or other financial instruments based on repackaged loans that were issued before 1 January 2011, the requirements determined with an instrument of the European Commission in accordance with Article 135, Paragraph 2 of Directive 2009/138/EC shall apply only in circumstances where new underlying exposures were added or substituted after 31 December 2014.

(2) Paragraph 1 shall apply accordingly at group level.

§ 11. (1) An insurer, respectively reinsurer, which on 31 December 2015 complies with the Solvency Margin with own funds but do not hold sufficient eligible basic own funds to cover the Minimum Capital Requirement must procure sufficient eligible basic own funds by 31 December 2016. The authorisation of an insurer, respectively reinsurer, which has not procured not hold sufficient eligible basic own funds to cover the Minimum Capital Requirement by the deadline under sentence 1 shall be withdrawn.

(2) Notwithstanding Article 216, Paragraph 1 and without prejudice to Paragraphs 2 to 4 of that Article, where on 31 December 2015 an insurer or reinsurer complies with the Solvency Margin referred to in Article 81 of the repealed Code on Insurance but does not comply with the Solvency Capital Requirement in 2016, at the proposal of the Deputy Chairperson, the Commission shall require the insurer or reinsurer concerned respective to take the necessary measures to achieve the establishment of the level of eligible own funds covering the Solvency Capital Requirement or the reduction of its risk profile to ensure compliance with the Solvency Capital Requirement by 31 December 2017.

(3) The insurer, respectively reinsurer, under Paragraph 2 shall, every three months, submit a progress report to the Commission setting out the measures taken and the progress made to establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce the risk profile to ensure compliance with the Solvency Capital Requirement.

(4) The extension referred to in Paragraph 2 shall be withdrawn where that progress report shows that there was no significant progress in achieving the re-establishment of the level of eligible own funds covering the Solvency Capital Requirement or the reduction of the risk profile to ensure compliance with the Solvency Capital Requirement between the date of the observation of non-compliance of the Solvency Capital Requirement and the date of the submission of the progress report.

(5) Notwithstanding Article 239, Paragraphs 2, 3 and 4, Paragraphs 2 to 4 shall apply mutatis mutandis at the level of the group and where the participating insurer, respectively reinsurer, or the insurers and reinsurers in a group comply with the Adjusted Solvency referred to in Article 84 of the repealed Code on Insurance but do not comply with the group Solvency Capital Requirement.

(6) By 31 December 2017 the percentages under Article 192, Paragraph 4 shall apply only to the Solvency Capital Requirement calculated in accordance with the standard formula.

§ 12. (1) An insurer, respectively reinsurer, subject to prior approval by the Deputy Chairperson, may apply a transitional adjustment to the relevant risk-free interest rate term structure with respect to admissible insurance and reinsurance obligations.

(2) For each currency the adjustment shall be calculated as a portion of the difference between:

1. the interest rate as determined by the insurer, respectively reinsurer, in accordance Article 13, Paragraph 10 of Regulation No 27 on the procedure and methodology for establishment of technical provisions by insurers and reinsurers (promulgated, SG, issue 36/2006; amended and supplemented, issue 65/2007, issue 3/2008, issue 49 and 89/2010, and issue 66/2013);

2. the annual effective interest rate, calculated as the single discount rate that, where applied to the cash flows of the portfolio of admissible insurance and reinsurance obligations, results in a value that is equal to the value of the best estimate of the portfolio of admissible insurance and reinsurance obligations where the time value of money is taken into account using the relevant risk-free interest rate term structure referred to in Article 154, Paragraph 2.

(3) The portion referred to in Paragraph 2 shall decrease linearly at the end of each year from 100 % during the year starting from 1 January 2016 to zero percent on 1 January 2032.

(4) Where the insurer, respectively reinsurer, applies the volatility adjustment referred to in Article 158, the relevant risk-free interest rate term structure referred to in Paragraph 2, point 2 shall be the adjusted relevant risk-free interest rate term structure set out in Article 158.

(5) The admissible insurance and reinsurance obligations shall comprise only insurance or reinsurance obligations that meet the following requirements:

1. the contracts that give rise to the insurance and reinsurance obligations were concluded before 1 January 2016, excluding contract renewals on or after that date;

2. until 31 December 2015, technical provisions for the insurance and reinsurance obligations were determined in accordance with Regulation No 27 on the procedure and methodology for establishment of technical provisions by insurers and reinsurers as of 31 December 2015;

3. Article 156 is not applied to the insurance and reinsurance obligations.

(6) An insurer, respectively reinsurer, which applies Paragraph 1 shall:

1. not include the admissible insurance and reinsurance obligations in the calculation of the volatility adjustment set out in Article 158;

2. not apply § 13;

3. disclose publicly as part of its report on its solvency and financial condition referred to in Article 129 that it applies the transitional risk-free interest rate term structure, and the quantification of the impact of not applying this transitional measure on its financial position.

(7) The matching adjustment under Article 156 shall not apply to an insurer or reinsurer which applies the transitional measures under Paragraph 1.

§ 13. (1) An insurer, respectively reinsurer, may, after the prior approval of the Deputy Chairperson, apply transitional deduction to the technical provisions. That deduction may be applied at the level of homogeneous risk groups referred to in Article 153.

(2) The transitional deduction shall correspond to a portion of the difference between the following two amounts:

1. the technical provisions after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles, calculated in accordance with Article 120 and Articles 153 to 162 on 1 January 2016;

2. the technical provisions after deduction of the amounts recoverable from reinsurance contracts, calculated in accordance with Regulation No 27 on the procedure and methodology for establishment of technical provisions by insurers and reinsurers as of 31 December 2015;

(3) The maximum portion deductible shall decrease linearly at the end of each year from 100 % during the year starting from 1 January 2016 to 0 % on 1 January 2032.

(4) Where the insurer, respectively reinsurer, applies on 1 January 2016 the volatility adjustment referred to in the Article 158, the amount referred to in Paragraph 2, point 1, shall be calculated with the volatility adjustment at that date.

(5) Subject to prior approval by the Deputy Chairperson or on the initiative of the Deputy Chairperson, the amounts of technical provisions, including where applicable the amount of the volatility adjustment, used to calculate the transitional deduction referred to in paragraph 2, points 1 and 2 may be recalculated every 24 months, or more frequently where the risk profile of the insurer or reinsurer has materially changed.

(6) The deduction referred to in paragraph 2 may be limited by the Deputy Chairperson if its application could result in a reduction of the financial resources requirements that apply to the undertaking when compared with those calculated in accordance with the repealed Code on Insurance as of 31 December 2015.

(7) An insurer, respectively reinsurer, which applies Paragraph 1 shall:

1. not apply § 12;

2. submit annually a report to the Commission setting out measures taken and the progress made to re-establish at the end of the transitional period set out in Paragraph 3 a level of eligible own funds covering the Solvency Capital Requirement or to reduce their risk profile to restore compliance with the Solvency Capital Requirement, where it would not comply with the Solvency Capital Requirement without application of the transitional deduction;

3. disclose publicly as part of its report on its solvency and financial condition referred to in Article 129 that it applies the transitional deduction to the technical provisions, and the quantification of the impact of not applying that transitional deduction on its financial position.

§ 14. (1) An insurer, respectively reinsurer, which applies the transitional measures under § 12 and 13, shall assess the compliance with the capital requirements under Article 90, Paragraph 2, point 2.

(2) An insurer, respectively reinsurer, which applies the transitional measures set out in § 12 and 13, shall immediately inform the Deputy Chairperson as soon as it observes that it would not comply with the Solvency Capital Requirement without application of these transitional measures. At the proposal of the Deputy Chairperson, the Commission shall require the insurer or

reinsurer concerned to take the necessary measures to ensure compliance with the Solvency Capital Requirement at the end of the transitional period.

(3) Within two months from observation of non-compliance with the Solvency Capital Requirement without application of these transitional measures, the insurer or reinsurer concerned shall submit to the Commission a phasing-in plan setting out the planned measures to establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce its risk profile to ensure compliance with the Solvency Capital Requirement at the end of the transitional period. The insurer or reinsurer may update the phasing-in plan during the transitional period.

(4) The insurer or reinsurer shall submit annually a report to the Commission setting out the measures taken and the progress made to ensure compliance with the Solvency Capital Requirement at the end of the transitional period. At the proposal of the Deputy Chairperson, the Commission shall revoke the approval for the application of the transitional measure where that progress report shows that compliance with the Solvency Capital Requirement at the end of the transitional period is unrealistic.

(5) At the proposal of the Deputy Chairperson, the Commission may in exceptional circumstances, by a decision stating the reasons, set a capital add-on for an insurer, respectively reinsurer, applying the transitional measures under § 12 and 13, if the Commission concludes that its risk profile deviates significantly from the assumptions underlying those adjustments and transitional measures.

§ 15. Paragraphs 12, 13 and 14 shall apply accordingly at group level.

§ 16. The Ordinance under Article 490, Paragraph 5 shall be adopted within one year of the effective date of this Code. The Guarantee Fund shall hire a consultant with international experience in risk assessment and actuarial science for the elaboration of the unified requirements for adjustment of the insurance premium.

§ 17. (1) As of the effective date of this Code, pending proceedings for granting of authorisation to an insurer or reinsurer, as well as for acquisition of a qualifying holding or increase of holdings shall be completed following the procedure set out in this Code. Within three months from the effective date of this Code, the applicants under sentence 1 shall submit to the Commission the absent documents under Articles 31 to 33 and Article 69. The terms of Article 34, Paragraphs 1 to 3 and Article 71 shall be suspended until the submission of all documents under sentence 2, respectively until the expiration of the three-month period.

(2) As of the effective date of this Code, pending proceedings under Articles 13, 22, Article 25, Paragraph 2, Articles 26, 27, 109, 118, 120 and 158 of the repealed Code on Insurance shall be concluded following the procedure of the repealed Code on Insurance, unless the person requests to conclude the proceedings following the procedure set out in this Code.

(3) As of the effective date of this Code, pending proceedings under Articles 62, 103 and Article 132 of the repealed Code on Insurance shall be terminated.

(4) Approvals issued under Articles 13, 22, 26 and 27 of the repealed Code on Insurance shall retain valid.

(5) As of the effective date of this Code, pending proceedings for imposition of coercive administrative measures, withdrawal of authorisations and permits of insurers, reinsurers and insurance brokers shall be concluded following the previous procedure.

§ 18. Article 70, Paragraph 5 shall also apply to applicants for acquisition of qualified holdings that have submitted the documents under Article 16a, Paragraph 1 of the repealed Code on Insurance.

§ 19. Article 80, Paragraph 12 shall also apply to persons that have been approved under Article 13, Paragraph 6 of the repealed Code on Insurance.

§ 20. For the purposes of Article 97, Paragraph 2, point 6, actuarial experience in a health insurance company shall be valid.

§ 21. (1) Existing insurers and reinsurers authorised before the effective date of this Code shall continue to operate as insurers, respectively reinsurers, under Part II, Title III, unless they file a request under Article 38, Paragraph 6.

(2) The authorisations of local insurers for the classes of insurance under Annex No 1 of the repealed Code on Insurance shall be treated as authorisations for the classes of insurance listed in Annex No 1 in accordance with Annex No 2.

§ 22. For insurance contracts concluded before the entry into force of this Code, Part IV of the repealed Code on Insurance shall apply, unless the parties agree otherwise after the entry into force of this Code.

§ 23. Article 480, Paragraph 1 shall apply to all contracts for compulsory liability insurance of motorists concluded on and after the day following the date of entry into force of this Code.

§ 24. In respect of cases pending as of the effective date Article 484 of more than one valid, as well as expired, insurance for compulsory insurance of motorists under which insured events have occurred, insurers – parties to the respective contracts shall be liable in equal proportion for payment of the claim, whereby regarding the damaged party and the insured where the latter has paid a benefit to the damaged parties, the insurers shall be jointly liable for the payment of the benefit.

§ 25. In respect of cases pending as of the effective date Article 480 where the same motor vehicle has a valid insurance policy for compulsory insurance of motorists with one insurer and has a green card certificate issued from another insurer, as well as expired ones (under which insured events have occurred), and the insured event is outside the territory of the Republic of Bulgaria and if the event has occurred in the territory of:

1. a third country for which the issued green card certificate has territorial coverage, the insurer that has issued it shall be liable for the payment of the benefit;

2. a Member State, the insurer that has issued the insurance policy for compulsory insurance of motorists shall be liable for the payment of the benefit.

§ 26. For contracts for compulsory insurance of motorists pending as of the effective date of Article 492, as well as for expired contracts under which insured events have occurred, the limits under Article 266 of the repealed Code on Insurance which were valid at the date of the insured event shall apply.

§ 27. For contracts for compulsory accident insurance of passengers of public transport vehicles pending as of the effective date of Article 476, as well as for expired contracts under which insured events have occurred, the limits under Article 281 of the repealed Code on Insurance which were valid at the date of the insured event shall apply.

§ 28. The Guarantee Fund under Article 518 shall be the Guarantee Fund under Article 287 of the repealed Code on Insurance.

§ 29. The instruments implementing the repealed Code on Insurance and the general administrative instruments issued pursuant to the repealed Code on Insurance shall remain in force inasmuch as they are not in conflict with this Code.

§ 30. (1) The existing insurers within the meaning of § 1, point 11 of the Additional Provisions of the repealed Insurance Act shall conclude any winding-up, respectively bankruptcy, proceedings following the procedure set out in the repealed Act.

(2) For persons under Paragraph 1 that do not have sufficient funds to cover the winding-up or bankruptcy costs, at the request of the Deputy Chairperson, the court shall order deletion of the company in the bankruptcy decision. A receiver in bankruptcy shall not be appointed.

(3) For persons under Paragraph 1 that according to the evidence collected have neither resources, nor obligations, the court, at the request of the Deputy Chairperson, shall order the deletion of the company.

(4) For persons under Paragraph 1 the winding-up or bankruptcy of which was concluded with the settlement of the obligations to third parties, the Deputy Chairperson shall issue a decision on termination of the winding-up. The relations between the shareholders shall be regulated under the Commerce Act.

(5) Pending bankruptcy proceedings under the repealed Insurance Act and under the repealed Code on Insurance shall be concluded under the previous procedure. By decision of the Commission, at the request of the receiver in bankruptcy and with the prior consent of the Management Board of the Guarantee Fund, the bankruptcy proceedings under sentence 1 may be concluded following the procedure set out in this Code.

§ 31. For prescription commencing under the repealed Code on Insurance, Article 378, Paragraphs 1 to 6 and 8 and Article 379 shall apply.

§ 32. The Guarantee Fund shall return to the state budget, within 6 months from the entry into force of this Code, the initial contribution made by the Minister of Finance to the benefit of the Compensation Fund in the amount of BGN 2,000,000 at the expense of the Republican budget.

§ 33. The Guarantee Fund shall bring its activities in compliance with the requirements of this Code within 6 months of its effective date.

§ 34. This Code shall repeal the Code on Insurance (promulgated, SG, issue 103/2005, amended, issue 105/2005, issue 30, 33, 34, 54, 59, 80, 82 and 105/2006, issue 48, 53, 97, 100 and 109/2007, issue 67 and 69/2008, issue 24 and 41/2009, issue 19, 41, 43, 86 and 100/2010, issue 51, 60 and 77/2011, issue 21, 60 and 77/2012, issue 20, 70 and 109/2013, and issue 94 and 95/2015).

§ 35. In the Penal Code (promulgated, SG, issue 26/1968, corrected, issue 29/1968, amended, issue 92/1969, issue 26 and 27/1973, issue 89/1974, issue 95/1975, issue 3/1977, issue 54/1978, issue 89/1979, issue 28/1982, corrected, issue 31/1982, amended, issue 44/1984, issue 41 and 79/1985, corrected, issue 80/1985, amended, issue 89/1986, corrected, issue 90/1986, amended, issue 37, 91 and 99/1989, issue 10, 31 and 81/1990, issue 1 and 86/1991, corrected, issue 90/1991, amended, issue 105/1991, issue 54/1992, issue 10/1993, issue 50/1995; Resolution No 19 of the Constitutional Court from 1995 – issue 97/1995, amended, issue 102/1995, issue

107/1996, issue 62 and 85/1997; Resolution No 19 of the Constitutional Court from 1997 – issue 120/1997, amended, issue 83, 85, 132, 133 and 153/1998, issue 7, 51 and 81/1999, issue 21 and 51/2000; Resolution No 14 of the Constitutional Court from 2000 – issue 98/2000, amended, issue 41 and 101/2001, issue 45 and 92/2002, issue 26 and 103/2004, issue 24, 43, 76, 86 and 88/2005, issue 59, 75 and 102/2006, issue 38, 57, 64, 85, 89 and 94/2007, issue 19, 67 and 102/2008, issue 12, 23, 27, 32, 47, 80, 93 and 102/2009, issue 26 and 32/2010, issue 33 and 60/2011, issue 19, 20 and 60/2012, issue 17, 61 and 84/2013, issue 19, 53 and 107/2014, and issue 14, 24, 41 and 74 of 2015), in Article 227b, Paragraph 4 after the words "the Credit Institutions Act" a comma and the words "and the persons responsible for notifying the Financial Supervision Commission of the insolvency of an insurer or reinsurer under the Code on Insurance" shall be inserted.

§ 36. In the Bank Deposits Guarantee Act (promulgated, SG, issue 62 of 2015) the following amendments shall be made of Article 11, Paragraph 1:

1. In point 3, the words "Article 8" shall be replaced by "Article 12".

2. In point 8, the words "Article 287" shall be replaced by "Article 518".

§ 37. In the Insurance Premiums Tax Act (promulgated, SG, issue 86/2010, amended, issue 105 of 2014) the following amendments shall be made:

1. In Article 3, Paragraph 2 the words "Article 8, Paragraph 1, point 2" shall be replaced by "Article 12, Paragraph 1, point 2".

2. In Article 6 the words "Article 8, Paragraph 1, point 2" shall be replaced by "Article 12, Paragraph 1, point 2".

3. In Article 8, Paragraph 4:

a) in point 1 the words "Article 287" shall be replaced by "Article 518";

b) in point 2 the words "Article 311e" shall be replaced by "Article 521, Paragraph 1, point 2".

4. In Article 19, Paragraph 1 the words "Article 8, Paragraph 1, point 2" shall be replaced by "Article 12, Paragraph 1, point 2".

5. In § 1 of the Additional Provision:

a) in point 1 the words "Article 8, Paragraph 1" shall be replaced by "Article 12, Paragraph 1";

b) in point 3 the words "Article 8, Paragraph 2" shall be replaced by "Article 12, Paragraph 2", and the words "Article 9, Paragraph 2, sentence 1" shall be replaced by "Article 25, Paragraph 1";

c) in point 5 the words "§ 1, point 22" shall be replaced by "§ 1, point 12".

§ 38. In the Road Traffic Act (promulgated, SG, issue 20/1999, amended, issue 1/2000, issue 43 and 76/2002, issue 16 and 22/2003, issue 6, 70, 85 and 115/2004, issue 79, 92, 99, 102, 103 and 105/2005, issue 30, 34, 61, 64, 80, 82, 85 and 102/2006, issue 22, 51, 53, 97 and 109/2007, issue 36, 43, 69, 88 and 102/2008, issue 74, 75, 82 and 93/2009, issue 54, 98 and 100/2010, issue 10, 19, 39 and 48/2011; Resolution No 1 of the Constitutional Court from 2012 – issue 20/2012, amended, issue 47, 53, 54, 60 and 75/2012, issue 15 and 68/2013, issue 53 and 107/2014, and issue 14, 19, 37, 79, 92 and 95/2015) the following amendments shall be made:

1. In Article 125a, Paragraph 1 the words "Article 287" shall be replaced by "Article 518".

2. In Article 143, Paragraph 10 shall be inserted:

"(10) The registration of a road vehicle for which a notification has been received from the Guarantee Fund under Article 574, Paragraph 11 of the Code on Insurance shall be terminated *ex officio* and the owner of the road vehicle shall be notified. The registration of a road vehicle terminated *ex officio* shall be reactivated *ex officio* upon the provision of data for concluded insurance by the Guarantee Fund following the procedure set out in Article 574, Paragraph 6 or at the request of the owner after the provision of a valid liability insurance of motorists."

3. In Article 179, Paragraph 5 the words "Article 261, Paragraph 1" shall be replaced by "Article 487, Paragraph 1".

§ 39. In the Financial Collateral Arrangements Act (promulgated, SG, issue 68/2006, amended, issue 24/2009, issue 101/2010, issue 77/2011, and issue 70 and 109/2013, and issue 62/2015), in Article 3, Paragraph 1, point 6 the words "Article 1, letter "a" of Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive) 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 assurance" shall be replaced by "Article 13, paragraph 1 of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ, L 335/1 of 17 December 2009)".

§ 40. In the Supplementary Supervision of Financial Conglomerates Act (promulgated, SG, issue 59/2006, amended, issue 52/2007, issue 77 and 105/2011, issue 70/2013, and issue 27 of 2014) the following amendments shall be made:

1. In Article 13, Paragraph 8 the words "Chapter XXVII" shall be replaced by "Articles 267 and 268".

2. In Article 15:

a) in Paragraph 3, the words "under paragraph 11 of point 2.2. of the Protocol on cooperation between the supervisory authorities of the Member States of the European Union concerning the implementation of Directive 98/78/EC on the supplementary supervision of insurance undertakings in an insurance group from 11 May 2000 in conjunction with Article 9b, Paragraph 3 of the Code on Insurance (Helsinki Protocol)" shall be replaced by "the coordination arrangements under Article 268, Paragraph 4 of the Code on Insurance";

b) in Paragraph 4, the words "the Coordination Committee within the meaning of paragraph 3 of point 2.2. of the Helsinki Protocol" shall be replaced by "the college of supervisors under Article 268 of the Code on Insurance".

3. In Article 16, Paragraph 14 the words "the Coordination Committee within the meaning of paragraph 3 of point 2.2. of the Helsinki Protocol" shall be replaced by "the colleges of supervisors under Article 268 of the Code on Insurance".

4. In § 1 of the Additional Provisions:

a) in point 2 the words "Article 8, Paragraph 1" shall be replaced by "Article 12, Paragraph 1, point 1";

b) in point 5b the words "Article 8, Paragraph 2" shall be replaced by "Article 12, Paragraph 2, point 1", and the words "§ 1, point 44 of the Additional Provisions of" shall be replaced by "Article 22 of";

c) in point 6, letter "b" the words "Article 27, Paragraph 1" shall be replaced by "Article 233, Paragraph 8";

d) in point 19 letter "b" shall be amended as follows:

"b) for the persons in the sector of insurance – the Solvency Capital Requirement, respectively the solvency margin, calculated under the Code on Insurance for any of the persons in that sector;"

e) in point 20, letter "b", the text after the word "insurance" shall be deleted.

§ 41. In the Heath Act (promulgated, SG, issue 70/2004, amended, issue 46, 76, 85, 88, 94 and 103/2005, issue 18, 30, 34, 59, 71, 75, 81, 95 and 102/2006, issue 31, 41, 46, 53, 59, 82 and 95/2007, issue 13, 102 and 110/2008, issue 36, 41, 74, 82, 93, 99 and 101/2009, issue 41, 42, 50, 59, 62, 98 and 100/2010, issue 8, 9, 45 and 60/2011, issue 38, 40, 54, 60, 82, 101 and 102/2012, issue 15, 30, 66, 68, 99, 104 and 106/2013, issue 1, 98 and 107/2014, and issue 9, 72 and 80/2015 г.), in Article 28, Paragraph 1, point 8 after the words "insurer authorised under" the words "Section I of Annex No 1 or" shall be inserted.

§ 42. In the Heath Insurance Act (promulgated, SG, issue 70/1998, amended, issue 93 and 153/1998, issue 62, 65, 67, 69, 110 and 113/1999, issue 1 and 64/2000, issue 41/2001, issue 1, 54, 74, 107, 112, 119 and 120/2002, issue 8, 50, 107 and 114/2003, issue 28, 38, 49, 70, 85 and 111/2004, issue 39, 45, 76, 99, 102, 103 and 105/2005, issue 17, 18, 30, 33, 34, 59, 80, 95 and 105/2006, issue 11/2007; Resolution No 3 of the Constitutional Court from 2007 – issue 26/2007, amended, issue 31, 46, 53, 59, 97, 100 and 113/2007, issue 37, 71 and 110/2008, issue 35, 41, 42, 93, 99 and 101/2009, issue 19, 26, 43, 49, 58, 59, 62, 96, 97, 98 and 100/2010, issue 9, 60, 99 and 100/2011, issue 38, 60, 94, 101 and 102/2012, issue 4, 15, 20, 23 and 106/2013, issue 1, 18, 35, 53, 54 and 107/2014, and issue 12, 48, 54, 61, 72 and 79/2015) the following amendments shall be made:

1. In Article 82, Paragraph 1 the words "Article 222a" shall be replaced by "Chapter XL, Section IV".

2. In Article 101, point 4 the words "Article 222a, Paragraph 2" shall be replaced by "Chapter XL, Section IV".

§ 43. In the Economic and Financial Relations with Companies Registered in Preferential Tax Regime Jurisdictions, the Persons Related to Them and Their Beneficial Owners (promulgated, SG, issue 1/2014, amended, issue 22/2015), in Article 6, Paragraph 3 the words "Article 16a" shall be replaced by "Article 69".

§ 44. In the Financial Supervision Commission Act (promulgated, SG, issue 8/2003, amended, issue 31, 67 and 112/2003, issue 85/2004, issue 39, 103 and 105/2005, issue 30, 56, 59 and 84/2006, issue 52, 97 and 109/2007, issue 67/2008, issue 24 and 42/2009, issue 43 and 97/2010, issue 77/2011, issue 21, 38, 60, 102 and 103/2012, issue 15 and 109/2013, and issue 34 and 62/2015) the following amendments and additions shall be made:

1. In Article 1, Paragraph 2, point 2 shall be amended as follows:

"2. business of insurers under the Code on Insurance and the Health Insurance Act, the business of reinsurers, insurance brokers and insurance agents under the Code on Insurance and the activity of the Guarantee Fund under Art. 518 of the Code on Insurance;".

2. In Article 16, Paragraph 1:

a) in point 3, the words "Article 16" shall be replaced by "Chapter VI";

b) in point 6, the words "Articles 13, 22 and 26" shall be replaced by "Article 80, Paragraphs 1 and 2, Article 82, Article 93, Paragraph 4 and Article 95, Paragraph 3";

c) in point 13, the words "Article 68" shall be replaced by "Article 119".

3. In Article 18 Paragraph 2 shall be amended as follows:

"(2) For the purposes of the exercised supervision and with the expenses covered by the supervised entity, the Commission, respectively the responsible Deputy Chairperson, may appoint an external auditor or independent external experts for the valuation of assets or liabilities of the supervised entity and may require that the supervised entity report the results of the valuation in its financial statements."

4. In Article 27, Paragraph 1, point 5 shall be amended as follows:

"5. granting of:

a) authorisation for extension of the authorisation under Article 32 of the Code on Insurance;

b) permits for voluntary change of the legal status of an insurer under Article 36 of the Code on Insurance;

c) approval of the full or partial internal model, as well as material changes in an approved internal model or policy to change an internal model of an insurer or reinsurer, as well as approval of an internal model of a group where the Commission is the group supervisor;".

5. In Article 30, Paragraph 1:

a) a new point 10 shall be inserted:

"10. special purpose vehicles;"

b) the current points 10, 11, 12, 13, 14 and 15 shall become points 11, 12, 13, 14, 15 and 16 respectively.

§ 45. In the Employment Promotion Act (promulgated, SG, issue 112/2001, amended, issue 54 and 120/2002, issue 26, 86 and 114/2003, issue 52 and 81/2004, issue 27 and 38/2005, issue 18, 30, 33 and 48/2006, issue 46/2007, issue 26, 89 and 109/2008, issue 10, 32, 41 and 74/2009, issue 49, 59, 85 and 100/2010, issue 9 and 43/2011, issue 7/2012, issue 15, 68 and 70/2013, issue 54 and 61/2014, and issue 54 and 79/2015), in Article 30a, Paragraph 2, point 14 the words "insurance institutions" shall be replaced by "insurers".

§ 46. In the Public Offering of Securities Act (promulgated, SG, issue 114/1999, amended, issue 63 and 92/2000, issue 28, 61, 93 and 101/2002, issue 8, 31, 67 and 71/2003, issue 37/2004, issue 19, 31, 39, 103 and 105/2005, issue 30, 33, 34, 59, 63, 80, 84, 86 and 105/2006, issue 25, 52, 53 and 109/2007, issue 67 and 69/2008, issue 23, 24, 42 and 93/2009, issue 43 and 101/2010, issue 57 and 77/2011, issue 21, 94 and 103/2012, issue 109/2013, and issue 34, 61, 62 and 95/2015) the following amendments shall be made:

1. In Article 77d, Paragraph 2, point 12 the words "Article 287" shall be replaced by "Article 518".

2. In Article 85, Paragraph 5 the words "7 days" shall be replaced by "one business day".

3. In Article 86 Paragraph 3 shall be amended as follows:

"(3) If the basic prospectus and appendices thereto do not include information on the final terms of the offering, the issuer, offeror or person requesting admission of the securities to trading on a regulated market shall make this information available to the public pursuant to Article 92a, Paragraph 5, shall submit it to the Commission and it shall be notified by the Commission to the competent authorities of the host countries for each separate offer in the shortest possible time and, if possible, not later than the starting date of the offer or the admission of the securities to trading on a regulated market. The Commission shall inform the European Securities and Markets Authority (ESMA) about those final terms. The final terms shall contain information relating to the securities note and cannot be a supplement to the basic prospectus. In the cases under sentence 1, Article 87a, Paragraph 1, sentence 1."

§ 47. In the Social Security Code (promulgated, SG, issue 110/1999; Resolution No 5 of the Constitutional Court from 2000 – issue 55/2000, amended, issue 64/2000, issue 1, 35 and 41/2001, issue 1, 10, 45, 74, 112, 119 and 120/2002, issue 8, 42, 67, 95, 112 and 114/2003, issue 12, 21, 38, 52, 53, 69, 70, 112 and 115/2004, issue 38, 39, 76, 102, 103, 104 and 105/2005, issue 17, 30, 34, 56, 57, 59 and 68/2006; corrected, issue 76/2006, amended, issue 80, 82, 95, 102 and 105/2006, issue 41, 52, 53, 64, 77, 97, 100, 109 and 113/2007, issue 33, 43, 67, 69, 89, 102 and 109/2008, issue 23, 25, 35, 41, 42, 93, 95, 99 and 103/2009, issue 16, 19, 43, 49, 58, 59, 88, 97, 98 and 100/2010; Resolution No 7 of the Constitutional Court from 2011 – issue 45/2011, amended, issue 60, 77 and 100/2011, issue 7, 21, 38, 40, 44, 58, 81, 89, 94 and 99/2012, issue 15, 20, 70, 98, 104, 106, 109 and 111/2013, issue 1, 18, 27, 35, 53 and 107/2014, and issue 12, 14, 22, 54, 61, 79 and 95/2015), in Article 343c, Paragraph 1, point 3 the words "Section I, point 1, letter "b" – "Pension or annuity insurance", of Annex No 1" shall be replaced by "point 1, Section I, letter "b" – "annuities", of Annex No 1".

§ 48. In the Payment Services and Payment Systems Act (promulgated, SG, issue 23/2009, amended, issue 24 and 87/2009, issue 101/2010, issue 105/2011, issue 103/2012, and issue 57/2015) the following amendments and additions shall be made in Article 78g:

1. A new Article 2 shall be inserted:

"(2) Where within the boundaries of an interoperable system, a system operator has provided collateral to another system operator, the rights of the system operator providing the collateral on the provided collateral cannot be affected by reorganisation measures or winding-up procedures against the system operator to which the collateral was provided."

2. The current Paragraph 2 shall become Paragraph 3 and in it after the words "Paragraph 1", the words "and Paragraph 2" shall be added.

3. The current Paragraph 3 shall become Paragraph 4.

§ 49. The financial lease contracts under Article 384, Paragraph 1 concluded before the effective date of this Code shall be brought in compliance within 6 months of the effective date of the Code.

§ 50. (1) This Code shall become effective on 1 January 2016, apart from Article 574, Paragraph 8 which shall become effective on 1 July 2016.

(2) Until 1 July 2016, the exchange of data under Article 574, Paragraphs 3 – 7 shall be performed on a weekly basis and on each first business day of the week:

1. The Ministry of Interior and Executive Agency "Automobile Administration" shall provide the current data under Article 574, Paragraphs 3 and 4 to the Information Centre;

2. The Information Centre shall provide to the Ministry of Interior and Executive Agency "Automobile Administration" the current data under Article 574, Paragraphs 5 – 7.

This Code was adopted by the 43rd National Assembly on 15 December 2015 and was sealed with the official seal of the National Assembly.

Annex No 1

CLASSES OF INSURANCE

Section I

Classes of life insurance

1. Life insurance:

a) life insurance which comprises assurance on survival to a stipulated age only, assurance on death only, assurance on survival to a stipulated age or on earlier death, life assurance with return of premiums;

b) annuities;

c) supplementary insurance underwritten in addition to life insurance, in particular, insurance against personal injury incapacity for employment, insurance against death resulting from an accident and insurance against disability resulting from an accident or sickness.

2. Marriage assurance, birth assurance.

3. Unit-linked and index-linked life insurance:

a) life insurance which comprises assurance on survival to a stipulated age only, assurance on death only, assurance on survival to a stipulated age or on earlier death, life assurance with return of premiums, marriage assurance, birth assurance;

b) annuities;

c) supplementary insurance underwritten in addition to life insurance, in particular, insurance against personal injury incapacity for employment, insurance against death resulting from an accident and insurance against disability resulting from an accident or sickness.

4. Capital redemption operations based on actuarial calculation whereby,

in return for single or

periodic payments agreed in advance, commitments of specified duration and amount are undertaken, inasmuch as those operations

are subject to supervision.

Section II

Classes of non-life insurance

A. Classification of risks according to classes of insurance:

1. Accident (including industrial injury and occupational diseases):

– fixed pecuniary benefits;

– benefits;

– combinations of the two;

– injury to passengers.

2. Sickness:

– fixed pecuniary benefits;

– benefits;

– combinations of the two.

3. Land vehicles (other than railway rolling stock):

All damage to or loss of:

– 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. Ships (sea, lake and river and canal vessels):

All damage to or loss of:

– river and canal vessels;

– lake vessels;

– sea vessels.

7. Goods in transit (including merchandise, baggage, and all other goods):

All damage to or loss of goods in transit or baggage,

irrespective of the form of transport.

8. Fire and natural forces:

All damage to or loss of property (other than property

included in classes 3, 4, 5, 6 and 7) due to:
– fire;
– explosion;
– storm;
– natural forces other than storm;
– nuclear energy;
– land subsidence.
9. Other damage to property:
All damage to or loss of property (other than property
included in classes 3, 4, 5, 6 and 7) due to hail or frost, or
any event such as theft, other than the events included in class
8.
10. Civil liability arising out of the holding and use of
motor vehicles:
10.1. All liability arising out of the use of motor vehicles
operating on the land.
10.2. Civil liability of the carrier related to motor vehicles operating on the
land.
11. Civil liability arising out of the holding and use of
aircraft:
11.1. All liability arising out of the use of
aircraft.
11.2. Civil liability of the carrier related to aircraft.
12. Civil liability arising out of the holding and use of
ships (sea, lake and river and canal vessels):
12.1. All liability arising out of the use of ships,
vessels or boats on the sea, rivers, canals or lakes.
12.2. Civil liability of the carrier related to vessels.
13. General liability:
All liability other than those referred to in points 10, 11 and 12.
14. Credit:
– insolvency (general);
– export credit;
– instalment credit;

– mortgages;
– agricultural credit.
15. Suretyship:
– suretyship (direct);
– suretyship (indirect).
16. Miscellaneous financial loss:
– employment risks;
– insufficiency of income (general);
– bad weather;
– loss of benefits;
– continuing general expenses;
– unforeseen trading expenses;
– loss of market value;
– loss of rent or revenue;
– other indirect trading loss;
– other non-trading financial loss;
– other forms of financial loss.
17. Legal expenses:
Legal expenses and costs of litigation.
18. Assistance:
Assistance for persons who get into difficulties while travelling, while away from their home or their habitual residence.
B. Description of authorisations granted for more than one class of insurance:
The following names shall be given to authorisations which simultaneously cover the following classes:
(a) Classes 1 and 2: ‘Accident and Health Insurance’;
(b) Classes 1 (fourth indent), 3, 7 and 10: ‘Motor Insurance’;
(c) Classes 1 (fourth indent), 4, 6, 7 and 12: ‘Marine and Transport Insurance’;
(d) Classes 1 (fourth indent), 5, 7 and 11: ‘Aviation Insurance’;
(e) Classes 8 and 9: ‘Insurance against Fire and other Damage to Property’;
(f) Classes 10, 11, 12 and 13: ‘Liability Insurance’;
(g) Classes 14 and 15: ‘Credit and Suretyship Insurance’;
(h) All ‘General Insurance’ classes.

Annex No 2
to § 21, Paragraph 2
of the Transitional and Final Provisions

Table for alignment of the authorisations by classes of insurance under Annex No 1 of the Code on Insurance of 2005 to authorisations in respect of the insurance classes under Annex No 1 within the meaning of this Code

Authorisation by types of insurance under Annex No 1 of the Code on Insurance of 2005.	Corresponding authorisation in respect of the insurance classes under Annex No 1 of this Code
Section I	Section I
point 1	point 1
letter "a"	letter "a"
letter "b"	letter "b"
point 2	point 2
point 3	point 3, letters "a" and "b"
point 4	no correspondence
point 5	point 4
point 6	point 1, letter "c"
Section II, letter "A"	Section II, letter "A"
point 1:	point 1:

- indent 1	- indent 1
- indent 2	- indent 2
- indent 3	- indent 3
- indent 4	- indent 4
point 2:	point 2:
- indent 1	- indent 1
- indent 2	- indent 2
- indent 3	- indent 3
point 3:	point 3:
- indent 1	- indent 1
- indent 2	- indent 2
point 4	point 4
point 5	point 5
point 6:	point 6:
- indent 1	- indent 1
- indent 2	- indent 2
- indent 3	- indent 3
point 7	point 7

point 8:	point 8:
- indent 1	- indent 1
- indent 2	- indent 2
- indent 3	- no correspondence, included in indent 2
- indent 4	- indent 3
- indent 5	- indent 4
- indent 6	- indent 5
- indent 7	- indent 6
point 9	point 9
point 10	point 10
point 10.1	point 10.1
point 10.2	point 10.2
point 11	point 11
point 11.1	point 11.1
point 11.2	point 11.2
point 12	point 12
point 12.1	point 12.1

point 12.2	point 12.2
point 13	point 13
point 14:	point 14:
- indent 1	- indent 1
- indent 2	- indent 2
- indent 3	- indent 3
- indent 4	- indent 4
- indent 5	- indent 5
point 15:	point 15:
- indent 1	- indent 1
- indent 2	- indent 2
point 16:	point 16:
- indent 1	- indent 1
- indent 2	- indent 2
- indent 3	- indent 3
- indent 4	- indent 4
- indent 5	- indent 5
- indent 6	- indent 6

- indent 7	- indent 7
- indent 8	- indent 8
- indent 9	- indent 9
- indent 10	- indent 10
- indent 11	- indent 11
point 17	point 17
point 18	point 18
Section II, letter "B"	Section II, letter "B"
letter "a"	letter "a"
letter "b"	letter "b"
letter "c"	letter "c"
letter "d"	letter "d"
letter "e"	letter "e"
letter "f"	letter "f"
letter "g"	letter "g"
letter "h"	letter "h"