

Insurance Code

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Text in Bulgarian: Кодекс за застраховането

PART ONE GENERAL PROVISIONS

Subject

Article 1

(1) This Code shall regulate:

1. Insurance and reinsurance;
2. Insurance and reinsurance intermediation;
3. Terms and conditions for commencement, performance and termination of activities under Item 1 and Item 2;
4. Insurance contract;

5. Compulsory insurance; and

6. Insurance supervision.

(2) (Amended, SG No. 60/2012, effective 7.08.2012) The provisions of this Code shall not apply to activities related to supplementary social insurance, unless otherwise stipulated by law.

Objectives

Article 2

The objectives of this Code shall be:

1. To provide protection of the interests of insurance services consumers, and
2. To establish conditions for the development of a stable, transparent and efficient insurance market.

Insurance

Article 3

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

1. assessment of the insurance risk;
2. determination of the insurance premium;
3. establishment of the occurrence of an insured event;
4. determination of the amount of damage incurred;
5. management of an insurer's own funds and assets which serve as cover for his or her technical reserves;
6. (supplemented, SG No. 97/2007) transfer of all, or part, of an insurance risk covered by an insurer to a reinsurer or to another insurer (outward reinsurance);
7. provision of travel assistance insurance services under Section II, Letter "A", item 18 of Annex No. 1 by an insurer, through persons engaged by the insurer and the insurer's own technical means.

Reinsurance

Article 4

(Amended and supplemented, SG No. 97/2007)

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

Insurance and reinsurance intermediation (agency)

Article 5

(1) Insurance and reinsurance intermediation shall be the professional performance of activity comprising the rendering of assistance when elaborating, signing and implementing insurance contracts and reinsurance contracts respectively, the signing of such contracts in the name of the insurer, and on assignment by an insurance service consumer respectively, and rendering assistance in connection with exercising the rights and fulfilling the obligations under such contracts including on occurrence of an insured event, as well as providing consultations related to these contracts.

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

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

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

3. professional performance of claims settlement activities; and

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

Voluntary nature of insurance activities

Article 6

(1) Insurance shall be performed on the principle of voluntary participation.

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

Insurance supervision

Article 7

(1) Regulation and supervision exercised over the activities under Article 1, Paragraph 1 shall be preformed by the Financial Supervision Commission, hereinafter referred to as "the Commission", as well as by the Deputy Chairperson of the Financial Supervision Commission, in charge of the Insurance Supervision Section, hereinafter referred to as "the Deputy Chairperson".

Persons who may perform activities under the present Code

Article 8

(1) An Insurer shall be:

1. a joint-stock company, a co-operative society or an insurer from a third state through a branch registered under the Commerce Act which has received a licence under the terms, conditions, and procedure specified herein;

2. (supplemented, SG No. 97/2007) an insurer from another member state under the conditions of the right of establishment or of the freedom to provide services.

(2) (Amended, SG No. 97/2007) A reinsurer shall be:

1. a joint-stock company holding a licence to pursue inward reinsurance under this Code;

2. a person holding a licence to pursue inward reinsurance by seat of business in another member state;

3. a person holding a licence to pursue inward reinsurance by seat of business in a third country (a third country reinsurer):

a) through a branch registered under the Commerce Act and holding a licence under this Code or

b) from its seat of business or from a branch in a third country subject to the terms and conditions of this Code.

(3) (New, SG No. 97/2007) A licence for insurance or reinsurance under this Code may also be granted to a person established as a European company (SE). A European company insurer or reinsurer shall be established, shall carry out its activity, transform itself and be wound up in accordance with Council Regulation (EC) No. 2157/2001 on the Statute for a European company (SE) and this Code. In respect of a European company insurer the provisions of the joint-stock insurance companies under this Code shall apply.

(4) (Renumbered from Paragraph 3, SG No. 97/2007) An insurance or reinsurance intermediary shall be:

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

2. An insurance intermediary from a third state, registered under the conditions and in accordance with the procedure established herein;

3. An insurance intermediary from a member state who performs activity under the conditions of the right of establishment or of the freedom to provide services.

Restrictions on the activity

Article 9

(1) (Supplemented, SG No. 60/2012, effective 7.08.2012) A single insurer shall not be allowed to provide insurance both under Section I and under Section II of Annex No. 1, except for Accident Insurance and Health Insurance, whereby an insurer licensed solely under point 1 and/or point 2 of Section II(A) of Annex No. 1 may be granted an additional licence for a new type of insurance under Section I, while an insurer licensed under Section I may be granted an additional licence for a new type of insurance under point 1 and/or point 2 of Section II(A) of Annex No. 1.

(2) (Amended, SG No. 97/2007) A joint-stock insurance company may also provide inward reinsurance by type of insurance and relevant risks for which it has been granted an insurance licence. A reinsurer may not carry out insurance.

(3) (Supplemented, SG No. 97/2007) An insurer or a reinsurer shall not be allowed to carry out any other commercial activities. The following shall not be other commercial activities: settling of claims by an insurer to persons insured by insurers whose seat of business is outside the Republic of Bulgaria, on the territory of the Republic of Bulgaria. Such activities shall be carried out under a contract for consideration and without assumption of insurance risk.

(4) (Supplemented, SG No. 97/2007) An insurer or reinsurer may not participate as a general partner in a commercial company, as well as secure other persons' liabilities with its assets.

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

Language

Article 9a

(New, SG No. 97/2007)

The language in which insurance and insurance intermediation shall be carried out in the Republic of Bulgaria shall be the Bulgarian language. The general conditions, consumer information and other documents that shall be provided by insurers and insurance intermediaries shall be prepared in Bulgarian. On request by a consumer, another language may be used in the relationships with the insurer.

Application of the rules for international contracts and the practice of

the Committee of European Insurance and Occupational Pensions Supervisors

Article 9b

(New, SG No. 97/2007)

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

(2) The Commission shall adopt ordinances, instructions or practices relating to the implementation of the international treaties under Paragraph 1 where this is set out therein or is necessary for the purposes of prudent supervisory practice.

(3) The Commission and the Deputy Chairperson may apply the protocols and the other documents adopted within the Committee of European Insurance and Occupational Pensions Supervisors in accordance with the directives of the European Union.

PART TWO INSURANCE AND REINSURANCE

TITLE ONE CONDITIONS FOR PERFORMANCE OF OPERATIONS

Chapter One INSURERS AND REINSURERS WITH A SEAT OF BUSINESS IN THE REPUBLIC OF BULGARIA

Section I Joint-stock insurance company

General requirements

Article 10

(1) A joint-stock insurance company shall be a joint-stock company holding a licence to perform insurance under this Code.

(2) A joint-stock insurance company shall be established, perform its activity, be transformed and be dissolved under the procedures specified in the Commerce Act unless otherwise stipulated herein.

(3) A joint-stock insurance company may open more than one branch under the Commerce Act in one and the same locality, including where its a seat of business are situated.

(4) A joint-stock insurance company shall have the right to perform insurance activities solely in connection with the types of insurance specified under the licence, except for coverage of ancillary risks under the terms and conditions specified in Section II, Letter "C" of Annex No. 1.

Company name

Article 11

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

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

(3) (New, SG No. 60/2012, effective 7.08.2012) When a joint-stock insurance company is licensed solely under point 1 and/or point 2 of Section II(A) of Annex No. 1, its company name may contain-separately or in combination-the words "voluntary", "health", and "insurance" or any derivatives thereof in Bulgarian or in another language.

(4) (New, SG No. 60/2012, effective 7.08.2012) A person who does not meet the requirements laid down in Paragraph 3 may not use a combination of the words "health" and "insurance", or any derivatives thereof in Bulgarian or in another language, in its name, in its advertising activities or in any other operations. The prohibition imposed in the preceding sentence shall not apply to the National Health Insurance Fund and its divisions.

Capital and shares

Article 12

(1) (Amended, SG No. 97/2007) A joint-stock insurance company's registered capital may not be less than the minimum amount of the guarantee capital under Article 82, Paragraph 1, Item 1 or 2.

(2) (Supplemented, SG No. 97/2007) The capital under Paragraph 1 shall be fully subscribed and paid up by the date of submission of a licence application. Upon subsequent

increase of the capital it shall be paid up in full at the date of filing the application for entry in the Commercial Register.

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

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

Requirements for professional qualifications, experience
and good reputation

Article 13

(1) Any member of a managing or control body of a joint-stock insurance company, as well as any person empowered to manage or represent a joint-stock insurance company shall:

1. hold a higher education degree and possess appropriate professional qualifications necessary to manage the shareholder insurance company's activities;

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

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

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

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

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

7. not have been debarred from the right to hold a materially accountable office;

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

9. not have been dismissed from office in a managing or control body of a corporation on the basis of a compulsory administrative measure imposed, except in cases where the order issued

by the competent authority has been repealed in due order.

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

(3) (Supplemented, SG No. 24/2009, effective 31.03.2009) A member of a managing or control body of a joint-stock insurance company, as well as a person empowered to manage or represent it, must be a person who enjoys a good reputation and does not jeopardise the insurer's management and the interests of the consumers and does not impede insurance supervision. In the approval proceedings under Paragraph 6 the applicant shall also submit declarations of the circumstances referred to in Article 16a, Paragraph 1, Item 8, letters (b) - (f).

(4) The executive director or another person empowered to manage or represent the joint-stock insurance company shall hold a master's higher education degree or a Ph. D degree, and may not engage in other gainful employment under a labour contract, except as an associate at an academic institute or a lecturer in a higher educational institution. Physical persons who are citizens of a third state must also hold a permit for long-term residence in the Republic of Bulgaria.

(5) (Supplemented, SG No. 97/2007) The circumstances under Paragraph 1, item 3 shall be established for Bulgarian citizens by submitting a certificate showing no previous convictions and an affidavit showing no previous convictions outside the Republic of Bulgaria, and for persons who are not Bulgarian citizens by means of an affidavit showing no previous convictions in cases where no official document is issued to attest to the lack of previous convictions in the state in which they are ordinarily resident. The circumstances under Paragraph 1, Items 4-9 shall be certified by means of a declaration. The documentation under Sentences One and Two shall be recognised if they have been submitted within three months of the date of their issue or their drafting, as the case may be. A permit for residence in the Republic of Bulgaria to a person from a third country shall be submitted not later than three months from issue of the approval.

(6) (Amended, SG No. 97/2007) Persons under Paragraphs 1 and 2 shall be subject to preliminary approval by the Deputy Chairperson prior to their entry into the commercial registry or prior to their appointment to an office for which entry is not required. The Deputy Chairperson shall pronounce an opinion within one month of receipt of the application.

(7) On establishment of any omissions or contravention of legal requirements in the documentation accompanying the application under Paragraph. 6, the Deputy Chairperson shall request that the applicant eliminate the irregularities within one month. The term for the pronouncement of an opinion under Paragraph. 6 shall cease to run during the period between forwarding of the notification on the elimination of irregularities and receipt of the additional documentation.

Independent members

Article 13a

(New, SG No. 97/2007)

(1) At least one third of the board of directors or the supervisory board of the insurer shall comprise independent members - natural persons. Article 13 shall apply to the independent members.

(2) An independent board member may not be:

1. an employee of the insurer;

2. (amended, SG No. 24/2009, effective 31.03.2009) a party related to the insurer within the meaning of § 1, Item 12, letters (a) and (c) of the Additional Provisions;

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

4. (amended, SG No. 24/2009, effective 31.03.2009) a member of a management or control body, a procurator or an employee of a person under Item 2 or Item 3;

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

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

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

Professional experience

Article 14

(1) A person under Article 13, Paragraph 4 shall have professional experience if:

1. he or she has held a position on a managing body of an insurer, reinsurer, health insurance or pension insurance company for a period of at least three years;

2. he or she has held a position on a control body or on another leading position in an insurer, reinsurer, health insurance company, pension insurance company or a bank for at least five years;

3. he or she has held a position as a insurance broker's representative directly managing insurance intermediation activities for at least five years, where the broker's insurance transaction activities are commensurate with the activities of the insurer;

4. he or she has held a managerial position with a government institution in the field of economy and finance for at least ten years, or for at least five years if the he or she holds an educational degree in economics or law;

5. he or she has recognised qualifications in the field of economics or law.

(2) A member of a managing or control body of a joint-stock insurance company other than in the cases under Paragraph 1 may be a person who has occupied another managerial position for at least three years with an insurer, reinsurer, health insurance company, pension insurance company, bank, government institution or as an insurance broker's representative, directly engaged with insurance intermediation activities.

Assessment of professional qualifications and experience

Article 15

The Deputy Chairperson shall refuse to issue approval in cases where, in spite of formal fulfilment of the requirements under Article 13, Paragraph 1, item 1 and Article 14, he or she decides that the person does not have sufficient professional qualifications and experience needed to participate efficiently in the management of the insurer to which the application relates. The refusal shall be duly reasoned and forwarded to the insurer to which the application relates.

Qualified participating interest

Article 16

(Supplemented, SG No. 97/2007, amended, SG No. 24/2009, effective 31.03.2009)

(1) A person who directly, or together with, or through related parties, or acting in agreement with other parties, holds 10 or more than 10 per cent of the votes in the general meeting of a joint-stock insurance company, or other participating interest which enables such person to control it (qualified participating interest), must have indisputably established identity and shall meet the requirements specified in:

1. Article 13, Paragraph 1, Items 3, 4, 5, 7, 8 and 9 and Paragraph 3, and he or she shall have suitable qualifications and experience to guarantee the prudent management of the insurer, if the person is a physical person;

2. Article 13, Paragraph 1, Items 4, 5, 8 and 9, if the person is a legal entity.

(2) The requirements under Paragraph 1, Item 1 shall also apply to physical persons who are members of a management or control body of a legal entity as referred to in Paragraph 1, as well as to physical persons who represent a legal entity as referred to in Paragraph 1.

(3) A person who intends to acquire participating interest in the equity capital of a joint-stock insurance company under the terms of Paragraph 1 and to subsequently increase his or her participating interest so as to acquire directly, together with or through related parties, or in agreement with other parties, 20, 30, 50 or more than 50 per cent of the votes in the general meeting of a joint-stock insurance company, shall notify the Deputy Chairperson in writing prior to the acquisition.

(4) When the scale of the qualified participating interest is determined, the voting rights according to Article 146, Paragraph 1, Items 1 - 8 of the Public Offering of Securities Act shall also be taken into account. When the scale of the qualified participating interest is determined, the voting rights or shares which investment intermediaries or credit institutions hold as a result of providing the services referred to in Article 5, Paragraph 2, Item 6 of the Markets in Financial Instruments Act shall not be taken into account, provided that such rights are not exercised or otherwise used for the purpose of exerting influence on the insurer's or reinsurer's management, provided also that such rights are transferred within one year after acquisition.

(5) The Deputy Chairperson shall assess the intended acquisition, or respectively increase of a qualified participating interest, with a view to ensuring the stable and prudent management of the joint-stock insurance company wherein the acquisition is to take place. In performing the assessment, the Deputy Chairperson shall take account of the possible influence of the applicant on the joint-stock insurance company, in view whereof the Deputy Chairperson shall estimate the extent to which the applicant is suitable and financially stable. Such estimation shall be based on the following criteria:

1. reputation of the applicant;
2. reputation and professional experience of any person capable of influencing the activities of the joint-stock insurance company as a result of the acquisition;
3. the applicant's financial stability in relation to the types of activities pursued or intended to be pursued by the joint-stock insurance company;
4. whether the joint-stock insurance company will be in a position to satisfy or continue to satisfy statutory requirements, and in particular, whether the group whereof the applicant is to become a part after the acquisition, is structured in a way allowing for effective supervision and effective information exchange between competent authorities and definition and distribution of responsibilities between them;
5. whether it could reasonably be assumed that money laundering within the meaning of the Measures Against Money Laundering Act or financing of terrorism within the meaning of the Measures Against the Financing of Terrorism Act is or was perpetrated or intended to be perpetrated in relation to the acquisition, or that the implementation of the acquisition applied for would increase such risk.

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

Notification procedure

Article 16a

(New, SG No. 24/2009, effective 31.03.2009)

(1) Notification as referred to in Article 16, Paragraph 3 shall be performed through the submission of an application indicating the scale of the intended participating interest. The following documents shall be enclosed with the application:

1. a declaration in a standard form endorsed by the Deputy Chairperson regarding the origin of the funds used for the payments made in return for shares subscribed, and stating that such funds are not borrowed;

2. a declaration of related parties within the meaning of § 1, Item 12 of the Additional Provisions;

3. of the absence of previous convictions as referred to in Article 13, Paragraph 5 concerning persons referred to in Article 16, Paragraph 1, Item 1 and in Article 16, Paragraph 2;

4. a copy of an identity document of the physical person or a good standing certificate of the legal entity;

5. of the professional qualification and experience of the physical person or of the members of the management body of the legal entity as well as a description of the legal entity's activities by the date when the application was submitted;

6. articles of association or suchlike incorporation documents concerning legal entities;

7. a certified copy of the resolution of the body competent according to the law, the articles of association or the memorandum of incorporation, on the person's participation in the equity capital of the joint-stock insurance company;

8. declarations of:

a) the absence of the circumstances referred to in Article 13, Paragraph 1, Items 4, 5, 7, 8 and 9 concerning persons as referred to in Article 16, Paragraphs 1 and 2;

b) the presence or absence of previous pending or closed penal court procedures whereto the person referred to in Article 16, Paragraph 1, Item 1 or the members of the management and control bodies of the person referred to in Article 16, Paragraph 1, Item 2 were parties, as well as the outcome of such procedures;

c) the presence or absence of previous pending or closed procedures for imposition of administrative sanctions and/or coercive administrative measures against a person as referred to in Article 16, Paragraph 1, the members of the management and control bodies of a person as referred to in Article 16, Paragraph 1, Item 2, as well as the outcome of such procedures, including procedures against any other legal entity managed by such persons;

d) the presence or absence of previous pending or closed civil trials wherein persons referred to in Article 16, Paragraph 1 and the members of the management and control bodies of a person as referred to in Article 16, Paragraph 1, Item 2 were defendants, as well as the outcome

of such procedures, including trials wherein any other legal entities managed by such persons were defendants;

e) the presence or absence of previous refusals by a competent authority to issue a licence or registration or to admit as member of a trade or professional organisation, as well as to deregister, seize the licence of, or expel from a trade or professional organisation a person referred to in Article 16, Paragraph 1 and the members of the management and control bodies of a person as referred to in Article 16, Paragraph 1, Item 2, as well as the outcome of such procedures, including procedures against any other legal entities managed by such persons;

f) the presence and nature of financial or any other interests or relations of a person as referred to in Article 16, Paragraph 1 or of the members of the management and control bodies of a person as referred to in Article 16, Paragraph 1, Item 2, in respect of the insurer as such, other shareholders and/or members of its management and control bodies;

g) the presence or absence of written or tacit agreements with other shareholders of the insurer and/or with other persons in relation to the acquisition of the qualified participating interest, with the texts of the existing agreements being enclosed with the declaration;

9. of taxes paid for the past three years and the absence of liabilities to the state and the municipalities on the part of the relevant bodies in accordance with the permanent address, the seat and the business location of the person;

10. the audited financial reports for the past three years, if the person was obliged to prepare such reports;

11. a reference by a competent financial supervision body having jurisdiction over the location where the person's permanent address or seat is;

12. information on the credit rating of the applicant and of the companies controlled by the applicant, and of the group wherein the applicant is a member, if such ratings have been awarded;

13. information on the enterprises within the group which are subject to financial supervision, and on the competent institutions exercising such supervision;

14. information on the purposes underlying the acquisition of the qualified participating interest;

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

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

aa) reasons for the acquisition;

bb) mid-term financial goals;

cc) expected redirection of purposes, activities and products, as well as expected redistribution of resources within the insurer;

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

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

aa) a provisional balance sheet and income statement;

bb) a forecast of the loss ratio and the expense ratio;

cc) information on the risk exposure by type of risk;

dd) a forecast of expected intragroup transactions;

c) the impact of the acquisition on the enterprise's management, the insurer's organisational structure, including the impact on:

aa) the structure and obligations of the management and control bodies, of the head of the internal audit office and of other bodies in the insurer's organisational structure;

bb) the administrative and accounting procedures and the internal control process;

cc) the insurer's information system;

dd) the policy and procedures related to the assignment of activities to third parties.

(2) The notification referred to in Article 16, Paragraph 3, as well as the documents referred to in Paragraph 1, shall also be submitted to the Commission in case of acquisition of participating interest in an existing direct or indirect shareholder holding qualified participating interest in a joint-stock insurance company.

(3) Within no more than two business days after the day when the application was received, the Deputy Chairperson shall notify the applicant in writing of the acceptance of the application and of the deadline for a ruling as referred to in Paragraph 5. In case not all documents referred to in Paragraph 1 have been enclosed with the application, the time-limit for a ruling as referred to in Paragraph 5 shall commence as of the date when all requisite documents are provided. The first sentence shall apply accordingly to each subsequent submission of documents by the applicant.

(4) The Deputy Chairperson may, within 50 business days after the date when the applicant was notified of the acceptance of the application, and after all documents referred to in Paragraph 1 have been provided, to request additional information needed for the purpose of passing a

ruling on the application. The request for additional information shall be in writing and shall specify what information is needed. The time-limit for passing a ruling as referred to in Paragraph 5 shall be frozen for the period between the date of the request for additional information and the date whereon such information is received, but for no more than 20 business days. When the applicant's seat is outside the European Community, or the applicant is subject to supervision outside the European Community, or where the applicant is a natural person, or is a legal entity which is not an insurer, a credit institution or an investment intermediary, the maximum period for which the time-limit for passing a ruling may be frozen shall be 30 days as of the date of the written request for additional information. Subsequent requests for additional information shall not freeze the time-limit for passing a ruling.

(5) (Supplemented, SG No. 43/2010) Within 60 business days after the date when the applicant is notified of the acceptance of the application, after all documents referred to in Paragraph 1 have been provided, the Deputy Chairperson, applying the criteria referred to in Article 16, Paragraph 5, shall issue a prohibition on the acquisition of the participating interest applied for, provided that there are reasonable grounds for that or if the information provided by the person is incomplete or the actual owners of the applicant cannot be identified; if the applicant has presented false information or documents with false contents, or if the additional information requested in accordance with Paragraph 4 has not been provided. The Deputy Chairperson's decision to issue a prohibition, together with the statement of the reasons for it, shall be sent to the applicant prior to the deadline for passing a ruling and no more than two days after the date when the decision was issued. The decision shall be published on the

Commission's website or otherwise as appropriate.

(6) Within the time-limit referred to in Paragraph 5 the Deputy Chairperson may approve the change of the shareholding participating interest and determine a maximum time-limit within which the acquisition referred to in Article 16, Paragraph 3 shall be completed, after the expiry whereof such approval shall be deemed null and void. The maximum time-limit so determined may be extended upon the applicant's request, provided that there are reasonable grounds for that.

(7) The persons referred to in Article 16, Paragraphs 1 and 3 who have acquired participating interest prior to the expiration of the time-limit referred to in Paragraph 5 without having submitted a notification, or in breach of a prohibition issued by the Deputy Chairperson, may not exercise their voting rights. The voting rights of the persons referred to in the first sentence shall not be taken into consideration when the presence of a quorum is verified for the holding of a general meeting.

(8) Unless the Deputy Chairperson issues a prohibition within the time-limit referred to in Paragraph 5, the person shall be entitled to acquire the participating interest applied for.

(9) The transactions, decisions and actions performed without prior approval in the cases referred to in Article 16, Paragraph 1 or 3, shall be null and void.

(10) The Central Depository shall enter into the shareholders' register of the insurer the acquisition of shares for which approval in accordance with Article 16, Paragraphs 1 and 3 is required, after the approval is presented. In the cases referred to in Paragraph 8, the Central

Depository shall enter the acquisition of shares after receiving the relevant confirmation by the Commission.

(11) Any person intending to reduce its participating interest directly or indirectly below 50, 30, 20 or 10 percent of the votes in the general meeting of a joint-stock insurance company or ceases to control the joint-stock insurance company for other reasons, shall notify the Deputy Chairperson thereof in advance, such notification specifying the scale of the participating interest which it is expected to hold after the transfer.

(12) The joint-stock insurance company and the Central Depository shall notify the Deputy Chairperson of any acquisition of participating interest as referred to in Article 16, Paragraph 1 or 3, or respectively of any reduction as referred to in Paragraph 11, within three days after becoming aware thereof.

(13) (Amended, SG No. 43/2010) Any person acquiring one or more percent of the shares of a joint-stock insurance company or increasing its participating interest in such a way that it exceeds one percent of the company's shares shall, within 14 days after the acquisition or increase of such participating interest, provide identification up to the actual owner before the Deputy Chairperson and shall present the declarations referred to in Paragraph 1, Items 1 and 2, a declaration attesting to the absence of liabilities to the state and the municipalities, as well as a document attesting to the payment of that person's taxes within the past three years.

(14) The declarations referred to in Paragraph 1, Items 1 and 2 shall also be presented in case the insurer's equity capital is increased through contributions, if the shareholder's contribution exceeds BGN 30,000. The declarations referred to in the first sentence shall be presented within 7 days after the contributions are made.

(15) The joint-stock insurance company shall, by 31 March each year, submit to the Commission in a standard form endorsed by the Deputy Chairperson a statement of the persons holding directly, together with, or through related parties, 10 or more percent of the votes in the general meeting of the insurance company.

Operations of the Deputy Chairperson in case of acquisition of a
qualified participating interest by persons subject to financial
supervision

Article 16b

(New, SG No. 24/2009, effective 31.03.2009)

(1) The Deputy Chairperson shall cooperate with:

1. the competent authorities in charge of insurance supervision in Member States when an insurer or reinsurer having its seat in a Member State or another legal entity or natural person controlling an insurer or reinsurer having its seat in a Member State has submitted an application

as referred to in Article 16, Paragraph 3;

2. the Bulgarian National Bank and the authorities in charge of bank supervision in a Member State, when a bank having its seat in the Republic of Bulgaria or in a Member State or another legal entity or natural person controlling a bank having its seat in the Republic of Bulgaria or in a Member State has submitted an application referred to in Article 16, Paragraph 3;

3. the competent authorities in charge of supervision of investment intermediaries in Member States, when an investment intermediary having its seat in a Member State or another legal entity or natural person controlling an investment intermediary having its seat in a Member State has submitted an application referred to in Article 16, Paragraph 3.

(2) The opinions and objections of competent authorities consulted as provided for by Paragraph 1 shall be stated in the Deputy Chairperson's decision referred to in Article 16a, Paragraph 5 or 6.

(3) The Deputy Chairperson shall cooperate with the competent authorities referred to in Paragraph 1 in the cases when an insurer or reinsurer having its seat in the Republic of Bulgaria or a natural or legal entity controlling an insurer or reinsurer having its seat in the Republic of Bulgaria, controls an insurer or reinsurer, a bank or an investment intermediary which is subject to such authorities' supervision, or has filed an application for acquisition of a qualified participating interest in their equity capital. In the cooperation process referred to in the first sentence the Deputy Chairperson shall provide the relevant competent authorities upon their request or ex officio with any information needed or of significance to the inspection performed by them.

(4) The information referred to in Article 16a, Paragraph 1 may not necessarily be required from the applicant in case the competent authority referred to in Paragraph 1 and supervising the applicant provides:

1. (amended, SG No. 43/2010) information on the applicant's shareholders, up to the actual owner;

2. a reference certifying that the applicant and the persons capable of influencing the activities of the joint-stock insurance company as a result of the acquisition are reputed and have adequate professional experience;

3. information on the applicant's financial stability;

4. a reference regarding the behaviour of the applicant and the persons capable of influencing the activities of the joint-stock insurance company as a result of the acquisition, in relation to the observance of the requirements of the laws regulating their activities, including as regards money laundering and the financing of terrorism.

(5) The information referred to in Article 16a, Paragraph 1 may not necessarily be required from an applicant being a person subject to the Commission's supervision, provided that the documents referred to in Paragraph 4 have been provided in respect of such applicant.

Section II

Mutual co-operative insurance society

General requirements

Article 17

(1) A mutual co-operative insurance society shall be a co-operative society holding a licence to perform insurance activities.

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

(3) The subject of activity of a mutual co-operative insurance society shall cover one or more types of insurance under Section I of Annex No. 1, with or without accident insurance.

(4) A mutual co-operative insurance society shall only have the right to provide the types of insurance indicated in the licence.

Company name

Article 18

(1) The company name of a mutual co-operative insurance society may not contain the name of any of its members.

(2) Article 11 shall apply with regard to a mutual co-operative insurance society.

Founders and members

Article 19

(1) A mutual co-operative insurance society shall be established by at least 500 persons. A founder and member of a mutual co-operative insurance society may be a physical person aged at least 18 years if not placed under judicial disability.

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

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

Instalments and Payments by Members

Article 20

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

(2) By a simple majority of all members the general meeting may resolve to collect additional contributions and special-purpose instalments from its members in order to attain the minimum guarantee capital and the solvency margin. All instalments shall be paid in cash to the cooperative society's capital. The additional contributions and the special-purpose instalments may be repaid to the members only if by so doing the mutual insurance co-operative society's own funds will not diminish below the solvency margin or the minimum guarantee capital. Any repayment of additional contributions and special-purpose instalments shall occur with one-month written notification addressed to the Deputy Chairperson. Within the time limit set under the notification, the Deputy Chairperson shall prohibit repayment when, as a result of repayment, the mutual co-operative insurance society's own funds will diminish below the solvency margin or the minimum guarantee capital. On termination of the mutual co-operative insurance society, the participating contributions, the additional contributions and the special-purpose instalments shall be subject to repayment only after all other liabilities have been redeemed.

(3) (Amended, SG No. 24/2009, effective 31.03.2009) Article 12, Paragraph 3 shall apply with regard to a mutual co-operative insurance society. Where the additional contribution or the special-purpose installment exceeds one per cent of the minimum guarantee capital of the co-operative society, Article 16a, Paragraph 13 shall apply.

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

(5) Where a mutual co-operative insurance society enters into insurance contracts of various types, a separate balance sheet shall be drawn up for each type. The funds accrued on each type of insurance shall be utilised for payment of maturity values on this type of insurance unless the Statutes stipulate otherwise.

(6) The general meeting of a mutual co-operative insurance society may decide to reduce insurance payments by means of a two-thirds majority of all members.

Contents of the statutes

Article 21

In addition to the data stipulated by the Cooperatives Act, the statutes of a mutual co-operative insurance society shall also contain the following information:

1. the types of insurance;

2. the funds of the mutual co-operative insurance society, the type, method of payment and size of the installments, the scope of responsibility of its members and the mutual co-operative insurance society's liabilities.

Requirements for professional qualifications,

experience and good reputation

Article 22

With regard to members of the managing and control body of a mutual co-operative insurance society, as well as for all other persons empowered to manage or represent it, Article 13, Article 14 Paragraph 2, and Article 15 shall apply.

Section III Reinsurer

General requirements

Article 23

(1) A reinsurer shall be a joint-stock company holding a licence to perform reinsurance activities.

(2) A reinsurer shall be established, perform its activities, be transformed and dissolved under the procedures specified by the Commerce Act unless otherwise hereby stipulated.

(3) (Amended, SG No. 97/2007) A captive reinsurer shall be a reinsurer controlled by a financial undertaking other than an insurer, a reinsurer or an insurance or a reinsurance group, or by a non-financial undertaking, which shall provide reinsurance cover only for the risks of the persons which control it or to the persons in the group in which it participates. The circumstance that a reinsurer is captive shall be entered in the statutes of the company.

(4) (Amended, SG No. 97/2007) With regard to a captive reinsurer, the provisions related to the reinsurer shall apply, unless otherwise stipulated hereby.

Company name

Article 24

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

(2) (Amended, SG No. 97/2007) A party which does not hold a licence for reinsurance shall not have the right to use the word "reinsurance" or its derivatives in Bulgarian or a foreign language in its name, advertising or other activities.

Shares and capital

Article 25

(1) (Amended and supplemented, SG No. 97/2007) A reinsurer's registered capital may not be less than the minimum guarantee capital under Article 82, Paragraph 1, Item 2. A captive reinsurer's registered capital may not be less than the minimum guarantee capital under Article 82, Paragraph 1, Item 3.

(2) (Amended, SG No. 24/2009, effective 31.03.2009) With regard to a reinsurer, Article 12, Paragraphs 2, 3 and 4, Articles 16, 16a and 16b shall apply.

Requirements for professional qualifications,
experience and good reputation

Article 26

(Supplemented, SG No. 97/2007)

With regard to the members of the managing and control body of a reinsurer, as well as to all other persons authorised to manage or represent it, Articles 13, 13a, 14 and Article 15 shall apply.

Section IV

Insurance holding company. Mixed-operations insurance holding company

Insurance holding company

Article 27

(1) (Amended, SG No. 59/2006, No. 97/2007) An insurance holding company shall be a parent undertaking other than a mixed financial holding company whose primary activity involves acquisition and holding of participations exclusively and mainly in subsidiary undertakings which are insurance or reinsurance undertakings in a Member State or insurance undertakings of a third country and at least one of these subsidiary undertakings is an insurance undertaking or a reinsurance undertaking with head office in the Republic of Bulgaria or in another member state.

(2) A member of a managing or control body, or another person who participates in essence in the management of the operation of an insurance holding company with a seat of business in the country, must meet the requirements set under Article 13, Paragraph 1, Items 3-9. Article 13, Paragraphs 3, 6 and 7, Article 14, Paragraph 2, and Article 15 shall apply.

Mixed insurance holding company

Article 28

(Amended, SG No. 59/2006, supplemented, SG No. 97/2007)

A mixed insurance holding company shall mean a parent undertaking other than an insurance undertaking, insurance undertaking in a third country, reinsurance undertaking in a third country, insurance holding company or mixed financial holding company and at least one of its subsidiary undertakings is an insurance undertaking or a reinsurance undertaking with head office in the Republic of Bulgaria or in another member state.

Chapter Two

ISSUE AND WITHDRAWAL OF LICENCES TO INSURERS AND REINSURERS WITH A SEAT OF BUSINESS IN THE REPUBLIC OF BULGARIA

Section I

Issue of licences

Licences

Article 29

(1) (Amended, SG No. 97/2007) An insurer licence shall be issued for insurance, as well as for separate types of insurance.

(2) (Amended, SG No. 97/2007) A reinsurance licence shall be issued for reinsurance under Section I of Annex No. 1 (reinsurance of life insurance), for reinsurance under Section II of Annex No. 1 (reinsurance of general insurance) or reinsurance for life insurance and general insurance.

(3) (Amended, SG No. 97/2007) The scope of the insurer licence may be broadened with an additional licence for type of insurance. A reinsurer licence issued for part of the activities under Paragraph 2 may be broadened with an additional licence for new operations.

(4) (Amended, SG No. 97/2007) A licence shall be in writing and shall comprehensively specify:

1. for the insurance undertaking - the types of insurance policies in the meaning of Annex No. 1, under which the said undertaking shall be entitled to perform insurance activities, except coverage of ancillary risks under Section II, letter "C" of Annex No. 1.

2. for the reinsurance undertaking - the operations under Paragraph 2 under which the reinsurance undertaking may perform reinsurance.

(5) (Amended, SG No. 97/2007) The licences under Paragraphs 1 and 2 and the additional licences under Paragraph 3, shall be issued by the Commission on the basis of a proposal submitted by the Deputy Chairperson.

(6) The Commission shall refuse to issue a licence in cases where the applicant does not satisfy the requirements stipulated herein and the regulations for its implementation.

(7) A licence or an additional licence for a type of insurance may be issued for part of the risks in the meaning of Annex No. 1, which relate to the relevant type:

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

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

(8) (New, SG No. 97/2007) The licence for reinsurance may be issued for part of the operations under Paragraph 2 if the applicant has requested so, or at the judgement of the Commission, where the documents submitted for granting of a licence evidence that the respective operation will not be performed.

Documents necessary for issue of a licence

Article 30

(1) In order to issue a licence for a joint-stock company to perform insurance activity, an application shall be submitted, to which the following shall be attached:

1. the Statutes and other Articles of Association;

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

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

4. (amended, SG No. 24/2009, effective 31.03.2009, SG No. 43/2010) the declarations and

appendices under Article 16a, Paragraph 1, as well as a declaration of actual owners as per a standard form, in respect of persons acquiring shares under Article 16, Paragraph 1;

5. (amended, SG No. 24/2009, effective 31.03.2009, SG No. 43/2010) the declarations under Article 16a, Paragraph 1, Items 1 and 2, a declaration attesting to the absence of liabilities to the state and municipalities, a document attesting to the payment of taxes within the past three years, in respect of persons acquiring 1 or more than 1 per cent of the joint-stock insurance company's shares;

6. (amended, SG No. 97/2007) a list of persons under Article 13, Paragraph 1 and Paragraph 2, along with evidence of compliance with the requirements specified in Articles 13, 13a and Article 14;

7. particulars of the responsible actuary and evidence of compliance with the requirements specified under Article 96, Paragraph 1;

8. the insurer's programme of operations;

9. a receipt of payment of the document review fee;

(2) (Amended and supplemented, SG No. 54/2005) When a licence is issued to provide insurance under Item 10.1 of Section II, letter "A" of Annex No. 1, a bank guarantee document shall also be presented pursuant to the Statutes of the National Bureau of the Bulgarian Motor Insurers as well as a reinsurance contract in compliance with criteria determined by a resolution of the Commission. When a licence is issued to provide insurance under item 10.1 of Section II, letter "A" of Annex No. 1 the insurer may start activities to offer this type of insurance after having provided to the Commission and the Guarantee fund a list of the names and addresses of the representatives for the settlement of claims in each member state.

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

1. the Statutes and other Articles of Association;

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

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

4. (amended, SG No. 24/2009, effective 31.03.2009) the declarations under Article 16a, Paragraph 13 on persons who pay an additional or a special-purpose instalment exceeding one per cent of the co-operative society's minimum guarantee capital;

5. a list of the members of the managing and control bodies and of the persons who represent the co-operative society, with proof of compliance with the requirements specified under Article 22;

6. particulars of the responsible actuary and evidence of compliance with the requirements specified under Article 96, Paragraph 1;

7. the insurer's programme of operations;

8. a receipt of payment of the document review fee;

(4) (Amended, SG No. 97/2007) For a reinsurance licence an application form shall be submitted accompanied by the following:.

1. the annexes under Paragraph 1, Items 1, 2, 3, 7, 8 and 9;

2. (amended, SG No. 24/2009, effective 31.03.2009) the application forms together with the annexes under Article 25, Paragraph 2 in connection with Article 16a, Paragraph 1 - for the persons acquiring participation under Article 25 in connection with Article 16, Paragraph 1;

3. (amended, SG No. 24/2009, effective 31.03.2009, SG No. 43/2010) the declarations under Article 25, Paragraph 2 in connection with Article 16a, Paragraph 1, Items 1 and 2, a declaration attesting to the absence of liabilities to the state and municipalities, and a document attesting to the payment of taxes within the past three years, in respect of the persons acquiring one or more than one per cent of the shares in the reinsurance joint-stock company;

4. a list of the persons under Article 26 in connection with Article 13, Paragraphs 1 and 2 together with proofs that the requirements under Article 26 in connection with Articles 13, 13a and 14 are met.

Documents required to expand the scope of a licence

Article 31

(1) (Amended, SG No. 97/2007) For an additional licence to expand the scope of business activities of a reinsurance undertaking with a new operation, an application form shall be submitted accompanied by the following:

1. (amended, SG No. 97/2007) a transcript of the minutes of the general meeting containing the decisions taken to supplement the subject of business activities;

2. the Statutes;

3. (repealed, SG No. 97/2007);

4. the amended and supplemented programme of operations;

5. a receipt of payment of the document review fee.

(2) For an additional licence for a new type of insurance or to supplement the licence with a type of insurance covering new risks in the meaning of Annex No. 1, an application form shall be

submitted, accompanied by the following:

1. the programme of operations, amended and supplemented;
2. proof that the insurer has funds of its own at its disposal sufficient to cover the solvency margin and the minimum guarantee capital;
3. in cases of increase in capital, when the minimum guarantee capital for the relevant type of insurance is higher than the company's own funds:
 - a. verification of the changes in the body of shareholders and their participation, if applicable;
 - b. documents certifying that the increase in capital was paid in;
 - c. the documents and under Article 30, Paragraph 1, Items 4 and 5;
4. a receipt of payment of the document review fee;

(3) (Amended and supplemented, SG No. 54/2006) When issuing an additional licence to provide insurance under Item 10.1 of Section II, letter "A" of Annex No. 1 a bank guarantee document shall also be presented pursuant to the Statutes of the National Bureau of the Bulgarian Motor Insurers as well as a reinsurance contract in compliance with criteria determined by a resolution of the Commission. When issuing an additional licence to provide insurance under Item 10.1 of Section II, letter "A" of Annex No. 1, the insurer may begin providing the said insurance on submission to the Commission and the Guarantee Fund of a list containing the names and addresses of the representatives for the settlements of claims in each member state.

Programme of operations

Article 32

(1) (Supplemented, SG No. 97/2007) The programme of operations of an insurer or a reinsurer shall contain the following:

1. (amended, SG No. 97/2007) the organisational structure, including the activities of the separate organisational units, the distribution of functions and powers amongst the executive directors and the other managerial positions, the organisation and management of the information system of the person and mechanisms for protection of information;
2. (supplemented, SG No. 97/2007) the types of insurance which the insurer intends to underwrite, and the risks under Annex No. 1 which it intends to cover, or the operations which the reinsurer intends to underwrite and the risks which it intends to cover;
3. (supplemented, SG No. 97/2007) the reinsurance policy or the retrocession policy and plan;

4. the methods used to set up technical reserves;

5. a forecast of the expenses required to organise and commence business activities, the financial resources needed to cover such expenses, and in cases of insurance under Item 18 of Section II, letter "A" of Annex No. 1, the financial and technical resources earmarked for the provision of assistance;

6. (amended, SG No. 97/2007) a financial projection of the person's activities for the first three years, containing:

a) (supplemented, SG No. 97/2007) an income and expenditure forecast, including the anticipated premium income, anticipated insurance or reinsurance payment claims and the anticipated expenses on commissions paid to insurance and reinsurance intermediaries, acquisition, administrative and other costs;

b) a projected balance sheet, including anticipated technical reserves, the assets to cover them, the solvency margin and its cover by the insurer's own funds;

7. the source, amount and allocation of the insurer's own funds, including ways of securing finance in cases of insufficient assets to cover the solvency margin and the minimum guarantee capital;

8. (amended, SG No. 97/2007) measures to forecast, avoid and overcome unfavourable developments in the risks to which the person is exposed and which can be predicted on the basis of a prudent assessment;

9. description of the internal control system;

10. (new, SG No. 54/2006) programme for the measures to prevent money laundering.

(2) (New, SG No. 97/2007) The programme of operations of a reinsurer shall furthermore include a description and key parameters of reinsurance contracts which it intends to enter into with cedents.

(3) (Renumbered from Paragraph 2, amended, SG No. 97/2007) The programme of operations must realistically reflect the characteristics of the market and their influence on the person's activities under Paragraph 1, the volume of activities performed, the financial, labour and other resources and other factors connected to the implementation of the plan within the time limits set.

(4) (Renumbered from Paragraph 3, amended and supplemented, SG No. 97/2007) In cases under Article 31, the programme of operations shall only concern the new type of insurance with which an insurer seeks to expand the scope of its licence or the new activity with which the reinsurer seeks to expand the scope of its licence.

Issue and refusal to issue a licence

Article 33

(1) On a proposal submitted by the Deputy Chairperson, the Commission shall establish whether the requirements for issue of the licence requested have been fulfilled and shall pronounce its opinion no later than 4 months following the date of receipt of the application.

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

(3) (Supplemented, SG No. 97/2007) When an additional licence is issued to expand the scope of the insurer's licence with a new type of insurance or the reinsurer's licence with a new activity, the term under Paragraph 1 may not be longer than one month, and under Paragraph 2, no shorter than 7 days. The term for pronouncement to be rendered by the Commission ceases to run until the expiry of the period prescribed for elimination of the irregularities and/or submission of additional information.

(4) (Amended, SG No. 54/2006) If the notice under Paragraph 2 is not accepted at the mailing address indicated by an applicant, the term set for the applicant shall begin to run from placing the notice at a location specially designated for this purpose on the Commission's premises. The latter circumstance shall be certified by means of a statement drawn up by officials assigned by order of the Deputy Chairperson of the Commission.

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

Grounds for refusal

Article 34

(1) (Amended, SG No. 97/2007) The Commission shall refuse to issue a licence for insurance or for reinsurance activities in cases where:

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

2. (amended, SG No. 43/2010) any of the members of the managing and control body of an applicant or the persons authorised to manage and represent it does not fulfil the requirements set hereunder, or where this member, by his/her activities or decision-making influence, may compromise the security of the company or its operations;

3. (amended, SG No. 24/2009, effective 31.03.2009) persons who hold directly, together with, through related parties, or in agreement with third parties, 10 or more than 10 per cent of the votes in the general meeting or the capital of an applicant or who are capable of controlling it:

a) do not meet the requirements specified herein;

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

c) (supplemented, SG No. 43/2010) cannot be identified up to the actual owner;

d) (new, SG No. 43/2010) the value of the assets they hold and/or their operations, in terms of scale and financial results, do not correspond to the figures declared for the purpose of acquiring participating interest in the applicant and raise doubts as to the reliability and capacity of these persons to provide, when necessary, capital support to the applicant;

4. the contributions paid into the capital do not meet the requirements under Article 12, Paragraph 3;

5. the applicant has submitted false information or documents containing false information;

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

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

8. (supplemented, SG No. 43/2010) no programme of operations has been submitted, or the programme presented does not conform to the requirements under Article 32, or does not guarantee the interests of insurance service consumers to a sufficient extent, or where the operations that the applicant is to carry out do not ensure the necessary reliability and financial stability;

9. (new, SG No. 43/2010) the funds contributed by the persons who have subscribed one or more percent of the capital are borrowed or of unclear or illegal origin;

10. (renumbered from Item 9, SG No. 43/2010) other requirements stipulated in this Code and the regulations on its implementation have not been observed.

(2) (Amended, SG No. 43/2010) In cases under Paragraph 1, Items 1, 2, 4, 5, 8, and 10, the Commission shall refuse to issue a licence only if the applicant has not eliminated the irregularities or has not submitted the additional information within the term specified.

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

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

(5) (Supplemented, SG No. 97/2007, amended, SG No. 43/2010) The Commission shall refuse to issue an additional licence for a new type of insurance or for expansion of the scope of the licence of a reinsurer with a new activity on the grounds under Paragraph 1, Items 1, 3, 4, 5, 8, and 10. Paragraphs 2 and 3 shall apply.

Entry into the commercial registry

Article 35

(1) (Amended, SG No. 34/2006, No. 97/2007) Entries in the Commercial Register of a merchant providing insurance or reinsurance shall be made only after presentation of the licence issued by the Commission.

(2) (Amended and supplemented, SG No. 34/2006, supplemented, SG No. 97/2007) An insurer or a reinsurer shall be obliged to submit to the Commission the certificate for the registry entry within seven days of the entry in the Commercial Register

Section II Withdrawal of licences

Withdrawal of a licence

Article 36

(1) (Amended, SG No. 97/2007) The Commission shall withdraw a licence of an insurer or a reinsurer where:

1. (amended, SG No. 97/2007) the person has submitted false information or documents containing false information, which have served as grounds for the issue of the licence;

2. (amended, SG No. 97/2007) the person does not commence activity within 12 months of issue of the licence;

3. the number of members of a mutual co-operative insurance society falls below the stipulated minimum and is not replenished within six-months or if Article 19, Paragraph 2 or Article 20, Paragraph 1 have been infringed;

4. (amended, SG No. 97/2007) the person fails to meet the conditions under which its licence has been issued;

5. (amended, SG No. 97/2007) the person performs other commercial activities in addition to the activities for which it has been granted a licence;

6. (amended, SG No. 97/2007) the total amount of the person's liabilities, including the technical reserves, calculated in accordance with this Code and the regulations on its

implementation, exceeds the total amount of its assets;

7. (amended, SG No. 97/2007) the person or its shareholder fails to fulfil a compulsory administrative measure imposed in accordance with this Code;

8. an insurer violates the principle of voluntary participation of the insurance;

9. (amended, SG No. 97/2007) a request has been submitted by the person and the requirements specified under the present Code have been observed.

(2) (Amended, SG No. 97/2007) The Commission may withdraw the insurance or reinsurance licence if:

1. (amended, SG No. 97/2007) the person ceases to perform operations over more than six months;

2. grounds exist for dissolution of the joint-stock company under Article 252, Paragraph 1, Item 5 of the Commerce Act;

3. (supplemented, SG No. 97/2007) an insurer, a reinsurer and/or persons under Article 13 or Articles 22 or 26 have committed and/or have allowed gross or systematic violations of this Code or of the regulations for its implementation;

4. the Plan under Article 86, Paragraph 1 or 2 has not been submitted within the time limit specified, has not been approved or is not being implemented;

5. (amended, SG No. 97/2007) the person wrongfully refuses or delays payment of an executable and liquid cash obligation or only pays part of it;

(3) (Amended, SG No. 97/2007) When the grounds for licence withdrawal refer to a part of the person's activity, the Commission may withdraw the licence for one or more separate types of insurance or for a separate part of the reinsurance activity.

(4) (Amended, SG No. 97/2007) The Commission shall pronounce a reasoned decision and shall notify the person in writing within seven days of the decision.

(5) Under a licence withdrawal decision, except for cases under Paragraph 3, the Commission shall assign one or several trustees until appointment of a liquidator or an assignee in bankruptcy.

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

(Title supplemented, SG No. 97/2007)

Article 37

(1) (Amended, SG No. 97/2007) On entry into force of a licence withdrawal decision, the

person under Article 36, Paragraphs 1 and 2 may not enter into new insurance and/or reinsurance contracts, offer new terms and conditions on contracts or amend terms thereof, including the term of the contract, the maturity value and the cover under existing contracts.

(2) (Amended, SG No. 97/2007) Withdrawal of a licence shall not exempt the person from its obligations under existing contracts.

Powers of the commission on withdrawal of a licence

Article 38

(1) On entry into force of a licence withdrawal decision, the Commission shall forward a request to the relevant court to initiate liquidation proceedings, and in cases under Article 36, Paragraph 1, Item 6 and Paragraph 2, Items 4 and 5, to initiate insolvency proceedings, and shall undertake the required measures to inform the public.

(2) The Commission, through the person of the Deputy Chairperson, may perform inspections and impose compulsory administrative measures under Article 302 until the company or the co-operative society is deleted from the commercial registry.

Chapter Three

PERFORMANCE OF OPERATIONS IN A THIRD STATE BY AN INSURER OR A REINSURER WITH A SEAT OF BUSINESS IN THE REPUBLIC OF BULGARIA. PERFORMANCE OF OPERATIONS IN THE REPUBLIC OF BULGARIA BY AN INSURER OR A REINSURER WITH A SEAT OF BUSINESS IN A THIRD STATE

(Title supplemented, SG No. 97/2007)

Section I

Performance of operations in a third state by insurers with a seat of business in the Republic of Bulgaria

Licence issue

Article 39

(1) In order to issue a licence to an insurer with a seat of business in the Republic of Bulgaria to perform insurance operations in a third state through a branch, an application form shall be submitted to the Commission, specifying the following:

1. the state in which an insurer intends to open a branch and its address;
2. the types of insurance which the insurer shall provide in the third country.

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

1. a programme of operations containing the amendments and supplements connected to the opening of a branch;

2. documents certifying adherence to the requirements specified under Article 13 and 14 regarding the branch manager;

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

(4) On the Deputy Chairperson's proposal, the Commission shall issue a pronouncement within two months of receipt of the application form. When irregularities are noted or additional information is needed, Article 33, Paragraphs 2, 4 and 5 shall apply, and the time limit for eliminating the irregularities or providing additional information shall not be shorter than 15 days.

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

1. opening of a branch in a third state would jeopardise the insurer's financial standing;
2. the programme of operations submitted envisages insurance provision in a state beyond the scope of the insurer's licence;
3. the organisational structure of the branch proposed does not ensure its reliable and stable management;
4. there are legal or administrative obstacles to performance of supervision over the activity of a branch by the Commission or the Deputy Chairperson;
5. an insurer is undergoing a procedure to implement a plan under Article 86, Paragraph 1 or 2, or under Article 87;
6. other requirements specified in this Code or under the regulations on its implementation have not been met.

Notification to the Commission

Article 40

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

Section II

Performance of operations in the Republic of Bulgaria by insurers with a seat of business in a third state

Conditions for performance of operations

Article 41

(1) An insurer with a seat of business in a third state (an insurer from a third state) shall enjoy the right to perform operations on the territory of the Republic of Bulgaria through a branch duly registered under the Commerce Act after obtaining a licence issued by the Commission under the conditions of, and the procedure established by, this Code and the regulations for its implementation. The licence may cover solely the types of insurance which the insurer is authorised to provide in the state where its seat of business is registered.

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

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

2. the branch of the insurer holds assets in the Republic of Bulgaria amounting to no less than half of the minimum guarantee capital under Article 82, Paragraph 1 or Paragraph 3;

3. a deposit amounting to one-fourth of the minimum guarantee capital under Article 82, Paragraph 1, or Paragraph 3 has been deposited in a bank which performs banking activities in the Republic of Bulgaria;

4. a branch manager of the branch has been elected, meets the requirements specified under Article 13, Paragraphs 1, 3 and Article 14, and has representative powers to assume obligations for an insurer to third parties and to represent the insurer before the state authorities and courts in the Republic of Bulgaria;

5. a programme of operations has been submitted, which contains the information specified under Article 32.

(3) Unless otherwise stipulated herein, an insurer from a third state shall have the rights and obligations of an insurer with a seat of business in the Republic of Bulgaria and, with regard to its

operation within the country, it shall be subject to the state insurance supervision exercised by the Commission and by the Deputy Chairperson over insurers with a seat of business in the country. When an insurer from a third state has chosen the competent authorities of the Republic of Bulgaria under the procedure specified under Article 47, Paragraph 3, the Commission and the Deputy Chairperson shall exercise solvency supervision in relation to the operation of all its branches established within the European Union and the European Economic Area, and shall apply the compulsory administrative measures stipulated herein.

(4) (Repealed, SG No. 97/2007).

Licence issue

Article 42

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

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

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

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

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

5. a document issued by a bank performing banking operations in the Republic of Bulgaria, certifying payment of the deposit in accordance with Article 41, Paragraph 2, Item 4, and documents proving the amount of assets in accordance with Article 41, Paragraph 2, Item 2;

6. particulars of the Branch Manager;

7. the programme of operations and the rules governing the organisation and management of the information system and organisation and operations of the Internal Control Department;

8. a written declaration submitted by the competent managing body of the insurer that it shall submit annual reports;

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

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

11. (amended, SG No. 54/2006) when an insurance licence is applied for encompassing insurance under Item 10.1 of Section II, letter "A" of Annex No. 1:

a) the name and address of the insurance representative for the settlements of claims under Section II, Letter "A", Item 10.1 of Annex No. 1 in each of the member states,

b) a bank guarantee document shall also be presented pursuant to the Statutes of the National Bureau of the Bulgarian Motor Insurers,

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

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

13. a receipt of payment of the document review fee;

(2) The Commission shall issue its pronouncement within four months of receipt of the application form. If irregularities are noted or additional information is required, Article 33, Paragraphs 2, 4 and 5 shall apply, in which case the time limit for elimination of the irregularities or submission of the additional information shall not be shorter than 15 days.

(3) Upon issue of a licence to perform insurance operations under Item 10.1 of Section II, Letter "A" of Annex No. 1, the branch of the insurer from a third state may begin to provide this insurance after submitting a list containing the names and the addresses of the representatives for the settlements of claims in each member state to the Commission and the Guarantee Fund.

Refusal to issue a licence

Article 43

(1) The Commission shall refuse to issue a licence on the grounds specified under Article 34, Paragraph 1 and in cases where the legislative framework in the country where the a seat of business of an insurer from a third state are registered or the supervision exercised over it by the respective competent authority prevent the exercise of state insurance supervision in accordance with this Code and the Financial Supervision Commission Act or in some other way jeopardise the interests of insurance service consumers.

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

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

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

Entry into the commercial registry

Article 44

(1) (Amended, SG No. 34/2006) A branch of the insurer from a third state providing insurance and/or reinsurance services shall be entered in the Commercial Register after presentation of the licence issued by the Commission.

(2) (Amended and supplemented, SG No. 34/2006) The branch of the insurer from a third state shall be obliged to submit to the Commission a copy of the certificate to make the entry in the register within five days of its receipt, but no later than 7 days from the entry in the Commercial Register.

(3) An insurer from a third state shall notify the Commission of each amendment introduced into the documentation or under the circumstances specified in Article 42, Paragraph 1 within 7 days of adoption of the Resolution, of the respective amendment coming to the attention of the insurer, or of the entry of the circumstance if subject to entry in the commercial registry, but no later than 14 days following the entry.

Licence withdrawal

Article 45

(1) The Commission shall withdraw the licence of an insurer from a third state under the conditions and following the procedure under Article 36. Articles 37 and 38 shall also apply.

(2) The Commission shall also withdraw the licence of an insurer from a third state in compliance with Paragraph 1 if the insurer's licence to perform insurance operations has been repealed by the competent authority in the state in which its a seat of business are registered, as well as by the competent authority under Article 47, Paragraph 3 on the grounds of failure to meet the solvency requirements. Where the authority under Article 47, Paragraph 3 has notified the Commission of the withdrawal of the licence of the insurer from a third state on other grounds, the Commission shall undertake the necessary measures to protect the interests of the insurance service consumers.

(3) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) Where the Commission in its capacity as an authority under Article 47, Paragraph 3 has withdrawn the licence of an insurer from a third state, it shall immediately notify the competent authorities of the member states that have consented under the procedure specified in Article 47, Paragraph 4, stating the considerations for the resolution adopted.

Operational requirements

Article 46

(1) The branch, in the meaning of the Commerce Act, of an insurer from a third state shall keep its commercial books in Bulgarian language in compliance with the legislation of the Republic of Bulgaria and preserve at its address all the available documentation related to the operations performed by the branch in the Republic of Bulgaria.

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

Privileges for foreign insurers

Article 47

(Effective from the date of entry into force of the Treaty for the
Accession of the Republic of Bulgaria to the European Union)

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

1. the solvency margin of the insurer shall be calculated with regard to the full volume of its operations performed in the member states;

2. the deposit under Article 41, Paragraph 2, Item 3 shall be paid in only one of the member states in which the insurer performs operations;

3. the assets representing the amount of the guarantee capital shall be located in one of the member states in which the insurer performs operations.

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

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

(4) The privileges under Paragraph 1 shall be granted only on the consent of the competent

authorities of all member states to which an application form under Paragraph 2 has been submitted. The Commission shall give its consent by means of a resolution on appraisal of the financial standing of the insurer from a third state, including its solvency.

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

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

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

Section III
(New, SG No. 97/2007)
Performance of Operations in a Third State by a Reinsurer
with a Seat of
Business in the Republic of Bulgaria. Performance of
Operations in the
Republic of Bulgaria by a Reinsurer with a Seat of Business
in a Third State

Operations of a Reinsurer with a Seat of Business in the
Republic of
Bulgaria in a Third State

Article 47a

(New, SG No. 97/2007)

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

Operations of a Reinsurer with a Seat of Business in a Third State in

the Republic of Bulgaria through a Branch under the Commerce Act

Article 47b

(New, SG No. 97/2007)

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

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

1. the person is entitled to perform reinsurance activity under its national legislation;
2. the branch of the reinsurer has assets in the Republic of Bulgaria amounting to not less than half of the minimum guarantee capital under Article 82, Paragraph 1, Item 2;
3. has made a deposit of one fourth of the minimum guarantee capital under Article 82, Paragraph 1, Item 2 with a bank which carries on bank activity in the Republic of Bulgaria;
4. a managing director is appointed, who meets the requirements of Article 13, Paragraphs 1, 3 and 4 and Article 14, having a scope of representative power that allows him/her to assume obligations on behalf of the reinsurer to third parties and represent it before public authorities and courts in the Republic of Bulgaria;
5. a programme of the operations has been submitted, containing the relevant information under Article 32.

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

(4) With regard to the issue and refusal to issue a licence under Paragraph 1 the provisions of Article 42, Paragraph 1, Items 1 - 10 and 13 and Article 43 shall apply as well. Articles 44 and 46 shall also apply.

(5) The Commission shall withdraw the licence of a branch of a reinsurer from a third state under the terms and procedure of Article 36 as well as where the authorization for conduct of reinsurance activity has been withdrawn by the competent authority in the state by the seat of business of the reinsurer. Articles 37 and 38 shall apply as well.

Provision of Services in the Republic of Bulgaria by a Reinsurer with a

Seat of Business in a Third State

Article 47c

(New, SG No. 97/2007)

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

Chapter Four **(Effective from the date of entry into force of the Treaty for** **the** **Accession of the Republic of Bulgaria to the European** **Union)** **PERFORMANCE OF OPERATIONS IN ANOTHER** **MEMBER STATE BY AN INSURER OR A** **REINSURER WITH A SEAT OF BUSINESS IN THE** **REPUBLIC OF BULGARIA.** **PERFORMANCE OF OPERATIONS IN THE REPUBLIC** **OF BULGARIA BY AN INSURER OR A** **REINSURER WITH A SEAT OF BUSINESS IN** **ANOTHER MEMBER STATE** **(Title supplemented, SG No. 97/2007)**

Section I **Performance of insurance operations in another Member** **State by an** **insurer with a seat of business in the Republic of Bulgaria**

Right of establishment and freedom to provide services

Article 48

(1) An insurer with a seat of business in the Republic of Bulgaria holding a licence to perform insurance operations under the conditions and following the procedure established hereby, may perform the activities for which the licence has been issued on the territory of another member state under the conditions of the right of establishment or of the freedom to

provide services.

(2) A mutual co-operative insurance society may perform operations in accordance with Paragraph 1 only when it has sufficient funds of its own to cover the minimum guarantee capital under Article 82, Paragraph 1.

Performance of operations under the conditions of the right of
establishment

Article 49

(1) An insurer with a seat of business in the Republic of Bulgaria which intends to establish a branch within the territory of another member state shall notify the Commission of this in advance.

(2) Notification under Paragraph 1 shall contain:

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

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

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

4. proof of membership of the respective National Bureau and National Guarantee Fund in the member state where the branch is based if the insurer intends to perform insurance activities under Section II, Item 10.1, Letter "A" of Annex No. 1.

(3) The Commission shall provide the respective competent authority of the member state in which the branch is based with the information under Paragraph 2 within a period not exceeding three months from the notification under Paragraph 1, and where additional documentation and information have been requested, within one month of their receipt, and a certificate proving that the insurer has at its disposal sufficient funds of its own to cover the solvency margin and the minimum guarantee capital. The Commission shall immediately notify the insurer of any information provided under Sentence One.

(4) The Commission may refuse to provide the respective competent authority in the member state with the information under Paragraph 2 within the time limit specified under Paragraph 3 by means of a reasoned resolution if the administrative structure of an insurer, its financial standing, or the professional qualifications and experience of the persons who manage and represent it or of the branch's authorised representative are inadequate or insufficient with regard to the insurance which the insurer intends to provide in the member state, as well as in

cases where an insurer implements a reorganisation programme and, in this connection, the interests of the insured are jeopardised. The Commission shall immediately notify the insurer of a resolution under Sentence One.

(5) (Amended, SG No. 97/2007) An insurer may establish a branch and commence operations within the territory of the member state on receipt of notification by the Commission issued by the relevant competent authority of that state, or after expiry of two months from the notification under Paragraph 3 of the relevant competent authority of the member state if no notification has been received within this time limit.

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

(7) (Repealed, SG No. 97/2007).

Performance of insurance operations under the conditions
of the freedom to provide services

Article 50

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

(2) Within one month of the notification under Paragraph 1 the Commission shall provide the relevant competent authority of the member state under Paragraph 1 with information regarding the types of insurance which an insurer has the right to provide in the Republic of Bulgaria, the types of insurance which the insurer intends to cover in the member state by provision of services and a certificate proving that the insurer has at its disposal sufficient funds of its own to cover the solvency margin and the minimum guarantee capital. The Commission shall immediately notify the insurer of any information provided under Sentence One.

(3) The Commission may refuse to provide the respective competent authority in the member state under Paragraph 1 with the information under Paragraph 2 within the time limit set under Paragraph 2 by means of a reasoned resolution if the insurer's own funds do not meet the solvency margin or if an insurer implements a reorganisation programme and the interests of the insured are jeopardised in this connection.

(4) An insurer may commence performing operations on the territory of the respective member state from the date on which it has been notified of the provision of information under Paragraph 2 by the Commission to the relevant competent authority of the member state.

(5) An insurer shall notify the Commission in writing of each amendment to the data and the documentation under Paragraph 2 at least one month prior to implementation of the amendment. The Commission shall notify the relevant competent authority in the member state of the amendments under Sentence One.

(6) (Repealed, SG No. 97/2007).

Provision of information

Article 51

(1) An insurer with a seat of business in the Republic of Bulgaria which performs operations in another member state under the conditions of the right of establishment or the freedom to provide services shall submit to the Commission quarterly and annual reports separately on the transactions concluded and on the amount of insurance premiums, including the part of the reinsurer, indicated by member state and by type of insurance under the procedure specified in Article 99.

(2) on request of the respective member states, the Commission shall provide the information submitted under Paragraph 1 in summarised form to the competent authorities of the member states.

Notification of the Competent Authorities of the Other Member States

upon Withdrawal of an Insurer's Licence

Article 51a

(New, SG No. 97/2007)

The Commission shall immediately notify the respective competent authorities of the other member states of the withdrawal of the insurer's licence. If the Commission has imposed a compulsory administrative measure under Article 302, Paragraph 2, Item 11, together with the withdrawal of the licence, the Commission shall propose to the relevant competent authority of the member state to impose the same measure.

Section II

Performance of operations in the Republic of Bulgaria by an insurer with a seat of business in another Member State

Right of establishment and freedom to provide services

Article 52

(1) An insurer whose a seat of business are in another Member State and holds a licence to perform insurance operations may perform the activity for which it has been granted a licence on the territory of the Republic of Bulgaria under the terms and conditions of the right of establishment and freedom to provide services.

Performance of operations under the conditions of the right of
establishment

Article 53

(1) (Amended, SG No. 97/2007) Within two months of the receipt of the information under Article 49, Paragraph 2 forwarded by the relevant competent authority regarding an insurer from another member state who intends to establish a branch on the territory of the Republic of Bulgaria, the Deputy Chairperson shall notify the relevant competent authority of the insurer's member state of origin and, where necessary, shall provide it with information on the conditions under which insurance operations in the Republic of Bulgaria are performed, with a view to protecting the public interest.

(2) (Repealed, SG No. 97/2007).

(3) (Amended, SG No. 97/2007) An insurer may establish a branch and commence performing operations on the territory of the Republic of Bulgaria after the competent authority of the insurer's member state of origin has received a notification from the Deputy Chairperson in accordance with Paragraph 1 or on expiry of the time limit specified under Paragraph 1 if the notification has not been received within this term.

(4) (Amended, SG No. 97/2007) An insurer shall notify the Commission in writing of each amendment to the circumstances under Article 49, Paragraph 2 under which it performs its activity within a time period no shorter than one month prior to implementation of the amendment. Paragraph 3 shall apply respectively.

Performance of operations under the conditions of freedom
to provide services

Article 54

(1) An insurer from another member state who intends to perform insurance operations on the territory of the Republic of Bulgaria under the conditions of freedom to provide services without opening a branch may commence performing operations from the date on which the insurer has been notified by the relevant competent authority of the member state of origin that the Commission has been provided with information regarding the risks which the insurer intends to cover in the Republic of Bulgaria, the types of insurance which the insurer has the right to provide in the member state of origin, as well as a certificate proving that the insurer has sufficient funds of its own to cover the solvency margin and the guarantee capital.

(2) (Amended, SG No. 97/2007) An insurer who performs insurance operations on the territory of the Republic of Bulgaria under the conditions of the freedom to provide services and has expressed intention to perform operations under Item 10.1 of Section II, letter "A" of Annex No. 1, shall notify the Commission in writing of the name and address of the representative appointed under the terms of Article 55, Paragraph 3 and shall declare the circumstances under Article 55, Paragraph 2, where such information has not been provided to the Commission by the competent authority of the member state by origin of the insurer under the procedure of Paragraph 1.

(3) (New, SG No. 97/2007) Paragraph 1 shall apply accordingly upon any amendment of the types of insurances which an insurer from member state intends to provide in the Republic of Bulgaria under the conditions of the freedom to provide services.

Requirements for insurers with a seat of business

in another Member State

Article 55

(1) (Repealed, SG No. 97/2007).

(2) (Amended, SG No. 97/2007) An insurer who performs operations in the Republic of Bulgaria under the conditions of the right of establishment or of the freedom to provide services and who covers risks on an insurance policy under Section II, Item 10.1, Letter "A" of Annex No. 1 shall be obliged to hold membership of the National Bureau of Bulgarian Motor Insurers and to participate in the funding of the Guarantee Fund.

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

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

(5) On approval by the Commission, an insurer who offers compulsory third party liability insurance for motorists in the country under the conditions of the freedom to provide services may assign the operations under Paragraph 3 to the representative for the settlements of claims in

the Republic of Bulgaria under the procedure established under Article 269.

Section III
(New, SG No. 97/2007)
Performance of Operations in Another Member State by a
Reinsurer with a
Seat of Business in the Republic of Bulgaria. Performance of
Operations
in the Republic of Bulgaria by a Reinsurer with a Seat of
Business in
Another Member State

Right of Establishment and Right to Provide Services

Article 55a

(New, SG No. 97/2007)

(1) A reinsurer with a seat of business in the Republic of Bulgaria holding a licence for reinsurance under the conditions and procedure of this Code may perform the activity for which the licence has been issued to it on the territory of another member state under the conditions of the right of establishment or of the freedom to provide services after notifying the Commission thereof and subject to compliance with the law of such member state.

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

Notification of the Competent Authorities of the Other Member States on

Withdrawal of a Censurer's Licence

Article 55b

(New, SG No. 97/2007)

The Commission shall notify immediately the relevant competent authorities of the other member states of the withdrawal of a reinsurer's licence.

Section IV

Provision of information to the European Commission

(Previous Section III, SG No. 97/2007)

Information provided to the European Commission

Article 56

(1) (Amended, SG No. 97/2007) The Commission or the Deputy Chairperson shall notify the European Commission and competent authorities exercising insurance supervision in member states of:

1. (amended, SG No. 59/2006, No. 97/2007) a licence issued to an insurer or a reinsurer over which control is exercised directly or through related persons by one or more parent undertakings, where the law of a third state is applicable for at least one of these; the notification shall also specify the structure of the group to which the persons under Sentence One belong;

2. (amended, SG No. 59/2006, supplemented, SG No. 97/2007) participation acquired by a parent undertaking under Item 1 in an insurer or a reinsurer with a seat of business in the Republic of Bulgaria, which enables the party to exercise control over the insurer;

3. (supplemented, SG No. 97/2007) the existence of obstacles to the performance of operations in a third state by an insurer or a reinsurer with a seat of business in the Republic of Bulgaria.

(2) (Amended, SG No. 59/2006) At the request of the European Commission, the Commission shall suspend for up to three months proceedings on applications submitted by an insurer from a third state to perform operations in the Republic of Bulgaria, as well as proceedings connected to the acquisition, directly or through related persons, of participation by a parent undertaking for whom the law of the third state in question is applicable.

(3) The time limit specified under Paragraph 2 may be extended by means of a resolution of the Council of the European Union.

(4) (Amended, SG No. 59/2006) Paragraphs 2 and 3 shall not apply where insurers from a third state or their subsidiary undertakings who hold a licence to carry out insurance operations within the European Union acquire control or participation in an insurer with a seat of business in the Republic of Bulgaria.

(5) On request submitted by the European Commission, in cases where a competent authority in a third state does not apply the principle of reciprocity in ensuring access of an insurer with a seat of business in the Republic of Bulgaria or in another Member State to the relevant foreign insurance market, or when, in performing operations on the territory of a third

state by an insurer with a seat of business in the Republic of Bulgaria or in another Member State, the insurer does not enjoy a national treatment regime, the Commission shall inform the European Commission of:

1. licence applications submitted by a person under Paragraph 1, item 1;

2. (amended, SG No. 59/2006) notification submitted by a parent undertaking under Paragraph 1, Item 1 of his or her intent to acquire participation under Paragraph 1, Item 2.

(6) The notification shall be discontinued after conclusion of an agreement between the authorities of the European Union and the third state on the reinstatement of the national treatment of the insurers with a seat of business in the European Union.

(7) (New, SG No. 97/2007) Paragraphs 2 - 6 shall not apply to reinsurers.

TITLE TWO

REQUIREMENTS TO THE OPERATIONS OF INSURERS AND REINSURERS

Chapter Five

MANAGEMENT, STRUCTURE AND ORGANISATION OF OPERATIONS. INTERNAL CONTROL

Section I

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

General requirements

Article 57

(1) (Supplemented, SG No. 21/2012) The managing or controlling body of an insurer or a reinsurer shall approve:

1. the management and organisational structure of the insurer or reinsurer, including specification of the managerial positions, excluding the positions specified under Article 13, Paragraph 1, and their functions and powers;

2. a programme of operations of the insurer or reinsurer for a period of three years, updated on an annual basis;

3. organisational rules for operational control, including rules and procedures for performance and reporting the activity of the separate organisational units;

4. (new, SG No. 21/2012) the remuneration policy for the staff of the insurer and the reinsurer.

(2) (Amended and supplemented, SG No. 21/2012) The body under Paragraph 1 shall submit an annual report on the implementation of the plans, policies, rules and procedures under Paragraph 1 to the general meeting of the shareholders or the members.

(3) Within seven days of their adoption, the insurer or reinsurer shall submit to the Commission the documentation under Article 1, any subsequent amendments thereof and the report under Paragraph 2.

(4) (New, SG No. 21/2012) The Commission shall stipulate by an ordinance the requirements to the remuneration policy and the manner of its announcement.

Requirements for persons occupying managerial positions

Article 58

(1) Persons occupying managerial positions under Article 57, Paragraph 1, Item 1, shall satisfy the requirements specified under Article 13, Paragraph 1, Items 3 and 4, and shall possess appropriate qualifications and experience.

Information system

Article 59

(1) An insurer or reinsurer shall set up and maintain a regularly updated information system, in which the information may be processed, formatted, stored and archived on a paper and/or other durable carrier in compliance with the insurer's internal regulations. The information shall contain:

1. the Statutes and other internal regulations;
2. the Book of Members ;
3. minutes of the proceedings of the sessions of the general meeting of Shareholders or the general meeting of Members and of the managing bodies;
4. accounting information, accurately and clearly recording the type, amount and grounds for the transactions concluded, their effect on the results and the financial standing of the insurer;
5. actuarial information, accurately and clearly recording the methods and the source of the data used to determine the amount of premiums, the technical reserves and the solvency margin,

with the exception of premiums on high risk insurance;

(2) (Supplemented, SG No. 97/2007) Insurers or reinsurers subject to additional supervision under the procedure established by Article 299, Paragraph 1 shall maintain an information system which allows them to provide the entire information necessary to exercise the supplementary supervision. In cases where information is exchanged between insurers or reinsurers subject to supplementary supervision under Article 299, Paragraph 1 and the companies related to them and the companies participating in them, the restrictions on information exchange stipulated by law, secondary legal instrument or contract shall not apply if such exchange of data is necessary for the purposes of the supplementary supervision and at least one of these companies has its a seat of business in a Member State. The Commission may limit the exchange of information with persons with a seat of business in a third country.

(3) (Amended, SG No. 97/2007) Within one month from issue of the licence for insurance or reinsurance the person under Paragraph 1 shall approve internal regulations for the organisation of the information system. The regulations and any amendments and riders which follow them shall be put at the disposal of the Commission within one week of their adoption.

Section II

(Title supplemented, SG No. 97/2007)

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

Definition

Article 60

(1) Transfer of operations by an insurer is a permanent assignment of separate operations, included in the scope of insurance operations, to be performed by third parties who are not insurers and whose professional activities include operations under Article 3, Items 1-7.

(2) The insurer shall answer for the operations of the parties to whom it has transferred part of its operation under Article 3, Items 1-7 as for the insurer's own operations.

(3) The transfer of operations shall be effected on the basis of a written contract.

Performance of the Operations Transferred.

Control. State supervision

Article 61

(1) The operations transferred shall be performed according to the established requirements for the insurer.

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

(3) The contracts for transfer of operations shall be submitted to the Deputy Chairperson on request. The Deputy Chairperson may order an inspection of a third party to whom an operation has been transferred by an insurer with regard to the legality of the operations transferred, following signals submitted by insurance service consumers or in connection with inspections carried out at the premises of the insurer.

(4) If, during the operations of a party to whom an insurer has transferred operations, breaches of the law or practices have been established which jeopardise the stability of the insurer or the rights and interests of the insurance service consumers, or prevents the exercise of state insurance supervision, the Deputy Chairperson shall order their elimination within a term specified by him or her. If the order has not been fulfilled, or despite fulfilling the order the party continues to contravene the law, to jeopardise the stability of the insurer or the rights of the consumers, or to hinder insurance supervision, the Deputy Chairperson shall order the insurer to discontinue relations with the party in question.

(5) The insurer shall not owe default penalties and other compensation for damage on discontinuation in fulfilment of an order under Paragraph 4 of a contract for transfer of operations before expiry of its term.

Transfer of Operations by a Reinsurer to Third Parties

Article 61a

(New, SG No. 97/2007)

With regard to transfer of operations by a reinsurer to third parties Articles 60 and 61 shall apply.

Section III

Internal control

Specialised internal control department

Article 62

(1) (Supplemented, SG No. 97/2007) An insurer or a reinsurer shall establish a Specialised Internal Control Department, whose head shall be elected by the general meeting of Shareholders or by the general meeting of Members respectively. The Head of the Specialised Internal Control Department of a branch in the meaning of the Commerce Act for insurers or reinsurers from a third state shall be appointed by the body which is competent to appoint the branch manager.

(2) (Amended, SG No. 97/2007) The Internal Control Department shall provide assistance

to the management bodies of the person under Paragraph 1 where decisions are taken in connection with its operations and shall monitor their implementation.

(3) In carrying out its operations, the Internal Control Department shall inspect and evaluate:

1. (amended, SG No. 97/2007) compliance with the law and internal regulations in the performance of the operations by the person under Paragraph 1;

2. the accounting and information system;

3. the accuracy, completeness and timeliness of the accounting and other documents and reports prepared;

4. the management systems and the risk assessment methods;

5. (amended, SG No. 97/2007) the protection of the assets of the person under Paragraph 1 against negligence and misappropriations;

6. the adequacy and adherence to the internal procedures for concluding insurance and reinsurance contracts, for accepting and considering claims and for determining the payments thereof;

7. (amended, SG No. 97/2007) the performance and reporting of all operations transferred by the person under Paragraph 1.

(4) The Head of the Internal Control Department shall meet the requirements under Article 13, Paragraph 1 and Paragraph 3, and under Article 14, Paragraph 2. Article 13, Paragraphs 6 and 7 shall also apply.

(5) (Amended, SG No. 97/2007) The Head of the Internal Control Department shall immediately inform the managing bodies of any infringements which he or she establishes in the operations of the person under Paragraph 1.

(6) The Head of the Internal Control Department shall elaborate an annual report on the operation of the department and shall submit it to the managing body and to the general meeting of the Shareholders, or to the members respectively.

(7) (Amended, SG No. 97/2007) The Head of the Internal Control Department shall immediately inform the Deputy Chairperson in cases where, as a result of an inspection, infringements and weaknesses have been established in the management of the person under Paragraph 1 which have resulted or may result in material damage and for which the Head considers that the managing body has not undertaken sufficient measures for their elimination.

(8) (Amended, SG No. 97/2007) Within one month from issue of the licence for insurance or reinsurance the person under Paragraph 1 shall adopt internal regulations on the structure and activity of the Internal Control Department. The regulations and any amendments thereof shall be

submitted to the Commission within seven days of their adoption.

(9) (Supplemented, SG No. 97/2007) The Commission shall adopt a regulation specifying the requirements for the structure and operation of the Internal Control Department of an insurer or a reinsurer and of the parties included in an insurance or a reinsurance group.

Chapter Six

REQUIREMENTS FOR THE FINANCIAL STATUS

Section I

Solvency Requirements for an Insurer and a Reinsurer

General rules

Article 63

(Supplemented, SG No. 97/2007)

With a view to guaranteeing the possibility for accurate performance of the obligations under insurance and reinsurance contracts, an insurer or a reinsurer shall be, at all times, under the obligation to:

1. Set and apply in their operations, premiums corresponding to the degree of risk undertaken and their expenses;
2. Set aside technical reserves adequate in terms of type and amount pursuant to the requirements of the law;
3. Cover the technical reserves with adequate assets;
4. Have at their disposal sufficient equity, which is to cover the solvency margin and the guarantee capital.

Recalculation of financial indicators for control purposes

Article 64

(1) (Supplemented, SG No. 97/2007) Where an insurer or a reinsurer has calculated the amount of technical reserves; the value of assets, liabilities, income, expenses or other indicators specified in reports and information sheets submitted to the Commission in breach of a primary or secondary legal act, the Deputy Chairperson may, for the purposes of insurance supervision, revalue each and any of these indicators.

(2) In case where, as a result of said revaluation, any offences under the present Code are

established, the measures envisaged herein shall be applied.

Insurance and reinsurance premiums

(Title supplemented, SG No. 97/2007)

Article 65

(1) (Supplemented, SG No. 97/2007) Insurance and reinsurance premiums should be sufficient, calculated on the basis of reasonable actuarial assumptions, so as to ensure fulfilment of all obligations of an insurer or a reinsurer, setting aside adequate technical reserves included.

(2) In order to implement the requirement under Paragraph 1, the insurer's financial status and its long-term solvency shall solely be forecast on the basis of the premiums as an only source of income.

Taking into account sex as actuarial factor in determining
the insurance premium

Article 65a

(New, SG No. 100/2007)

(1) Taking into account sex as actuarial factor in determining the insurance premium is admissible where insurers use reliable and regularly updated public statistical information showing clearly that sex is a determining actuarial factor in the assessment of the insurance risk.

(2) Costs related to pregnancy and maternity may not result in differences in determining the premiums.

Types of reserves

Article 66

(1) (Supplemented, SG No. 97/2007) An insurer or a reinsurer shall be under the obligation to set up general and technical reserves.

(2) General reserves shall consist of:

1. A Reserve Fund under Article 246 of the Commerce Act, or Article 34 of the Cooperatives Act respectively;

2. (Amended, SG No. 97/2007) Other funds, if envisaged in the Articles of Association of the person under Paragraph 1.

(3) (Amended, SG No. 97/2007) The person under Paragraph 1 shall, at all times, maintain

technical reserves sufficient in amount, that correspond to its overall operations, by which it is to guarantee coverage of the insurance risks undertaken.

(4) (Amended, SG No. 97/2007) The types of technical reserves, which the persons under Paragraph 1 shall maintain, are to be specified pursuant to Article 68.

(5) (Amended, SG No. 97/2007) The increase of technical reserves shall be made part of the incremental costs, and the decrease - of the incremental income of the persons under Paragraph 1 in forming the financial result.

Section II

Technical reserves

Definition

Article 67

(Amended, SG No. 97/2007)

The amount of technical reserves shall be calculated on the basis of the value of obligations assumed by an insurer or a reinsurer, which are expected to be fulfilled in the future by virtue of insurance or reinsurance contracts having entered into force, the expenses related to fulfilment of these obligations, as well as the value of any possible unfavourable deviation from that expectation.

Types of technical reserves

Article 68

(1) An insurer who has obtained a licence to perform insurance operations for the types of insurance policies under Section I of Annex No. 1, shall set up technical reserves as follows:

1. A provisional fund;
2. An outstanding claims reserve;
3. An unearned premium reserve;
4. A mathematical reserve;
5. Capitalised value of pensions;
6. A reserve for future income contribution;
7. Life insurance investment fund related reserves;

8. A bonuses and rebates reserve;

9. Other reserves approved by the Deputy Chairperson or created under his/her prescription.

(2) An insurer who has obtained a licence to perform insurance operations under the policies set out in Section II of Annex No. 1 shall be obligated to set up technical reserves as follows:

1. A provisional fund;

2. An outstanding claims reserve;

3. An unearned premium reserve;

4. Reserves for unexpired risks;

5. A bonuses and rebates reserve;

6. Other reserves approved by the Deputy Chairperson or created under his/her prescription.

(3) A branch office of an insurer from a third country who has obtained a licence to pursue insurance operations within the territory of the Republic of Bulgaria shall set up technical reserves under Paragraph 1 or Paragraph 2, which are to cover its obligations under insurance and reinsurance contracts concluded in the Republic of Bulgaria.

(4) (New, SG No. 97/2007) A reinsurer shall set up technical reserves under Paragraph 1 for its operations under Section I of Annex No. 1 and the reserves under Paragraph 2 for its operations under Section II of Annex No. 1

(5) (Renumbered from Paragraph 4, supplemented, SG No. 97/2007) The procedure and methodology for setting up technical reserves and the provisional fund, the principles that are applied to calculating their amount, the rules for identifying and evaluating the assets needed to cover the technical reserves, as well as the maximum rate of technical interest for insurance policies under Section I of Annex No. 1 shall be set out in an ordinance.

General rules for setting up technical reserves

Article 69

(1) (Amended, SG No. 97/2007) Technical reserves shall be calculated for each type of insurance, under which an activity is performed, and the share of the reinsurers or the retrocessionaires shall not be deducted.

(2) (Supplemented, SG No. 97/2007) Insurers or reinsurers shall maintain technical reserves under Article 68 sufficient in amount, in accordance with the general volume of their operations and the obligations assumed under insurance and/or reinsurance contracts concluded by them,

insofar as the said obligations' reasonable prediction is possible.

(3) The basis of and methods for calculation of technical reserves for insurances under Section I of Annex No. 1, shall be public. The insurer shall be obligated to submit these to any interested party upon request.

Technical reserves in the case of reinsurance and coinsurance

Article 70

(1) Where performing inward reinsurance, technical reserves under Article 68 shall be set up in compliance with the terms and conditions of the respective reinsurance contract.

(2) (Supplemented, SG No. 97/2007) Where performing outward reinsurance, the insurer shall account for the reinsurers' share in the technical reserves set up in compliance with the terms and conditions of reinsurance contracts. Sentence One shall apply to retrocession as well.

(3) When performing coinsurance, an insurer shall set up the types of reserves under Article 68, accounting for its share therein in compliance with the terms and conditions of the coinsurance contract.

Currency of the technical reserves set up

Article 71

(1) In case liabilities under insurance or reinsurance contracts are set in a foreign currency, or the contract makes an arrangement for recalculation in a foreign currency, the technical reserves shall be set up in the same currency.

(2) (Supplemented, SG No. 97/2007) In case liabilities under Paragraph 1 are not fixed in a specific currency, the reserves shall be set up in the currency of the Member State where the risk is located. In the aforesaid case, an insurer, respectively a reinsurer may set up reserves in the currency of the premium as agreed, if a grounded conclusion can be made that the indemnity payment shall be effected in that same currency.

(3) In case a claim for payment in a particular currency has been presented, said currency differing from the currency identified under the procedure of Paragraph 1 or Paragraph 2, the Outstanding Claims reserve shall be set up in the currency of the claim presented.

(4) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) In the case where coinsurance within the European Union is undertaken, the Outstanding Claims reserve may not be lesser than the amount stipulated pursuant to the legislation and the practices established in the Member State at the leading coinsurer's seat.

(5) (Supplemented, SG No. 97/2007) In case the amount of claim has been set in a currency, other than the one specified under Paragraphs 1-3, and this is known to the insurer,

respectively reinsurer, the latter may set the Outstanding Claims reserve in that same currency.

Section III

(Title amended, SG No. 97/2007)

Cover for technical reserves and provisional fund of an insurer

General provisions

Article 72

(1) (Amended, SG No. 97/2007) An insurer shall be obligated to cover the gross amount of technical reserves and of the provisional fund by corresponding assets in accordance with the conditions of this Section. An insurer from a third country shall cover the technical reserves formed in accordance with the procedure established in Article 68, Paragraph 3 and the provisional fund for their branch office in accordance with the terms and conditions of the present Section.

(2) (Amended and supplemented, SG No. 97/2007) The Deputy Chairperson may prohibit an insurer who fails to fulfil the obligation under Paragraph 1 or under Article 66, Paragraph 3 upon advising the competent authorities of the Member States where the risk is situated of his/her intention to do so.

(3) (Amended, SG No. 97/2007) Assets under Paragraph 1 shall reflect the specifics of the insurer's operations in such a way, as to guarantee certainty, profitability and liquidity by means of diversification and appropriate distribution.

(4) (New, SG No. 97/2007) The provisions of this Section shall apply to reinsurers where this is expressly stipulated.

Types of assets eligible to cover technical reserves

Article 73

(1) Only the following assets may be utilised to cover the technical reserves:

1. (Amended, SG No. 97/2007) Securities admitted for trading on a regulated securities market or a multilateral trading facility (MTF) in the Republic of Bulgaria or in another Member State, as well as shares, qualified bonds and other qualified debt securities, admitted for trade on internationally recognised and liquid regulated securities markets or multilateral trading facilities in a third state;

2. (Supplemented, SG No. 97/2007) Securities issued or guaranteed by the Republic of Bulgaria or by another Member State, as well as qualified debt securities issued or guaranteed by

third states, their central banks or international organisations of which the Republic of Bulgaria or another Member State is a member;

3. (Amended, SG No. 77/2011) units issued by collective investment schemes, and shares of closed-end investment companies under the Collective Investment Schemes and Other Undertakings for Collective Investments Act, as well as units of collective investment schemes headquartered in another Member State;

4. Property rights in land and buildings;

5. (Supplemented, SG No. 97/2007) Receivables from reinsurers, including the reinsurers' share in technical reserves, and from special purpose vehicles for alternative insurance risk transfer;

6. Deposits and receivables from assignors;

7. Receivables from insured parties and intermediaries ensuing from insurance and reinsurance contracts;

8. Receivables from loans against life insurance policies;

9. (Supplemented, SG No. 97/2007) Cash in hand and current accounts or deposits with banks with the right to pursue bank operations in the Republic of Bulgaria or in another Member State;

10. Deferred acquisition costs;

11. Indisputably established receivables in relation to tax refunds.

(2) Qualified debt securities within the meaning of Paragraph 1 shall be debt securities with an investment rating by an internationally recognised rating agency.

(3) All assets shall be valued in compliance with the prudence concept, accounting for the risk of possible failure to turn these into cash. The amount of receivables recognised as cover for technical reserves shall be calculated observing the prudence concept, accounting for the risk of their possible non-settlement.

(4) Security derivatives, including options, futures and swaps related to activities covering the technical reserves shall be recognised as cover for technical reserves only in case these contribute to the decrease of investment risk or facilitate effective portfolio management. These shall be valued observing the prudence concept and may be taken into consideration in the valuation of the underlying assets.

(5) Receivables from third persons shall be recognised as cover for technical reserves upon deduction of all counter-obligations towards said third parties.

(6) The following shall not be recognised as cover for technical reserves:

1. Property rights encumbered with pledge, mortgage or other burdens;
2. (amended, SG No. 59/2006) Investments in a parent undertaking;
3. Receivables that have remained outstanding for more than three months after maturity.

(7) Under extraordinary circumstances, and upon advance reasoned request of the insurer, the Commission may temporarily allow the utilisation of some other types of assets in order to cover technical reserves provided that the requirements set under Article 72, Paragraph 3 have been observed.

General rules for diversification

Article 74

(1) An insurer invests the gross amount of technical reserves set up in assets under Article 73 in compliance with the following restrictions:

1. Up to 20 per cent in real estate, but not more than 10 per cent in a single property or in a group of properties that may be regarded as one investment because of their location;
2. Up to 80 per cent in securities under Article 73, Paragraph 1, Items 1 and 3, but not more than 30 per cent in assets, other than qualified bonds and other qualified debt securities;
3. Without any restriction whatsoever in assets under Article 73, Paragraph 1, item 2;
4. Up to 5 per cent in securities of a single issuer; this restriction shall not apply to assets specified in Article 73, Paragraph 1, item 2;
5. Up to 50 per cent in bank deposits, but not more than 25 per cent of the gross amount with one bank;
6. Up to 3 per cent in cash in hand and under current accounts;

(2) The maximum amount of investments in real estate under Paragraph 1, item 1 may not exceed 30 per cent of the difference between the gross amount of technical reserves and receivables from reinsurers transformed in accordance with the procedure established in Article 75, Paragraphs 1 and 2.

(3) The maximum amount under Paragraph 1, item 4 may be 10 per cent in case an insurer invests not more than 40 per cent of the technical reserves' gross amount in securities of issuers, the exposure of the above insurer to which exceeds 5 per cent of its assets. The maximum amount under Paragraph 1, item 4 may be 20 per cent in case an insurer invests technical reserves in debt securities issued by a credit institution having its seat of business in a Member State, subject to special supervision, within the meaning of the law, to the purpose of protecting the holders of such securities. More specifically, contributions received in return for the issuance of securities

under sentence two shall be invested, pursuant to the reserves of the law, in assets that throughout the validity period of securities may cover the receivables from such securities and that in the case of issuer insolvency shall be utilised for the preferential satisfaction of the receivables for the principle and the interest accrued.

(4) Assets under Paragraph 1 may not be pledged, mortgaged or encumbered with any other burdens.

(5) Assets needed to cover the technical reserves shall be diversified and distributed in such a way, as to ensure that no category of assets, investment market or separate investment has a significant share.

(6) Investment in categories of assets, with a high degree of risk inherent to their nature or the issuer's characteristics, as well as the assets' share needed to cover technical reserves of low liquidity shall be limited to reasonable levels.

Investment in receivables

Article 75

(1) A receivable from a reinsurer, including the reinsurer's share in the technical reserves, may be acknowledged as cover for the technical reserves after deduction of the deposits retained and the liabilities to the relevant reinsurer.

(2) A receivable or a share under Paragraph 1, respectively, shall be acknowledged as cover for technical reserves up to:

1. (amended and supplemented, SG No. 48/2007) the value transformed under Paragraph 1 without limitation in case a reinsurer has an investment credit rating awarded by at least one of the rating agencies specified in a Resolution of the Commission;

2. 50 per cent of the value transformed under Paragraph 1 in case a reinsurer has a credit rating awarded by at least one of the rating agencies under item 1 outside the investment class;

3. 20 per cent of the value transformed under Paragraph 1 in case a reinsurer has no credit rating awarded by at least one of the rating agencies under item 1.

(3) (Amended, SG No. 48/2007, supplemented, SG No. 97/2007) Insurers shall declare to the Deputy Chairperson the reinsurers with whom they have concluded reinsurance contracts, as well as information about their credit rating, within a seven day period after the respective contract has been concluded. The Deputy Chairperson has the right to fix amounts other than the ones set out in paragraph 2 for the acknowledgement of a receivable from a certain reinsurer or of a share of certain reinsurer in the technical reserve for cover for the technical reserves, provided circumstances are available that allow a different objective judgement of the stability of the reinsurer be made. The Deputy Chairperson may not prohibit conclusion of a reinsurance contract with a reinsurer licensed under this Code or with a reinsurer from a Member State.

(4) Deposits with assignors and receivables from assignors shall be acknowledged as cover for technical reserves up to the amount thereof set up in relation to reinsurance contracts concluded with the respective assignor.

(5) (Amended, SG No. 48/2007) Receivables from insured parties, ensuing from insurance contracts, shall be acknowledged as cover for the technical reserves to the difference between the gross amount of the unearned premium reserve set up, the mathematical reserve or the capitalised value of pensions, and the reinsurer's share in these, transformed in accordance with the procedure set out in compliance with Paragraphs 1 and 2. Receivables from insurance intermediaries, ensuing from insurance contracts, shall be acknowledged as cover for the technical reserves to a value of up to 20 per cent of the difference between the gross amount of the unearned premium reserve set up, the mathematical reserve or the capitalised value of pensions, and the reinsurer's share in these, transformed in accordance with the procedure set out in compliance with Paragraphs 1 and 2.

(6) Receivables from loans granted with regard to life insurance policies shall be acknowledged as cover for the technical reserves up to the amount of the redemption value of the relevant policies in relation to which such loans have been granted.

(7) (New, SG No. 97/2007) Paragraphs 1 - 3 shall furthermore apply to receivables under reinsurance contracts concluded with insurers as well as to the share in the technical reserves of such insurers which carry out inward reinsurance.

Receivables from Special Purpose Vehicles

Article 75a

(New, SG No. 97/2007)

(1) A receivable from a special purpose vehicle for alternative insurance risk transfer may be acknowledged as cover for the technical reserves after deducting the liabilities to the respective special purpose vehicle and provided that it is licensed in the Republic of Bulgaria or in another Member State and meets the requirements of Directive 2005/68/EC of the European Parliament and of the Council on Reinsurance and Amending Council Directives 73/239/EEC and 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC.

(2) A receivable shall be acknowledged as cover for the technical reserves up to:

1. eighty per cent of the transformed value under Paragraph 1 if the vehicle has an investment credit rating from at least one of the rating agencies under Article 75, Paragraph 2, Item 1;

2. forty per cent of the transformed value under Paragraph 1 if the vehicle has a credit rating from at least one of the rating agencies under Article 75, Paragraph 2, Item 1, other than an investment grade;

3. two per cent of the transformed value under Paragraph 1 if the vehicle has no credit

rating from at least one of the rating agencies under Article 75, Paragraph 2, Item 1.

(3) Insurers shall declare to the Deputy Chairperson the special purpose vehicles for alternative insurance risk transfer with which they have concluded contracts as well as data about their credit rating within 7 days from conclusion of the contract. The Deputy Chairperson shall have the right to determine amounts other than those set out in Paragraph 2 for acknowledgement of a receivable from a specific special purpose vehicle as cover for the technical reserves if circumstances exist which allow a different objective assessment of the stability of the vehicle to be made. The Deputy Chairperson may also acknowledge as cover for the technical reserves receivables from a special purpose vehicle licensed in a third country should said vehicle meet requirements which are similar to the requirements referred to in Paragraph 1 and an objective assessment of its stability and solvency can be made.

Deferred acquisition costs

Article 76

Deferred acquisition costs, less the related reinsurance commissions, deferred to a future period shall be acknowledged as cover for the gross amount of technical reserves.

Territorial distribution rules

Article 77

(1) Technical reserves under insurance contracts, covering risks in the Republic of Bulgaria or in a Member State, shall be covered by assets located within the territory of the Republic of Bulgaria or within the territory of a Member State. By licence of the Deputy Chairperson, issued in each specific case, technical reserves under contracts as per sentence one may also be covered by assets, located within the territory of a third country.

(2) The requirement for territorial distribution of assets under Paragraph 1 shall not apply to cases where the technical reserves are covered by investments in receivables from reinsurers in the proportion set under Article 75.

(3) The assets, covering technical reserves set up by a branch office of an insurer from a third country who does not make use of the facilitation provisions of Article 47, Paragraph 1, covering risks in this country, shall be located within the territory of the Republic of Bulgaria.

(4) The assets' location shall be:

1. For ownership of real estate - the real estate's location;

2. For securities:

a) The issuing enterprise's seat of business;

b) The bank's seat of business - in case the securities are guaranteed by a bank;

c) The Depository's seat of business - in the case of dematerialised securities;

3. For deposits - the place where the deposit contract has been concluded;

4. For any other receivables - the debtor's seat of business;

5. For shares in investment funds - the location of assets included in the fund with a predominant share, fixed pursuant to the terms and conditions under Items 1-4;

(5) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) In the case of coinsurance, an insurer may invest the technical reserves set up under coinsurance contracts concluded with insurers who have been granted a licence to perform insurance operations by the competent body of the Member State in assets under Article 73 located in the Republic of Bulgaria or in the Member State of the leading coinsurer's seat of business.

Currency conformity rules

Article 78

(1) In case the cover under an insurance contract has been fixed in a particular currency, the insurer's liabilities shall be reported as payable in the same currency. The assets covering the technical reserves shall be in the same currency as the liabilities ensuing from contracts under which technical reserves have been set up.

(2) An insurer may not apply the rule under Paragraph 1 in covering the technical reserves, including the mathematical reserve, by assets, if the application of this rule would lead to maintenance of assets in this currency at the amount of no more than 7 per cent of the assets in other currencies.

(3) Paragraph 1 shall not apply to the cover for technical reserves in a currency other than BGN or the currency of one of the Member States, where investments in that currency are regulated, where it is subject to transfer restrictions, or it is not adequate to cover the technical reserves for other similar reasons.

(4) Up to 20 per cent of the total amount of technical reserves may be covered by assets in a currency other than the one in which they have been set up, provided that the total amount of assets for cover of technical reserves in all currencies is at least equal to the total amount of liabilities in all currencies.

(5) In case the technical reserves have been set up in BGN, EUR or another currency of a Member State, the assets for their cover may be in EUR.

Special rules for the cover of reserves for the investment

fund related life insurance

Article 79

(1) In the cases where the investment risk is borne by the insured persons, the Investment fund related Life Insurance Reserves shall be covered by assets, agreed in the insurance contract. In case the insurer's liabilities under such contract are bound to an index value, the reserves shall be covered by assets reflecting the value of such index as fully as possible and at the appropriate certainty and liquidity levels.

(2) Articles 72, Paragraph 3, 74, 75 and 78 shall not apply to the assets under Paragraph 1.

(3) In cases under an investment fund related Life insurance, part of the insurer's liabilities are guaranteed, the technical reserves for their amount, shall be covered by assets in compliance with the general rules.

Section IIIa **(New, SG No. 97/2007)** **Cover of Technical Reserves and Provisional Fund of a** **Reinsurer** **General Provisions**

Article 79a

(New, SG No. 97/2007)

(1) A reinsurer shall cover the gross amount of technical reserves and the provisional fund by assets in accordance with this Section.

(2) The Deputy Chairperson may prohibit free disposal of assets by a reinsurer who fails to meet the obligations under Paragraph 1 or under Article 66, Paragraph 3, after he/she has notified the competent authorities of the host member states of his/her intention.

(3) This Section shall apply to insurers who carry out inward reinsurance.

Requirements for the Selection of Assets Covering Technical Reserves

Article 79b

(New, SG No. 97/2007)

(1) In selecting the assets as cover for technical reserves a reinsurer shall take into account the specifics of the operations performed by the reinsurer, incl. the nature, amount and duration of outstanding claims in such a manner so as to ensure sufficiency, liquidity, safety, quality, profitability and match of its investments.

(2) A reinsurer shall ensure diversification and appropriate allocation of the assets as cover for the technical reserves so as to guarantee its ability to meet assumed obligations on adverse changes in economic circumstances, including adverse changes in financial markets, real estate markets or material catastrophic events.

(3) A reinsurer shall, at least once annually, assess the impact of adverse or unexpected changes in market circumstances on the assets covering the technical reserves, diversifying them in a manner so as to reduce the possible adverse effect.

(4) The assets serving as cover for the technical reserves, except those referred to in Article 73, Paragraph 1, Item 2, shall be diversified and allocated so that no class of assets, investment market or individual investment should not have a significant share. The reinsurer shall not make investments in the assets of one issuer or issuers who are part of a group of related parties, thereby exposing itself to a high risk concentration.

(5) Investments in securities not admitted to trading on a regulated securities market or MTF in the Republic of Bulgaria, in another Member State or on an internationally recognised and liquid regulated securities market or MTF in a third country shall be limited to prudent levels.

(6) Article 73, Paragraph 4 shall apply to investments in securities derivatives and the reinsurer shall avoid a significant risk exposure in its relations with a single person, as well as in other derivative operations.

(7) Article 75, Paragraphs 1 - 3 shall apply to reinsurers' receivables under retrocession contracts and to the share of retrocession Aires in the technical reserves of reinsurers.

(8) Article 75a shall apply to reinsurers' receivables from special purpose vehicles for alternative insurance risk transfer.

Investment Policy

Article 79c

(New, SG No. 97/2007)

(1) In accordance with Article 79b the managing body of a reinsurer shall adopt an investment policy within one month from issue of the licence for reinsurance and shall update it annually.

(2) The investment policy under Paragraph 1 shall contain:

1. analysis of the operations of the reinsurer, of the risks assumed and the payments made thereby;

2. analysis of the state of the macroeconomic environment, including the state and trends in financial markets and real estate markets;

3. a forecast for anticipated frequency and amounts of claimed damages, incl. for catastrophic events, and for the possible effect on the insurance market, financial markets and real estate markets;

4. motivated determination of the assets for cover of the technical reserves and the provisional fund, of their diversification and allocation, corresponding to the highest extent to the operations of the reinsurer, of the macroeconomic conditions and trends in which the operations are performed, and of the projections under Item 3 for achieving the purposes under Article 79b, Paragraph 1;

5. analysis of the risks inherent to assets, liabilities and their correlation and ratios under Item 4 in the practice of the reinsurer and determination of the method for their current identification, monitoring, management and restriction;

6. determination of the cases of departure from the adopted policy, of the conditions where this is allowed, and of additional security measures to be applied in such cases.

(3) A reinsurer shall stipulate explicitly in its investment policy under what conditions and on compliance with what measures for risk reduction it will admit investments exceeding:

1. thirty per cent of the gross amount of technical reserves in assets in a currency other than the currency in which the reserves are formed;

2. thirty per cent of the gross amount of technical reserves in securities not traded on a regulated securities market or MTF under Article 79b, Paragraph 5;

3. five per cent of the gross amount of technical reserves in securities issued by one issuer;

4. ten per cent of the gross amount of technical reserves in securities issued by more than one issuer who are related parties in a group.

(4) A reinsurer shall set up a unit which shall apply the investment policy, monitor, assess, manage and make proposals for reducing risks related to investment operations;

(5) The Internal Control Department of a reinsurer shall control the implementation of the investment policy and the operations of the unit under Paragraph 4.

(6) The Commission and the Deputy Chairperson shall exercise current supervision over the investment policy of the reinsurer and the operations of the unit under Paragraph 4 and may apply measures under Article 302 in the legally prescribed cases where the reinsurer, in its investment operations, exposes itself to risks which it is not able to manage effectively.

(7) Selection of one or more of the options under Paragraph 3 shall be admitted after notification of the Deputy Chairperson who may, within 60 days from the date of the notification, prohibit the execution of specific investments where as a result of their execution the reinsurer will expose itself to risk which it is not able to manage.

Section IV

Own funds. Solvency margin. Guarantee capital

Own funds

Article 80

(1) (Supplemented, SG No. 97/2007) The own funds of an insurer or a reinsurer, reduced by the intangible assets, shall be at any time at least equal to the solvency margin or to the minimum amount of the guarantee capital in case it is higher than the solvency margin.

(2) (Amended, SG No. 97/2007) The own funds of the person under Paragraph 1 shall consist of its assets, reduced by the foreseeable liabilities. The elements included in the calculation of the amount of own funds shall be determined in an Ordinance.

(3) A mutual insurance co-operative, whose annual gross premium income does not exceed BGN 10,000,000, shall be obligated to maintain own funds to an amount equal to the solvency margin or to the minimum guarantee capital under Article 82, Paragraph 4, in the cases where the latter is higher than the former.

(4) In cases where in the course of three consecutive years a mutual insurance co-operative has annually exceeded the amount of the premium income under Paragraph 3, it shall be in accordance with the obligation to maintain own funds of the amount under Article 82, Paragraph 1, item 2, provided that its solvency margin does not exceed that amount.

(5) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) The own funds of a branch office of an insurer from a third country up to the amount of the minimum required guarantee capital shall be invested in the Republic of Bulgaria, and over that amount - in the Republic of Bulgaria or in another Member State.

Solvency margin

Article 81

(1) (Amended and supplemented, SG No. 97/2007) The solvency margin shall be the minimum amount of the insurer's or reinsurer's own funds, reduced by the intangible assets, required to ensure the performance of the person's contractual obligations in the long run, in accordance with the total volume of its operations.

(2) (Amended, SG No. 97/2007) The person under Paragraph 1 shall maintain adequate own funds necessary for ensuring performance of its contractual obligations in the long run in accordance with the total volume of its operations.

(3) The solvency margin and the methods for its calculation shall be specified in the Ordinance under Article 80, Paragraph 2.

(4) (Supplemented, SG No. 97/2007) For the purposes of calculation of the solvency margin of a branch office of an insurer, respectively a reinsurer from a third country, the operations performed by the branch office shall only be considered.

Guarantee capital

Article 82

(1) The guarantee capital shall be one third of the solvency margin, but may not be lesser than:

1. (supplemented, SG No. 48/2007, amended, SG No. 41/2010) four million six hundred thousand Bulgarian leva - for an insurer who has obtained a licence for the performance of insurance operations including the types of insurance under Section II, Letter "A", Items 1-9, and Items 16-18 of Annex No. 1;

2. (supplemented, SG No. 48/2007, No. 97/2007, amended, SG No. 41/2010) seven million Bulgarian leva - for an insurer who has obtained a licence for the performance of insurance operations including the types of insurances under Section I and Section II, Letter "A", Items 10-15 of Annex No. 1, and for a reinsurer.

3. (new, SG No. 97/2007, amended, SG No. 41/2010) two million two hundred thousand leva - for a captive reinsurer.

(2) (Supplemented, SG No. 97/2007) In case an insurer performs insurance operations of several types of insurances under Section II of Annex No. 1, the higher value shall be adopted for the minimum amount of the guarantee capital.

(3) (Amended, SG No. 97/2007) In case an insurer under Paragraph 1, Item 1 performs inward reinsurance operations, the minimum amount of the guarantee capital shall be the amount under Paragraph 1, Item 2 if one of the following conditions obtains:

1. Written premiums on inward reinsurance exceed 10 per cent of the gross written premiums or BGN 97 800 000, or

2. the technical reserves formed in relation to inward reinsurance exceed 10 per cent of the gross amount of technical reserves formed.

(4) The mutual insurance co-operative under Article 80, Paragraph 3 shall maintain the minimum guarantee capital in accordance with Annex No. 2.

(5) (Supplemented, SG No. 97/2007) The guarantee capital of a branch office of an insurer or a reinsurer from a third country shall constitute one third of the solvency margin. However, it may not be lesser than half the amount under Paragraph 1, item 1 or 2, in conformity to the

licence granted by the Commission. The deposit under Article 41, Paragraph 2, item 3 or Article 47b, Paragraph 2, Item 3 shall be part of the guarantee capital.

Section V
(Title amended, SG No. 97/2007)
Additional solvency requirements to insurers and reinsurers
belonging to
an insurance or reinsurance group

Information about the transactions undertaken within an
insurance or
reinsurance group
(Title supplemented, SG No. 97/2007)

Article 83

(1) (Amended, SG No. 97/2007) The transactions of the person under Article 299, Paragraph 1 with the following persons shall be subject to supervision:

1. A related company;
2. A company holding interest in it;
3. A company related to a company holding interest in it;

4. (Amended, SG No. 97/2007) A natural person holding interest in the the person under Article 299, Paragraph 1 or in a company related to the latter;

5. (Amended, SG No. 97/2007) A natural person holding interest in a company that holds interest in the person under Article 299, Paragraph 1;

6. (Amended, SG No. 97/2007) A natural person holding interest in a company related to a company that holds interest in the person under Article 299, Paragraph 1;

(2) Transactions under Paragraph 1 shall cover:

1. Loans and other forms of lending;
2. Guarantees and off-balance operations;
3. Transactions with the use of own funds, which serve to cover the solvency margin;

4. Investments;
5. Reinsurance operations;
6. Distribution of expenditures;
7. Others.

(3) (Amended, SG No. 97/2007) The procedures for risk management, internal control and accounting of the person under Article 299, Paragraph 1 shall ensure appropriate conditions for monitoring, assessment and control of transactions under Paragraph 1. The Deputy Chairperson may prescribe amendments and supplements to the above procedures where they fail to provide an adequate guarantee of the solvency of the person under Article 299, Paragraph 1.

(4) (Amended, SG No. 97/2007) Along with the quarterly information, the person under Article 299, Paragraph 1 shall submit a report on significant transactions under Paragraph 1.

(5) In case the Deputy Chairperson decides following a review of the procedures under Paragraph 3 or based on the information submitted under Paragraph 4 that solvency is at risk, s/he shall apply the following measures:

1. Order production of a plan under Article 86;
2. Impose any of the coercive administrative measures under Article 302.

Adjusted solvency margin of insurers or reinsurers belonging to

an insurance or reinsurance group

(Title supplemented, SG No. 97/2007)

Article 84

(1) (Amended, SG No. 97/2007) The adjusted solvency of the persons under Article 299, Paragraph 1, item 1 shall be calculated through methods specified in an Ordinance.

(2) (Amended, SG No. 97/2007) In the calculation of the solvency adjusted in compliance with Paragraph 1, included shall be companies:

1. Related to the person under Article 299, Paragraph 1, item 1;
2. Holding interest in the person under Article 299, Paragraph 1, item 1, and
3. related to the companies holding interest in the person under Article 299, Paragraph 1, item 1;

(3) (Supplemented, SG No. 97/2007) In case the adjusted solvency calculated in accordance

with the procedure established by Paragraph 1 is a negative value, the Deputy Chairperson shall apply the measures under Article 83, Paragraph 5 against the person under Article 299, Paragraph 1, Item 1.

Additional supervision exercised over an insurer or a reinsurer whose
parent undertaking is an insurance holding, an insurer from a third country
or a reinsurer from a third country

(Title amended, SG No. 59/2006, No. 97/2007)

Article 85

(1) (Amended, SG No. 97/2007) With regard to the persons under Article 299, Paragraph 1, item 2, a method of additional supervision set in an Ordinance shall apply.

(2) (Amended and supplemented, SG No. 97/2007) In the application of the method under Paragraph 1, the activities of all companies which are related to an insurance holding, an insurer from a third country or a reinsurer from a third country shall be taken into consideration.

(3) (Amended and supplemented, SG No. 97/2007) In case as a result from the method applied under Paragraph 1 it has been established that the solvency of the person under Article 299, Paragraph 1, item 2 is or may be at risk, the Deputy Chairperson shall apply against it the measures under Article 83, Paragraph 5.

Section VI

Financial status recovery measures

Solvency recovery plan and short-term plan

Article 86

(1) In case the own funds of an insurer fall below the amount of the solvency margin, the insurer shall be obligated to prepare a plan for recovery of the solvency margin and submit it for approval to the Deputy Chairperson.

(2) In case the own funds of an insurer fall below the amount of guarantee capital, the insurer shall be obligated to prepare a short-term plan to raise additional own funds and submit it for approval to the Deputy Chairperson.

(3) Upon occurrence of circumstances under Paragraphs 1 or 2, an insurer shall be obliged to notify the Commission within a three-day period, and to submit the relevant plan within a 30-day period.

(4) In case the circumstances under Paragraphs 1 or 2 have been established by the Deputy Chairperson, s/he shall immediately give an order to the insurer to prepare the relevant plan and shall fix the period for its drafting, which may not exceed thirty (30) days.

(5) Plans under Paragraphs 1 and 2 shall bear an indication of the period, in which an insurer shall make available own funds to cover the solvency margin, or the guarantee capital respectively, the specific measures for bringing these in line with the requirements set in accordance with the present Code, as well as the funding sources for their implementation. The period to cover the guarantee capital may not exceed six months, and the one for the solvency margin - 12 months.

(6) (Amended and supplemented, SG No. 97/2007) The Deputy Chairperson shall issue a ruling within a 30-day period from the plan's submission, refusing to approve it in case the measures proposed do not sufficiently guarantee the insurer's solvency, the interests of the insured parties or the performance of the obligations arising from reinsurance contracts.

(7) (New, SG No. 97/2007) When issuing a ruling on the plan, the Deputy Chairperson may reduce the rate of reduction that is based on the reinsurance in determining the solvency margin where reliability of the reinsurance cover is changed significantly in the last financial year or no risk or insignificant risk is transferred through the reinsurance contracts.

Reorganisation plan

Article 87

(1) (Supplemented, SG No. 97/2007) The Deputy Chairperson may obligate an insurer to draw up a reorganisation plan in case s/he judges that the interests of the insured parties or fulfillment of the obligations arising from reinsurance contracts are imperiled, regard being had at the insurer's financial status.

(2) A reorganisation plan shall include the operations to be undertaken within a three-year period of the date of the plan's preparation and shall contain at least:

1. An evaluation of management expenses and commission fees;
2. A detailed projection of income and expenditure in relation to the main operations, and to inward and outward reinsurance;
3. A projected balance sheet;
4. An estimate of the financial resources to cover forthcoming obligations and the requisite solvency margin;
5. (Supplemented, SG No. 97/2007) A general reinsurance or retrocession plan.

(3) The Deputy Chairperson may apply the measures under Article 302, Paragraph 2, as well as:

1. Set an increased amount for the solvency margin of an insurer on the basis of data submitted in accordance with the plan;

2. Recalculate the amount of technical reserves, as well as revalue all elements of the own funds, especially in cases of a significant change in the market valuation thereof in comparison to the preceding financial year.

3. Decrease the rate of reduction based on reinsurance in setting the solvency margin in case the reliability of the reinsurance coverage has been significantly changed in the last financial year or an insignificant or no risk has been transferred through the reinsurance contracts.

Application of the Provisions to Reinsurers

Article 87a

(New, SG No. 97/2007)

The provisions of this Section shall apply to reinsurers as well.

Section VII

Supervision over the financial status in relation to the operations

in accordance with the terms and conditions of the right of establishment and the freedom to provide services

Supervision over the financial status

Article 88

(1) The Commission and the Deputy Chairperson shall exercise supervision for the implementation of the rules of the present Chapter over the insurers having a seat of business in the Republic of Bulgaria, as well as over their operations in accordance with the terms and conditions of the right of establishment or freedom to provide services.

(2) Supervision under Paragraph 1 shall include control for solvency, the technical reserves formed and the assets utilised in order to cover these, regard being had at the insurer's overall operations. Supervision under Paragraph 1 shall also cover the technical resources distributed by insurers that have been granted a licence under Section II, letter A, item 18 of Annex No. 1, in order to immediately provide travel assistance. During an inspection of technical resources under sentence two, the Minister of Health or some other competent authorities shall be obligated to provide assistance to the Commission and the Deputy Chairperson.

(3) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) For the purpose of supervision under Paragraph 1, the Commission, advising in advance the competent authority of the home Member State of the branch office, may conduct on-site inspections, severally or jointly with said authority.

(4) A competent authority of a Member State may, upon advising the Commission in advance, conduct on-site inspections at the branch offices of insurers, having a seat of business within its national jurisdiction and established within the territory of the Republic of Bulgaria. The Commission may delegate a representative to participate in said inspection.

Notification

Article 89

(Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) In case the Commission decides that an insurer, having a seat of business in another Member State, covering risks within the territory of the Republic of Bulgaria in accordance with the terms and conditions of the right of establishment and the freedom to provide services, in performing its operations jeopardises its financial stability, the Commission shall notify thereof the competent authority of the insurer's home Member State.

Application of the Provisions to Reinsurers

Article 89a

(New, SG No. 97/2007)

The provisions of this Section shall apply to reinsurers as well.

Chapter Seven

CONFLICT OF INTERESTS DISCLOSURE. INSURANCE SECRECY

Section I

Conflict of interests

Disclosure of conflict of interests

Article 90

(1) Each member of a managing or control body, each official with a governing functions, as well as any other person authorised to manage or represent an insurer, shall notify in writing the Managing Body of an insurer in case s/he enters a contract with the insurer, which exceeds

the insurer's regular operations or considerably deviates from the usual market conditions.

(2) The reserve of Paragraph 1 shall also apply in case a party to a transaction with the insurer is:

1. A family member of a person under Paragraph 1;
2. A company, in which a person under Paragraph 1 or a member of their family holds directly or through related parties qualified interest under Article 16, Paragraph 1;
3. A company, in which a person under Paragraph 1 or a member of their family is a partner, a member of a managing or control body, an official with governing functions, or a person authorised to manage or represent the company.

(3) Each person under Paragraph 1 shall notify in writing the managing body of an insurer, and at least once every 6 months, of companies in which the said person or members of their family hold directly or through related parties qualified interest under Article 16, Paragraph 1; in which they are partners, members of a managing or control body, officials with governing functions, or persons authorised to manage or represent the company.

(4) A person under Paragraph 1 shall not participate in negotiations, discussions and the decision-making process concerning a transaction with the insurer, to which the said person or a person under Paragraph 2, is a party.

(5) Persons under Paragraph 1, as well as the insurer's other employees shall be obligated to give preference to the interests of the insurer and of its clients before their own interests in the performance of their functions.

(6) Insurers shall be obligated to make arrangements for the internal organisation of their operations in a manner that does not allow the persons under Paragraph 1 to be in a situation where their obligations to a client of an insurance service will enter into conflict with their obligations to another client of the insurer or that their own interests enter into conflict with their obligations to a client of the insurer.

(7) Insurers shall adopt rules, under which the procedure for disclosure of conflict of interests and for ensuring confidentiality will be established, so as to avoid injuring the interest of an insurer's client at the expense of another client; of a person under Paragraph 1; or of the employee of an insurer; as well as the interest of an insurer at the expense of the interest of their employee or a person under Paragraph 1.

Consequences of the non-observation of requirements in the case
of a conflict of interests

Article 91

In case it has been established that a person under Article 90, Paragraph 1 violates the rules

governing the disclosure of conflict of interests, the coercive administrative measures under Article 302 shall apply.

Special requirements for the avoidance of conflicts of interests

Article 92

An insurer, covering risks under a Legal Expenses Insurance, shall undertake the measures necessary to avoid a conflict of interests through compliance with at least one of the following requirements:

1. It shall not permit its employees to whom the settlement of claims or reserve of legal advice in relation to a Legal Expenses Insurance has been assigned to simultaneously perform any similar operations with regard to other types of insurances under Section II of Annex No. 1 at its expense or at the expense of another insurer, with whom the above insurer has business, financial or administrative relations;

2. In case it covers risks in Legal Expenses Insurances and under other types of insurance as per Section II of Annex No. 1, it shall transfer the settlement of claims under Legal Expenses Insurances to another legal person, in accordance with the terms and conditions and the procedure of Article 60, which shall meet the requirements set under item 1 above;

3. It shall provide the insured person with the right to authorise a lawyer at their own discretion to defend their interests from the moment at which the insured person's right to receive an indemnity in accordance with the insurance has arisen.

Section II Insurance Secrecy

Safeguarding insurance secrecy

Article 93

(1) An insurer, members of the managing and control bodies, auditors, actuaries, as well as all other persons working for an insurer, including the persons with whom an insurer has concluded contracts under Article 60, shall be obligated to keep in secret any and all information of which they have become aware in relation to the performance of their functions. The persons under sentence one may not utilise the information acquired to their own personal benefit or in favour of another person, as well as for purposes other than the performance of their functions.

(2) The obligation under Paragraph 1 shall also apply to insurance and reinsurance intermediaries and their employees.

(3) Upon taking office, all employees and members of managing and control bodies of an insurer shall sign a Declaration on the Safeguard of Insurance Secrecy. The obligation under

Sentence One shall also apply to the natural persons who represent legal persons - members of managing and control bodies of an insurer, a reinsurer and an insurance and reinsurance intermediary.

(4) Insurance agents and persons with whom an insurer has concluded contracts under Article 60 shall sign a Declaration under Paragraph 3 upon conclusion of a contract, regulating their relations with the insurer. The persons under sentence one shall be obligated to acquaint their employees with the obligations under Paragraph 1.

(5) The provision of Paragraph 1 shall also apply to cases where persons under Paragraphs 1-4 have discontinued their legal relationships with the insurer, in relation to which the obligation to safeguard insurance secrecy had arisen.

Disclosure of insurance secrecy

Article 94

Apart from disclosing information under Article 93, Paragraph 1 to the Commission, to the Deputy Chairperson and the authorised officials of the Commission's administration, the above information may only be disclosed:

1. By explicit written consent of the person to whom it refers;
2. Before the authorities of the Court, the Prosecution Office, the investigation authorities and the police authorities in accordance with the procedure provided for by law;
3. (Amended, SG No. 109/2007) Before the State Agency "National Security" in accordance with the terms and conditions and in accordance with the procedure provided for in the Measures Against Money Laundering Act;
4. Before the Guarantee Fund and the National Bureau of Bulgarian Motor Insurers in relation to their activities in accordance with the present Code;
5. For the purposes of setting up information systems for the prevention of insurance fraud.
6. (New, SG No. 105/2005) Before a director of a territorial directorate of the National Revenue Agency, where:
 - a) an act of a revenue authority has established that the inspected person has prevented carrying out an aspect inquiry or audit, or failed to maintain the requisite reporting documentation, as well as that the latter is incomplete or untrustworthy;
 - b) an act of a competent state authority has established the occurrence of an accident, which has resulted in the destruction of reporting documentation belonging to the inspected persons.
7. (New, SG No. 97/2007) To a reinsurer where this is necessary in relation to conclusion of a reinsurance contract.

Application of the Provisions to Reinsurers

Article 94a

(New, SG No. 97/2007)

The provisions of this Chapter shall apply to reinsurers as well, except for Article 92, and Article 90 and Article 93, Paragraph 4 shall apply mutatis mutandis.

Chapter Eight

ACTUARIAL SERVICES. REPORTING

Section I

Actuarial services

Responsible actuary

Article 95

(1) Actuarial services for an insurer or a reinsurer shall be provided by a responsible actuary. A responsible actuary shall be a natural person who has recognised legal competency, and who organises, manages and is responsible for the actuarial service of the insurer or the reinsurer.

(2) A responsible actuary shall:

1. Not have been convicted of publicly actionable criminal offence;
2. Not have been within the last three years, prior to the initial date of insolvency set by the court, a member of a managing or control body or a general partner in a company, with regard to which insolvency proceedings have been initiated or which has been dissolved as a result of insolvency, in case unsatisfied creditors have remained;
3. Not have been declared bankrupt and is not being involved in bankruptcy proceedings;
4. Not have been divested of the right to hold an office accountable of assets;
5. Hold a higher degree of education with educational qualifications not lower than a Master's or an academic degree, "Doctor", with a horarium in higher mathematics in compliance with the requirements specified in an Ordinance issued by the Commission;
6. Have at least a three-year experience as actuary of an insurer, reinsurer, health insurance company, pension insurance company, at agencies performing supervision over the activities of

the above, or as a lecturer with academic rank in insurance or actuarial science;

7. Have obtained legal competency as responsible actuary recognised by the Commission following a successful examination.

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

(4) Upon proposal of the Deputy Chairperson, the Commission shall divest a responsible actuary of his/her legal competency in case it has been established that he/she:

1. No longer meets the requirements under Paragraph 2, item 1-4;

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

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

4. (New, SG No. 97/2007) Has not carried out the activity for more than two consecutive years from recognition of the legal competency or from being dismissed from the office of responsible actuary, unless he/she carried out activity as actuary.

(5) (Supplemented, SG No. 97/2007) In case an actuary has been divested of legal competency under Paragraph 4, Items 1, 2 and 3, he/she may request recognition of responsible actuary legal competency no earlier than three years of the Resolution's entry into force. Withdrawing the legal competency on any of the grounds listed in Paragraph 4, Items 1, 2 and 3, the person's legal competency as responsible actuary that has been recognised in accordance with the procedure established in the Social Insurance Code or the Health Insurance Act shall also be considered withdrawn.

Additional requirements to the responsible actuary

Article 96

(1) A responsible actuary may not be a spouse or a relative in direct or collateral line of descent up to the fourth degree inclusive or connected by marriage up to the third degree to a member of a managing or control body of an insurer, as well as a member of a managing or control body of another insurer.

(2) A responsible actuary shall be elected by the general meeting of the insurer or reinsurer,

before which they shall attest to the non-existence of circumstances under Paragraph 1 in a Declaration. An insurer or reinsurer shall advise the Deputy Chairperson of the resolution for election of a responsible actuary within up to seven days of the date of passing such resolution, and shall also submit an authenticated copy of the Declaration under sentence one.

(3) In case an amendment has been introduced into the circumstances under Paragraph 1, or upon withdrawal of a responsible actuary's legal competency under Article 95, Paragraph 4 the general meeting of an insurer or the reinsurer shall be obligated to dismiss the responsible actuary and to elect a new one within three months of gaining knowledge of the circumstances.

Actuarial services

Article 97

(1) A responsible actuary shall be responsible for:

1. Determining premiums, sufficient in amount, with the exception of premiums for high risk insurances;

2. Setting up technical reserves, sufficient in amount; for the proper calculation of the solvency margin; as well as for the correct utilisation of actuarial methods in the insurer or reinsurer's practice;

3. The accuracy of the distribution programme of income gained from investment of assets between an insured and an insurer in life insurance.

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

1. (Supplemented, SG No. 97/2007) Draw up and certify the information submitted by the insurer or reinsurer with regard to actuarial operations;

2. (Supplemented, SG No. 97/2007) Draw up and submit to the Commission an annual actuarial report - no later than 31st March of the year following the one to which the report refers.

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

(4) The actuary shall immediately notify the Commission of any circumstance of which he/she has gained knowledge in the performance of his/her functions, and which affects the insurer or reinsurer and represents a significant violation of the present Code or the regulations concerning its implementation, or which may unfavourably affect the performance of the insurer or reinsurer's operations.

(5) In the cases under Paragraph 4, no restrictions shall apply on information disclosure, that are otherwise provided for in a law, a piece of secondary legislation or a contract. The responsible actuary shall not be liable for the bona fide disclosure of information under Paragraph

4 before the Commission and the Deputy Chairperson.

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

Section II Reporting

Organisation of accounting

Article 98

(1) (Amended, SG No. 97/2007) The insurer's managing bodies shall be responsible for setting the organisation and operations of accounting, in order to guarantee accurate recording of the results and financial status.

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

(3) Insurers who have been granted a licence under Section I of Annex No. 1, and insurers who have been granted a licence under Section II of Annex No. 1 and who belong to an insurance group, may not conclude agreements and apply different reserves that lead to the incorrect presentation of their accounting results and might specifically affect the structure of their receipts and expenditure.

(4) (New, SG No. 97/2007) The provisions of this Section shall apply to reinsurers as well, except for Article 99, Paragraph 1, Item 4.

Annual and regular reports of insurers and reinsurers

(Title supplemented, SG No. 97/2007)

Article 99

(1) For the purposes of financial supervision, an insurer shall submit to the Commission:

1. An annual financial report - no later than March 31st of the year following the reporting year;

2. (Amended, SG No. 97/2007) Annual statistics, reports and attachments - by March 31st of the year following the year the report refers to;

3. Quarterly accounts, statistics, reports and attachments - by the end of the month following the reporting quarter;

4. Monthly statistics - by the end of the month, following the reporting month.

(2) An insurer from a third country who has been granted a licence to open a branch office in the Republic of Bulgaria, shall also submit consolidated annual reports it is obligated to prepare in compliance with the law at their seat of business along with a translation in the Bulgarian language made by a sworn translator.

(3) (Supplemented, SG No. 97/2007, SG No. 24/2009, effective 31.03.2009, amended, SG No. 100/2010, effective 1.07.2011) The minimum requirements to the organisation of the accounting of insurers and reinsurers, as well as the structure and content of statements, statistics, reports and attachments under Paragraph 1 shall be specified in an Ordinance. The statements referred to in Paragraph 1, Items 2, 3 and 4, shall be submitted as an electronic document executed by a qualified electronic signature.

(4) (Effective 1.01.2007, supplemented, SG No. 97/2007) The Commission and the Deputy Chairperson shall exchange documentation and information in relation to insurance and reinsurance supervision with the competent insurance supervision authorities in the Member States.

Insurance group accounting

Article 100

(Amended, SG No. 97/2007)

The insurer under Article 299, Paragraph 1 shall submit the consolidated financial report of the insurance group to the Commission no later than June 30th of the year following the reporting year.

Notifications

Article 101

(1) An insurer shall be hereby obligated to notify the Commission of:

1. Newly arisen facts and circumstances subject to entry in the Commission's Registry;
2. Amendments to the circumstances entered in the Commercial Registry;
3. Other circumstances as specified in the Ordinance under Article 99, Paragraph 3.

(2) The obligation under Paragraph 1 shall be fulfilled within a seven-day period of occurrence or gaining knowledge of the relevant fact or circumstance, and where it is subject to entry into the Commercial Registry - within a seven-day period of such registration. Documentation proving the amendment made shall be attached to the notification.

Audit and certification of the annual financial report

Article 102

(1) (Amended, SG No. 97/2007) The annual financial report under Article 99, Paragraph 1, Item 1 and the reports under Article 99, Paragraph 1, Item 2 shall be certified by two registered auditors or a specialized audit enterprise as per the Independent Financial Audit Act, appearing on a list endorsed by the Deputy Chairperson.

(2) The auditors under Paragraph 1 shall meet the requirements under Article 13, Paragraph 1, Items 3, 4, 5, 7, 8 and 9, as well as at least one of the following requirements:

1. To have no less than three years of professional experience in auditing an insurer, a reinsurer, a bank or another financial institution; or

2. To have not less than three years of professional experience as an accountant or auditor with the Internal Control Department of an insurer or a reinsurer, or as a lecturer with academic rank in the field of Insurance Accounting; or

3. To have been a member of a managing or control body of an insurer or reinsurer for a period of at least three years.

(3) (New, SG No. 97/2007, amended, SG No. 67/2008) Where the registered auditor is a specialized audit enterprise, the annual financial report under Article 99, Paragraph 1, Item 1 and the reports under Article 99, Paragraph 1, Item 2 shall be certified by two registered auditors and the requirements under Paragraph 2 shall apply to the registered auditors who are responsible for the audit under Paragraph 1.

(4) (Amended, SG No. 54/2006, renumbered from Paragraph 3, SG No. 97/2007) The auditors under Paragraph 1 shall immediately notify the Commission in writing of any circumstance, of which they have gained knowledge in the performance of the audit, and which pertains to the insurer or a person under Article 299, Paragraphs 1 or 2 in case the insurer is a part of an insurance group, and:

1. represents a significant violation of the present Code or the regulations concerning its implementation;

2. may affect unfavourably the performance of the insurer's operation;

3. constitutes grounds for refusal to issue an opinion, grounds to express reservations or grounds to issue a negative opinion;

4. is related to actions of the persons under Article 13 or the persons at management positions in the insurer, which actions cause or may cause significant damages to the insurer or to the users of the insurance services offered by the insurer, or

5. is related to false or incomplete data in the statements, information sheets and reports,

which the insurer submits to the commission.

(5) (Renumbered from Paragraph 4, amended, SG No. 97/2007) Auditors under Paragraph 1 shall also notify the Commission of each circumstance under Paragraph 4 of which they have gained knowledge in the performance of the audit of a person related to an insurer.

(6) (Renumbered from Paragraph 5, amended, SG No. 97/2007) In the cases under Paragraphs 4 and 5, no restrictions on the disclosure of information provided for under a law, a piece of secondary legislation, or a contract shall apply. The auditor shall not be liable for the bona fide disclosure of information under Paragraphs 4 and 5 before the Commission and the Deputy Chairperson.

Approval of auditors

Article 103

(1) In order to enter the List under Article 102, Paragraph 1, a registered auditor shall submit to the Commission a written statement based on a sample, and shall attach the documentation required.

(2) The Deputy Chairperson shall issue an opinion within a one-month period of statement's submission. Article 33, Paragraphs 2, 4 and 5 shall apply *mutatis mutandis* where irregularities have been established or additional information is needed; the term for removing said irregularities or providing additional information shall not be shorter than 15 days.

(3) (Amended, SG No. 97/2007) The Deputy Chairperson shall refuse entry on the List under Article 102, Paragraph 1 where:

1. The applicant does not meet the requirements under Article 102, Paragraph 2;
2. The applicant has not removed the established irregularities or discrepancies, or has not submitted additional information and the documents required within the term specified;
3. The applicant has submitted incorrect data or documents of untrue content;
4. Circumstances exist which call into question the good reputation and professional qualities of the applicant.

(4) (New, SG No. 97/2007, amended, SG No. 67/2008) Specialised audit enterprises shall be included in the list under Article 102, Paragraph 1 based on an application filed, together with the documents of the registered auditors who shall meet the requirements under Article 102, Paragraph 2.

(5) (New, SG No. 54/2006, renumbered from Paragraph 4, amended, SG No. 97/2007) The Deputy Chairperson shall delete from the list under Article 102, Paragraph 1 a registered auditor who fails to comply with any of the obligations under Article 102, Paragraphs 4 or 5 or who has certified an incorrect report of an insurer or reinsurer without making a note thereof in the

opinion submitted. The auditor may apply for new inclusion in the list not earlier than three years after the date the deletion decision has become effective.

(6) (Renumbered from Paragraph 4, SG No. 54/2006, renumbered from Paragraph 5, SG No. 97/2007) The Deputy Chairperson shall publish an updated List of the persons who may be auditors of an insurer on the website of the Commission.

Chapter Nine

ORGANISATION OF THE OPERATIONS FOR THE SETTLEMENT OF INSURANCE CLAIMS

Internal rules

Article 104

(1) (Amended, SG No. 97/2007) Within one month from issue of the licence for insurance, the insurer's managing board, or the board of directors, shall adopt internal rules with regard to operations for the settlement of claims under insurance contracts. The rules shall not apply to settlement of claims in high risks insurances, unless otherwise provided for therein.

(2) The rules shall provide for the procedures, in pursuance of which an insurer shall accept claims under insurance contracts, collect evidence in order to establish their grounds for their existence and their amount, perform assessment of the damages incurred, specify the amounts of indemnity, make payments to consumers and examine complaints submitted by them.

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

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

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

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

Article 104a

(New, SG No. 100/2007)

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

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

Filing insurance claims. Evidence

Article 105

(1) Insurance claims shall be filed with the insurer in accordance with the procedure and within the periods provided for in accordance with the Insurance Contract.

(2) The insurer shall verify each claim filed.

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

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

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

(6) Paragraphs 3 and 4 shall not apply to the operations related to the settlement of claims on high risk insurances.

Co-operation from state agencies and third persons

Article 106

(1) For the purposes of establishing the existence of an insurance event and of the damages thereby caused, the insurer, the person seeking to obtain indemnity, the Guarantee Fund or the National Bureau of Bulgarian Motor Insurers, shall have the right to receive the information, which is kept by the agencies of the Ministry of Interior, the investigation authorities, various state agencies, the respective general practitioner, medical and health institutions and the persons who have the right to attest to the occurrence of circumstances, as well as authenticated copies of

documents. Where this information constitutes material related to preliminary proceedings, the prosecutor shall authorise access to it.

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

Conclusion made by the insurer. Payment

Article 107

(1) Within a period of fifteen (15) days following the submission of all evidence under Article 105, the insurer shall:

1. Assess and pay the amount of indemnity or the insurance amount; or
2. Legitimately refuse to effect payment.

(2) The period under Paragraph 1 shall not apply to operations related to the settlement of claims in high risks insurances.

Chapter Ten

TRANSFER OF INSURANCE PORTFOLIO

Transfer

Article 108

(1) An insurer may transfer all or part of its insurance portfolios (transferring insurer) to another insurer (undertaking insurer) following written authorisation by the Deputy Chairperson.

(2) Contracts concluded by the insurer for separate types of insurance shall form an insurance portfolio.

(3) The transfer of an insurance portfolio shall be allowed, provided that:

1. The undertaking insurer holds a licence for the types of insurance in the insurance portfolio, which makes the object of transfer;

2. Upon transfer, the undertaking insurer shall have own funds available, corresponding to the solvency margin;

3. The transfer of an insurance portfolio shall not affect the interests of the insured persons.

Application form for authorisation of the transfer of

an insurance portfolio

Article 109

(1) An application form shall be submitted for issuance of an authorisation for transfer of an insurance portfolio, to which the following shall be attached:

1. A contract for the transfer of insurance portfolio;
2. A list of the insurance contracts transferred, shown as a total number and by types of insurance;
3. Statistics for the technical reserves in accordance with the contracts subject to transfer and the assets to be transferred, in order to ensure these are covered, as well as evidence of holding the assets;
4. A forecast with regard to the amount of solvency margin and the undertaking insurer's own funds following the portfolio transfer;
5. Other documents.

(2) The Deputy Chairperson shall issue an opinion on the application for transfer of an insurance portfolio within a two-month period of receipt of the application. Article 33, Paragraphs 2, 4 and 5 shall apply *mutatis mutandis*, and the period for removal of any irregularities or the submission of additional information shall not exceed one month.

(3) The Deputy Chairperson shall refuse issuing an authorisation in case the undertaking insurer is implementing a reorganisation plan; the requirements set in accordance with the present Code and the regulations concerning its implementation have not been observed; or the interests of the insured persons have not been protected.

(4) The Deputy Chairperson may, at the request of the transferring or the undertaking insurer, allow the transfer of assets covering technical reserves that do not comply with the requirements set under Article 73 but are sufficiently liquid and have been assessed on a fair value basis, if this is necessary to protect the interests of the insured persons, and the financial status of the undertaking insurer will not be endangered. In exceptional cases, the Deputy Chairperson may allow the transfer of assets of insufficient liquidity or at an amount that is lesser than the one required to cover the technical reserves.

Notification of the parties concerned.

Right to contract termination

Article 110

(1) Undertaking insurers shall notify in writing the insured persons of a transfer of the

insurance portfolio and of its terms and conditions within 14 days thereof.

(2) An insured person shall have the right to terminate his/her contract, notifying the undertaking insurer in writing within 60 days upon receipt of a notification.

(3) Persons insured under Life Insurances shall have the right to obtain the premium reserve, which corresponds to the insurance contract as of the day of transfer, and those insured under other insurances - the respective amount of premium, corresponding to the remaining contract term, with a proviso that no insurance indemnity has been paid or is forthcoming.

Effect of transfer

Article 111

(1) The transfer of an insurance portfolio shall be effective from the time authorisation under Article 106, Paragraph 1 has been issued.

(2) In case the insured persons have availed themselves of their right under Article 110, Paragraph 2, the transfer shall have effect with regard to all persons with any rights or obligations under the contract.

(3) Upon transfer, the transferring insurer shall be exempted from liabilities in accordance with the contracts transferred.

(4) Simultaneously with the transfer of insurance contracts, the assets used to cover the technical reserves shall be transferred as well.

Transfer of an insurance portfolio within the European Union

and the European Economic Area

Article 112

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) An insurer may transfer all or part of its insurance portfolios of contracts concluded in accordance with the terms and conditions of the right of establishment or of the freedom to provide services to an undertaking insurer, having its seat of business in another Member State, following authorisation by the Deputy Chairperson. Articles 108-111 shall apply *mutatis mutandis*.

(2) The Deputy Chairperson shall issue an authorisation upon receipt of a document, certifying that following transfer, the undertaking insurer shall have at its disposal own funds corresponding to the solvency margin, if said document is submitted by the competent authority of the Member State at the insurer's seat of business.

(3) In case an insurer transfers insurance contracts concluded through one of its branch offices, the Deputy Chairperson shall request the opinion of the competent authority in the Member State at the branch office's seat of business.

(4) In the cases under Paragraphs 1 and 3, the Deputy Chairperson shall issue an authorisation upon receipt of consent from the competent authorities of the Member States where the insurance risk is located.

(5) In the case where the Deputy Chairperson has not received a reply by the competent authorities of the Member States under Paragraphs 2 - 4 within a three-month period, it shall be reckoned that a positive opinion or implicit consent respectively is given.

(6) In the cases under Paragraphs 1 and 3, the undertaking insurer shall publish a notification of transfer of the insurance portfolio in compliance with the legislation of the Member State where the insurance risk is located.

Transfer of insurance portfolio by a branch office of an insurer from a
third country within the European Union and the European Economic Area

Article 113

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) A branch office, within the meaning of the Commerce Act, of an insurer from a third country, registered in the Republic of Bulgaria, may transfer all or part of its insurance portfolios to an undertaking insurer having its seat in the Republic of Bulgaria or in another Member State following authorisation by the Deputy Chairperson. Articles 108-111 shall apply *mutatis mutandis*.

(2) Upon transfer of an insurance portfolio to an undertaking insurer from another Member State, the Deputy Chairperson shall issue an authorisation following receipt of a document, certifying that after transfer the insurer will have at its disposal own funds corresponding to the solvency margin, said document being issued by the competent authority in the Member State at the seat of business of the undertaking insurer.

(3) In the cases where an insurance portfolio is transferred to a branch office, within the meaning of the Commerce Act, of an insurer from a third country, which has been registered within the territory of the Republic of Bulgaria, if necessary the Deputy Chairperson shall issue an authorisation following receipt of a document submitted by the competent authority under Article 47, Paragraph 3, certifying that after transfer the insurer shall have at its disposal own funds corresponding to the solvency margin. In the cases where the insurance portfolio is transferred to a branch office of an insurer from a third country, which branch office has been established within the territory of another Member State, the Deputy Chairperson shall issue an

authorisation following receipt of a document issued by the competent authority of the Member State where the branch office is located, or, if necessary, by the competent authority under Article 47, Paragraph 3, certifying that after transfer the undertaking insurer shall have at its disposal own funds corresponding to the solvency margin; and that the legislation of the Member State where the branch office is located allows for such transfer; and that the competent authority consents to such transfer.

(4) In cases under Paragraphs 1 - 3 the Deputy Chairperson shall issue an authorisation upon receipt of a consent by the competent authority of the Member State where the risk is located, in cases said country is not the Republic of Bulgaria.

(5) In the case where the Deputy Chairperson has not received a reply by the competent authorities of the Member States under Paragraphs 2-4 within a three-month period, it shall be reckoned that a positive opinion or implicit consent respectively is given.

(6) In the cases under Paragraphs 1 - 3, the undertaking insurer shall publish a notification of the transfer of the insurance portfolio in compliance with the legislation of the Member State where the risk is located.

Grant of consent for the transfer of insurance portfolio within the
European Union and the European Economic Area

Article 114

(Effective from the date of entry into force of the Treaty for the
Accession of the Republic of Bulgaria to the European Union)

(1) Upon transfer of an insurance portfolio within the European Union and the European Economic Area, contracts to which the Republic of Bulgaria is the Member State where the risk is located, the Deputy Chairperson shall give consent for the transfer within a three-month period of receipt of the request from the authority competent to issue the transfer authorisation, in case the interests of the insured persons are protected.

(2) In case no opinion has been issued within the timeframe set under Paragraph 1, it shall be reckoned that implicit consent is given.

Certification of the solvency margin of an insurer with a legal
seat in the Republic of Bulgaria upon transfer of insurance
portfolio by an insurer from a third country with a legal
seat in a Member State

Article 115

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) Within a three-month period from receipt of a request from the relevant competent authority of the home Member State of the transferring insurer, who intends to transfer an insurance portfolio of contracts concluded under the terms of free reserve of services or of freedom of establishment to a local insurer, the Deputy Chairperson shall issue a document, certifying that upon transfer the undertaking insurer will have at its disposal own funds corresponding to the solvency margin.

(2) The Deputy Chairperson shall refuse to issue the document under Paragraph 1 in case where upon transfer, an undertaking insurer will not have at its disposal own funds corresponding to the solvency margin, as well as in case an undertaking insurer is implementing a recovery programme and therefore the interests of the insured persons are at risk.

Certification of the solvency margin of an insurer with a legal seat in

the Republic of Bulgaria upon transfer of insurance portfolio by

an insurer from a third country established in a Member State

Article 116

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) Within a three-month term of receipt of a request by the relevant competent authority of the Member State at the branch office of an insurer from a third country, who intends to transfer an insurance portfolio to an insurer having a seat of business in the Republic of Bulgaria or to a branch office within the meaning of the Commerce Act, of an insurer from a third country registered in the Republic of Bulgaria, as well as in case the Commission is the competent authority under Article 47, Paragraph 3, the Deputy Chairperson shall issue a document, certifying that upon transfer the undertaking insurer will have at its disposal own funds corresponding to the solvency margin.

(2) The Deputy Chairperson shall refuse to issue the document under Paragraph 1 in case upon transfer, the undertaking insurer will not have at its disposal own funds corresponding to the solvency margin, as well as in the cases where its branch office is implementing a recovery programme and therefore the interests of the insured are at risk.

Special rules for transfer of a reinsurance portfolio

Article 116a

(New, SG No. 97/2007)

This Chapter shall apply to transfer of a portfolio of reinsurance contracts between reinsurers, between reinsurers, or between an insurer and a reinsurer, except for Article 108, Paragraph 3, Item 3, Article 112, Paragraphs 3 - 6, Articles 113 and 114.

Chapter Ten "a"
(New, SG No. 97/2007)
SPECIAL REQUIREMENTS FOR PERFORMANCE OF
REINSURANCE OPERATIONS WITH
LIMITED ASSUMPTION OF RISK

Legal Delegation

Article 116b

(New, SG No. 97/2007)

The Commission may lay down in an ordinance special requirements for performance of reinsurance operations with limited assumption of risk regarding:

1. the compulsory clauses to be included in all concluded contracts;
2. the reliability of administrative and accounting procedures and adequacy of internal control mechanisms and the requirements for risk management;
3. the requirements for the accountancy, the prudency rules and for the statistical information;
4. the formation of technical reserves in order to guarantee their sufficiency, reliability and objectivity;
5. investment of assets covering technical reserves in order to ensure that the assets take account of the type of business carried out by a reinsurance undertaking, in particular the nature, amount and duration of the expected claims payments, in such a way as to secure the sufficiency, liquidity, security, quality, profitability and matching of its investments, and/or
6. the solvency margin, the own funds, the minimum guarantee capital which the reinsurer shall maintain in relation to the reinsurance operations with limited assumption of risk.

Notification of the European Commission

Article 116c

(New, SG No. 97/2007)

The Commission shall notify the European Commission of the requirements adopted in accordance with Article 116b not later than the date of promulgation of the relevant ordinance in the State Gazette.

TITLE THREE
(Title supplemented, SG No. 97/2007)
TRANSFORMATION AND DISSOLUTION OF AN
INSURER AND A REINSURER

Chapter Eleven
(Title supplemented, SG No. 97/2007)
TRANSFORMATION OF AN INSURER AND A
REINSURER

Conditions required for the transformation of an insurer

Article 117

(1) Transformation of an insurer shall be performed following authorisation of the Commission in accordance with the following conditions:

1. Guarantee for the rights of the consumers of insurance services;
2. Upon transformation, the insurer should have at its disposal own funds corresponding to the solvency margin.

(2) Insofar as it is not otherwise provided in accordance with the present Chapter, the procedure set out in the Commerce Act or the Cooperatives Act shall apply *mutatis mutandis*. No transformation through an amendment to legal form or a change in the objectives shall be allowed.

(3) Transformation through merger or take-over shall be performed only between insurers where the requirement set under Article 9, Paragraph 1 is observed.

(4) In case of transformation through Section or separation, the newly established companies shall also be insurers.

Authorisation for the transformation of an insurer

Article 118

(1) An application form based on a sample specified by the Deputy Chairperson shall be submitted for the issuance of an authorisation under Article 117, Paragraph 1, to which the following shall be attached:

1. A resolution of the competent body of each of the transforming companies for transformation;

2. A Contract or transformation programme;

3. (Supplemented, SG No. 97/2007) A report by the managing body of each of the transforming and receiving companies under Article 262i of the Commerce Act, also specifying the reasons necessitating the transformation;

4. (Amended, SG No. 97/2007) The report of the auditor under Article 262m of the Commerce Act, which includes an opinion on the financial ability of the insurer and its solvency after the transformation as well as on the guarantees for preserving the rights of insured persons;

5. (New, SG No. 97/2007) An estimate of the amount of the solvency margin and the own funds of each company participating in the transformation, at the time of taking the decision on transformation;

6. (New, SG No. 97/2007) A projection of the amount of the solvency margin and the own funds of each company originating after the transformation;

7. (New, SG No. 97/2007) A balance sheet and an income statement of each company participating in the transformation, at the end of the month preceding the date of filing the application;

8. (New, SG No. 97/2007) An authorization by the Commission for Protection of Competition - upon transformation through merger or take-over;

9. (New, SG No. 97/2007) The annexes under Article 30, Paragraph 1, Items 1, 2 and 6 - 9 for each insurance company originating after the transformation as well as for each receiving insurer with reflected changes as a result of the transformation;

10. (New, SG No. 97/2007) The annexes under Article 30, Paragraph 3, Items 1, 2 and 5 - 8 for each mutual insurance cooperative which originates after the transformation as well as for each receiving cooperative with reflected changes as a result of the transformation;

11. (New, SG No. 97/2007) Other documents relating to establishing the circumstances under Article 117, Paragraph 1.

(2) The Commission shall decide on the application for transformation within a four- month period of submission of the above application. In case irregularities are established or should additional information be needed, Article 33, Paragraphs 2, 4 and 5 shall apply *mutatis mutandis*,

and the period for removal of irregularities or submission of additional information shall not be shorter than fifteen days.

(3) The Commission shall issue a licence for transformation simultaneously with the issuance of a licence for insurance operations to the newly-established companies.

(4) The Commission shall refuse a licence in case the requirements of this Code have not been observed or the interests of the insured persons have not been protected.

(5) Insurers participating in the transformation shall be obligated to notify the insured parties of the transformation effected. Article 110 shall apply mutatis mutandis.

Transformation of a reinsurer

Article 118a

(New, SG No. 97/2007)

Article 117, except for Paragraph 1, Item 1, and Article 118 shall apply mutatis mutandis to the transformation of reinsurers. No licence for the transformation shall be issued where it may jeopardise the ability of the reinsurers participating in the transformation to meet their obligations under reinsurance contracts.

Chapter Twelve LIQUIDATION AND BANKRUPTCY

Section I Liquidation

Dissolution of an insurer

Article 119

(1) (Previous Article 119, SG No. 97/2007) An insurer shall be wound up:

1. Voluntarily - only by a resolution of the general meeting and in compliance with the provisions of Article 120 and 121;

2. Coercively - upon withdrawal of the licence under Article 36, Paragraph 1, Items 1 - 5 and Items 7 and 8, and Paragraph 2, Items 1 - 3;

3. Upon declaration of bankruptcy.

(2) (New, SG No. 97/2007) Upon liquidation and bankruptcy of an insurer or a reinsurer the

receivables of creditors from Member States, incl. on contracts concluded through a branch or under the conditions of the freedom to provide services, shall be satisfied in the same way as the receivables of creditors from the Republic of Bulgaria.

Voluntary dissolution

Article 120

(1) Voluntary dissolution shall be carried out under a resolution of the general meeting and after obtaining authorisation from the Commission. In order to be issued an authorisation for dissolution, the insurer shall submit an application based on a sample specified by the Deputy Chairperson, to which the following shall be attached:

1. (Amended, SG No. 34/2006) A record of proceedings against the general meeting, at which the resolution for voluntary dissolution has been adopted, and a proposal for appointment of a liquidator;

2. (Amended, SG No. 97/2007) A liquidation plan adopted by the general meeting which shall contain::

a) a time limit for completion of the liquidation;

b) remuneration of the liquidator or liquidators;

c) a proposal for transfer of the portfolio of insurance or reinsurance contracts;

d) amount of the property - total and by type, cash in hand, fixed and current tangible and intangible assets, financing assets, receivables;

e) amount of liabilities - total and by type, under the insurance or reinsurance portfolio and other liabilities;

f) a schedule for repayment of liabilities;

g) a plan for receivables collection;

h) liquidation costs;

i) projected amount of property after satisfying the creditors;

j) management, organisational, legal, financial, technical and other actions in implementing the plan;

3. A contract with another insurer for the transfer of the insurance portfolio;

4. The documentation under Article 109, Paragraph 1, Items 2 - 5.

(2) The contract for transfer of an insurance portfolio under Paragraph 1, item 3 may be concluded with more than one insurer and shall provide for the transfer of all insurance contracts, including the contracts under which claims for payment have been filed, as well as for the transfer of the assets used to cover the technical reserves.

(3) (Supplemented, SG No. 97/2007) Upon adoption of the resolution under Article 119, Paragraph 1, Item 1, an insurer shall be obligated to discontinue the conclusion of new contracts, as well as to extend the period and broaden the cover for insurance contracts in force.

Issuance of authorisation for voluntary dissolution

Article 121

(1) The Commission shall issue a decision within a two-month period following the receipt of the application form under Article 120, Paragraph 1. In the case where irregularities are established or should additional information be needed, Article 33, Paragraphs 2, 4 and 5 shall apply *mutatis mutandis*, and the time period for the removal of the irregularities or the submission of additional information shall not be shorter than fifteen days.

(2) Simultaneously with the resolution for dissolution, the Commission shall withdraw the insurer's licence.

(3) Subsequent amendments to the liquidation plan shall be effected in accordance with the procedure for its adoption and subsequent approval.

Registration of the dissolution

Article 122

(Title amended, SG No. 34/2006)

(1) (Amended, SG No. 34/2006) An insurer shall submit the requisite documentation to the Registry Agency for registration of the dissolution and for institution of liquidation proceedings within a period of three business days following receipt of the authorisation under Article 121, Paragraph 2, also enclosing a certified copy of the resolution of the Commission.

(2) (Amended, SG No. 34/2006) The insurer shall be obligated to present before the commission a certificate of entry referred to in Paragraph (1) within three business days following the recordation.

Coercive dissolution

Article 123

(1) (Amended, SG No. 34/2006, supplemented, SG No. 97/2007) In the cases referred to in Item 2 of Article 119, Paragraph 1, a procedure on liquidation shall be launched by a decision of the commission. The decision shall include the grounds for withdrawal of licence and shall

appoint a liquidator, the remuneration thereof and the time limit for effecting the liquidation. The decision shall be sent to the Registry Agency for entry into the Commercial Register.

(2) (Amended, SG No. 34/2006) The Registry Agency shall enter the dissolution of the insurer and the name of the liquidator.

(3) Within a three-month period of his/her appointment, the liquidator shall prepare and submit to the Deputy Chairperson a liquidation plan under Article 120, Paragraph 1, item 2. The Plan may provide for the transfer of insurance portfolio.

(4) Within a one-month period of receipt of the liquidation plan, the Deputy Chairperson shall deliver a resolution, either approving the plan, or specifying other terms under it.

Liquidator

Article 124

(1) A liquidator shall be a natural person who meets the requirements under Article 13, Paragraph 1, and who is not a related party to the insurer within the meaning of the Commerce Act.

(2) In case where, by his/her actions, a liquidator violates the provisions of the present Code and the regulations concerning its implementation, the endorsed liquidation plan, or puts at risk the interests of the insured persons, the Deputy Chairperson shall issue mandatory instructions to the liquidator in relation to his/her activities, which shall be subject to immediate execution.

(3) (Amended, SG No. 34/2006) In the cases referred to in Paragraph (2) the Commission may discharge the liquidator, whereupon it shall send its decision thereof to the Registry Agency for entry.

Reports submitted by a liquidator

Article 125

(Amended, SG No. 34/2006)

A liquidator shall notify the Commission of the course of proceedings, and shall submit a balance sheet and a report to the Commission for each quarter no later than the 15th day of the month following the respective quarter. Upon a request submitted by the Deputy Chairperson, liquidators shall also be obligated to submit information about their operations and the status of the insurer in liquidation proceedings, subject to the terms and conditions specified by the Deputy Chairperson.

Presentation of receivables belonging to the creditors

Article 126

The receivables of the insured persons, registered into the business books of an insurer, shall be considered as presented claims.

Powers of a liquidator in other Member States

Article 127

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

A liquidator may exercise the powers he/she has pursuant to the law within the territory of the respective other Member States, observing their legislation.

Applicability of the Commerce Act and the Cooperatives Act

Article 128

Insofar as the present Section does not stipulate otherwise, the liquidation regulations in accordance with the Commerce Act, or in accordance with the Cooperatives Act, shall apply.

Liquidation of a reinsurer

Article 128a

(New, SG No. 97/2007)

With the regard to the liquidation of a reinsurer Articles 119 - 125, 127 and 128 shall apply.

Section II Bankruptcy

Grounds for initiation of bankruptcy proceedings

Article 129

(1) (Amended, SG No. 97/2007) Bankruptcy proceedings shall be initiated in case the Commission has withdrawn a licence on any of the grounds of Article 36, Paragraph 1, item 6, Paragraph 2, Item 4 or 5.

(2) An insurer shall be considered insolvent in case the total amount of its obligations, the technical reserves inclusive, calculated in compliance with the present Code and the regulations concerning its implementation, exceeds the total amount of the insurer's assets;

(3) Insolvency shall be presumed where:

1. The plan under Article 86, Paragraph 1 or 2 has not been submitted within the set period, has not been approved, or is not being implemented;

2. The insurer unlawfully refuses or delays payment or pays partially recoverable and liquid pecuniary liabilities.

(4) Bankruptcy proceedings shall also be instituted in case in the course of liquidation proceedings any of the circumstances under Paragraph 2 or under Paragraph 3, item 2 have been established.

(5) An insurer who becomes insolvent shall be obligated to notify the Deputy Chairperson within a fifteen-day period.

(6) The notification under Paragraph 5 shall be submitted by the managing body, the insurer's questor or liquidator respectively.

Initiation of bankruptcy proceedings

Article 130

(1) Bankruptcy proceedings against an insurer shall be initiated only upon request of the Commission.

(2) The request shall only specify the grounds for licence withdrawal, a proposal for the appointment of a trustee, a certified copy of the effective resolution for withdrawal of the insurance licence being attached thereto.

(3) The court shall institute proceedings on the day of receipt of the request under Paragraph 1 and shall schedule a hearing no later than fourteen (14) days of so doing.

(4) The request under Paragraph 1 shall be heard by the court behind closed doors with the participation of a public prosecutor, the insurer and the Commission being summoned.

Judgement for the institution of bankruptcy proceedings

Article 131

(1) In case the Commission's request meets the requirements set under Article 130, Paragraph 2, in its judgement the Court shall:

1. Declare insolvency and set its initial date;

2. Initiate bankruptcy proceedings;

3. Declare the insurer bankrupt;

4. Withdraw the powers of the insurer's bodies;
5. Impose a general interdiction and dstraint over the insurer's property;
6. Divest the insurer of the right to manage and dispose of the property in the bankruptcy estate;
7. Rule on the initiation of encashment of the property in the bankruptcy estate, and proceed at the distribution of the property turned into cash;
8. Appoint a trustee.

(2) From the date of pronouncement of the judgement under Paragraph 1, insurance contracts with a term of validity of more than 1 year shall be considered terminated. Where the contract does not stipulate the right to a buy-off value, the insurer shall owe repayment of the premium share, corresponding to the remaining period of validity, following deduction of the acquisition costs. Where a right to a buy-off value has arisen under the contract, the insurer shall owe repayment of such buy-off value.

(3) On the date of pronouncement of the judgement for initiation of bankruptcy proceedings, or on the following business day at the latest, the court shall send a copy of the judgement to the Commission.

Trustee

Article 132

(1) The trustee shall be a natural person who meets the requirements under Article 655 of the Commerce Act, and:

1. Has higher education in economics or law and a length of service in his/her area of specialisation of at least five years, at least three of which in the field of insurance, accounting or finance;

2. Has not been a member of a managing or control body of an insurer over the last five years, preceding the date of the judgement for initiation of bankruptcy proceedings;

3. Is not deprived of the right to hold office accountable of assets;

4. Is not a provisional trustee or the trustee of another merchant;

5. Has not been a member of a managing or control body or general partner in a company where such company has been dissolved for bankruptcy, in the case where unsatisfied creditors have remained;

6. Appears on a list of persons entitled to act as trustees for an insurer, endorsed by the Commission.

(2) In addition to the grounds of Article 657 of the Commerce Act, the court shall also dismiss a trustee in case he/she ceases to meet the requirements under Paragraph 1, Items 2 - 6.

(3) Dismissal of a trustee may also be requested by the Commission in the cases the latter fails to perform his/her obligations and puts the rights of the insured persons at risk through his/her actions.

(4) (New, SG No. 97/2007) In the cases of early dismissal of the trustee, the Commission shall propose to the court a new trustee from the list under Paragraph 1, Item 6.

Reports submitted by the trustee

Article 133

A trustee shall notify the court and the Commission of the course of proceedings and shall submit a written report for each quarter no later than the 15th day of the month following the quarter to which the report refers. Upon request of the Commission, a trustee shall be obligated to immediately provide information about his/her activities and the course of bankruptcy proceedings.

Presentation of claims

Article 134

(1) Creditors shall present their claims in writing before a trustee within a two- month period of the publication of the judgement under Article 131.

(2) Creditors under Paragraph 1 shall specify in their application the grounds, the amount of debt, their preferences and securities, an address for correspondence, and shall enclose written evidence thereto.

(3) Claims of the insured persons shall be regarded as being presented. The aforesaid shall not revoke the right of the insured parties to present their claims before the trustee within the period under Paragraph 1.

Encashment of the insurer's property

Article 135

(1) The Commission or the trustee may request the court to allow the sale of an insurer as an enterprise.

(2) In case the request under Paragraph 1 has been made by a trustee, the court shall authorise the sale upon receipt of a written opinion of the Commission. The said opinion shall be presented no later than thirty (30) days of a request to this effect.

(3) No transfer of property prior to final payment of the price shall be allowed.

Classes of receivables

Article 136

(Amended, SG No. 97/2007)

During distribution of the property encashed, liabilities shall be paid out in the following sequence:

1. Receivables secured by pledge or mortgage - from the amount received from the realization of the collateral;

2. Receivables in respect of which a lien is exercised - from the value of the retained property;

3. Bankruptcy expenses;

4. Receivables under obligatory insurance contracts;

5. Receivables under life insurance;

6. Receivables under other types of insurance;

7. Receivables of the Security Fund under Article 311o;

8. Receivables under employment relations which have arisen before the date of the decision on initiation of bankruptcy proceedings;

9. Public private receivables of the state and municipalities such as taxes, custom duties, compulsory social security contributions, etc., which have arisen before the date of the decision on initiation of bankruptcy proceedings;

10. The remaining unsecured receivables which have arisen before the date of the decision on initiation of bankruptcy proceedings;

11. Receivables under Article 616, Paragraph 2, Item 1 of the Commerce Act;

12. Receivables under Article 616, Paragraph 2, Item 2 of the Commerce Act;

13. Receivables under Article 616, Paragraph 2, Item 3 of the Commerce Act;

14. Receivables under Article 616, Paragraph 2, Item 4 of the Commerce Act.

Powers of a trustee in other Member States

Article 137

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

A trustee may exercise the powers he/she has pursuant to the law within the territory of the other Member States, observing their legislation.

Applicability of the Commerce Act

Article 138

Insofar as the present Section and Section III do not stipulate otherwise, the reserves of the Commerce Act shall apply, with the exception of Article 607, 608, 610, 611, 614, Paragraphs 2 - 4, 615, 625, Article 629, Paragraph 1, Article 631, 631a, Article 635, 656, Article 658, Paragraph 1, Items 3, 11 and 12, Arts. 666 - 684, 696 - 709, 734, 740, 741 and 743.

Section III

Special regulations for liquidation and bankruptcy proceedings

Effect of the decision for initiation of liquidation or of bankruptcy proceedings

Article 139

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) (Amended, SG No. 34/2006) The entry of the opening of a procedure on liquidation, as well as the judgment of the court to open a procedure on bankruptcy proceedings against an insurer with a legal seat in the Republic of Bulgaria shall have effect for all his branch offices within the territory of the other Member States and third countries.

(2) (Amended, SG No. 34/2006) Simultaneously with entry in the Commercial Register of the opening of the procedure on liquidation and the disclosure in the Commercial Register of the judgment of the court for opening procedure on bankruptcy, the Registry Agency shall send the court judgment for publication in the Official Journal of the European Union, as well as information about the applicable law, the competent court and the entered liquidator, respectively trustee into bankruptcy.

(3) (Amended, SG No. 34/2006) The Commission shall immediately notify the relevant competent authorities in the other Member States of the entry of opening a procedure on liquidation or the decision for opening the procedure or bankruptcy proceedings against an insurer and of its legal effects.

Effect of the judgement for initiation of liquidation or bankruptcy
proceedings against an insurer that has obtained a licence
in another Member State

Article 140

(Effective from the date of entry into force of the Treaty for the
Accession of the Republic of Bulgaria to the European Union)

(1) The judgement for initiation of liquidation or bankruptcy proceedings against an insurer that has obtained a licence in another Member State, shall become effective in the Republic of Bulgaria from the moment it has become effective in the respective Member State;

(2) In case the Commission has been notified of initiation of liquidation or bankruptcy proceedings by the competent authority of another Member State, it shall take measures for to inform the public.

Powers of the liquidator or trustee

Article 141

(Effective from the date of entry into force of the Treaty for the
Accession of the Republic of Bulgaria to the European Union)

(1) The appointment of a liquidator or trustee with an insurer who has a licence in another Member State, shall be evidenced through the submission of a certified copy of the Decision of the relevant competent authority for his/her appointment, accompanied by a translation in the Bulgarian language, which shall not be legalised.

(2) A liquidator or trustee under Paragraph 1 may exercise, within the territory of the Republic of Bulgaria, all the powers he/she has, pursuant to the legislation of the Member State where the insurer has obtained a licence, except those relating to the use of force and to the pronouncement on legal disputes.

(3) While exercising their powers, a liquidator or a trustee under Paragraph 1 shall observe the legislation of the Republic of Bulgaria.

Entry into a public registry

Article 142

(Effective from the date of entry into force of the Treaty for the
Accession of the Republic of Bulgaria to the European Union)

A liquidator or trustee under Article 141, Paragraph 1 may request entry of the judgement for initiation of liquidation or bankruptcy proceedings in the relevant public registries kept in the Republic of Bulgaria. The person under sentence one shall be obligated to request an entry in case it is obligatory.

Notifying known creditors from Member States

Article 143

(Effective from the date of entry into force of the Treaty for the
Accession of the Republic of Bulgaria to the European Union)

(1) A liquidator or trustee shall forward a written notification, based on a sample endorsed by the Deputy Chairperson, to the known creditors with a permanent address or a seat of business in another Member State, of the liquidation or bankruptcy proceedings initiated. The notice shall specify their right to present claims, the authority to which these shall be presented, the term for the presentation of claims, and the consequences if the term is not observed, as well as whether the creditors with privileged or secured receivables need to present their claims.

(2) The notification under Paragraph 1 shall be drawn up in the Bulgarian language and shall be entitled: "Invitation for the Presentation of Claims. Please Observe the Deadline", or "Invitation for the Presentation of Explanations with Regard to a Claim. Please Observe the Deadline" respectively, in all official languages of the European Union.

(3) The notification under Paragraph 1 addressed to the creditors, whose claims arise from an insurance contract, shall specify their right to present explanations, as well as the consequences of the liquidation or of the bankruptcy for their rights and obligations, and shall be drawn up in the official language of the Member State, where their permanent residence or seat of business is located. The insurance premiums which the insurer owes upon termination of an insurance contract in compliance with the law applicable to these contracts, prior to the initiation of liquidation or bankruptcy proceedings, shall also be considered as claims, arising under insurance contracts. The reserves for forthcoming payments shall also be regarded as receivables under the insurance contract.

Presentation of claims by creditors from the Member States

Article 144

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) Creditors who have a permanent address or a seat of business in another Member State shall have the same rights as creditors with a permanent address or seat of business in the Republic of Bulgaria, and shall be entitled to present their claims, or to submit explanations with regard to them, respectively.

(2) Creditors under Paragraph 1 shall present their claims specifying the type of receivable, its amount, date of occurrence, as well as possible any reference to a pledge, mortgage, right of retention of title under a contract for sale or a different privilege, and shall submit evidence thereof.

(3) Receivables or explanations related to these claims shall be presented in the official language of the Member State at their permanent address or seat of business, and shall be entitled: "Presentation of a Claim", "Explanations with Regard to a Claim" respectively, the latter being drawn up in the Bulgarian language.

Provision of information on the progress of proceedings

Article 145

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) A liquidator or trustee shall publish regular reports on his/her activities in an appropriate manner.

(2) Upon request submitted by the relevant competent authorities of the other Member States, the Commission shall provide information about the progress of liquidation or bankruptcy proceedings.

Applicable law

Article 146

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) In the case of liquidation or bankruptcy proceedings against an insurer, the Bulgarian Law shall apply, unless otherwise provided for in accordance with the present Section.

(2) With respect to employment contracts and labour legal relations, the legal provisions of the Member State applicable to such contracts or legal relations shall apply.

(3) With respect to contracts, whereby right to utilise is granted or the title over real estate whose location is within the territory of a Member State is transferred, the law of that Member State shall apply.

(4) With respect to an insurer's rights over a real estate, a ship or an airplane, entered into the public registries of a Member State, the law of that Member State shall apply.

Consequences of instituting liquidation or bankruptcy proceedings

Article 147

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) The institution of liquidation and bankruptcy proceedings shall not affect real and security rights of creditors or of third persons in respect to the insurer's property, including any tangible or intangible assets, real estate or chattels, separately or in aggregate, which as of the date of institution of the proceedings are located within the territory of another Member State.

(2) The rights under Paragraph 1 shall cover:

1. The right to dispose of such property and obtain satisfaction from the price or revenues from it by virtue of a pledge or mortgage;

2. The right to preferential satisfaction by virtue of a pledge on claims or by virtue of the claim's transfer as security;

3. The right to obtain a return and/or recovery of the property by any third person, possessing or utilising it without lawful grounds;

4. The right to use the property;

5. Any rights entered in a public registry and opposable to third persons, by virtue of which real or security rights under Items 1 - 4 may be acquired.

(3) The institution of liquidation or bankruptcy proceedings against an insurer shall not affect:

1. The rights of a seller under a contract concluded with the insurer for a sale with the right of retention, where on the date of initiation of proceedings the object is located within the territory of another Member State;

2. The right of a buyer to acquire title to the object sold by the insurer and shall not be a reason for the termination or breach of the contract for sale, should the object be delivered to the buyer, where on the date of initiation of the proceeding the object is located on the territory of

another Member State;

3. The off-setting right of the insurer's creditors, where off-setting is admissible by the law applicable to the claim of the insurer.

(4) Outside the cases under Paragraphs 1 and 2, the consequences of the institution of liquidation and bankruptcy proceedings for the rights and obligations in transactions concluded on a regulated market shall be provided for in the law applicable to that regulated market.

(5) Where following the initiation of liquidation or bankruptcy proceedings, the insurer has disposed of, against consideration, a real estate, a ship or an airplane, which are subject to entry in a public registry, as well as of transferable or other securities, whose existence or transfer presupposes entry in a registry or an account kept on legitimate grounds, or which have been included in a central depository system, regulated by the law of another Member State, the validity of the transaction or the action shall be provided for by the law of the Member State on whose territory the real estate is located, or in which the registry, the account or the depository system are kept.

(6) The effect of liquidation or bankruptcy proceedings on a pending trial in relation to an object or a right taken away from the insurer, shall be settled as provided for in the national law of the court's Member State, where the case will be heard.

Rights of the liquidator, the trustee and the creditors to retain the
insurer's property

Article 148

(Effective from the date of entry into force of the Treaty for the
Accession of the Republic of Bulgaria to the European Union)

(1) The provisions of Article 147, Paragraphs 1 and 3 shall not limit the rights of the liquidator, the trustee or the creditors in accordance with the Commerce Act and the Obligations and Contracts Act to invoke voidance or to request declaration of voidability or of invalidation with respect to actions and transactions of the creditors.

(2) The provisions of Article 147, Paragraph 4 shall not restrict the rights of the liquidator, the trustee or the creditors pursuant to the Commerce Act and the Obligations and Contracts Act to invoke voidance or to request declaration of voidability or of invalidation with respect to the creditors, of actions or transactions concluded on a regulated market in compliance with the law applicable to it.

(3) The liquidator, the trustee or the creditors may not invoke voidance or request declaration of voidability or of invalidation with respect to the creditors, of actions and transactions pursuant to the Commerce Act and the Obligations and Contracts Act in case a third party, who has acquired rights over these, proves that the action or the transaction are regulated in

the law of another Member State, and that according therewith they are effective.

Application of liquidation and bankruptcy rules in implementing
coercive administrative measures

Article 149

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) Article 139, Paragraphs 1 and 3, Arts. 140, 146 and 147 shall apply mutatis mutandis to the implementation of coercive administrative measures under Article 302, Paragraph 2, Items 3 and 11.

(2) The decision for the implementation of a measure under Paragraph 1 shall be promulgated in the State Gazette and in the Official Journal of the European Union, along with information about the applicable law, the authority competent to carry out supervision over the implementation of rehabilitation measures and over the questor appointed, if any.

PART THREE

INSURANCE AND REINSURANCE INTERMEDIARIES

Chapter Thirteen

GENERAL PROVISIONS

Definition

Article 150

(1) Insurance and reinsurance intermediaries shall be insurance brokers and insurance agents who carry out insurance and/or reinsurance intermediation for payment.

(2) Insurance and reinsurance intermediaries may also perform different business operations insofar as the present Code or another law does not provide for otherwise.

(3) The persons providing intermediation services in relation to insurance contracts shall not be insurance and reinsurance intermediaries provided the following circumstances are simultaneously present:

1. The insurance contract requires only knowledge of the insurance cover provided;
2. The insurance contract does not cover Life Insurance risks;

3. The insurance contract does not cover the risks coming under Section II, Items 10-13, Letter "A" of Annex No. 1;

4. Insurance intermediation is not the main business operation of the person;

5. The insurance is a supplement to a product or service provided and covers:

a) The risk of goods provided perishing, being lost or damaged, or

b) The damage or loss of luggage and other risks related to travel, also including cases of an insurance covering the risks under item 2 or item 3, provided the aforesaid cover is ancillary in relation to the main cover connected to such travel;

6. The amount of annual premium does not exceed BGN 1,000, and the total term in accordance with the insurance contract, upon renewal inclusive, shall not exceed five (5) years.

Exceptions

Article 151

(1) The provisions of the present Section shall not apply with respect to insurance and reinsurance intermediation carried out in relation to risks located in third countries.

(2) The reserves of the present Section shall not apply with regard to the activities of insurers and reinsurers carried out through insurance and reinsurance intermediaries located in third countries.

Company name

Article 152

A person who has not been entered into the Registry under Article 30, Paragraph 1, item 9 of the Financial Supervision Commission Act (FSCA) may not use in its name, advertising or different operations words in the Bulgarian language or in a foreign language meaning performance of insurance or reinsurance intermediation.

Chapter Fourteen INSURANCE BROKER

Section I General Reserves

Definition

Article 153

(1) An insurance broker shall be a commercial company or a sole proprietor that has been entered into the Registry of the Commission under Article 30, Paragraph 1, item 9 of the Financial Supervision Commission Act (FSCA) who, in return for payment, performs insurance intermediation following assignment by a consumer of insurance services and, following assignment by an insurer or a reinsurer, performs reinsurance intermediation.

(2) The relations between a consumer of insurance services, an insurer or a reinsurer, respectively, and an insurance broker shall be specified in a written contract, except for intermediation in relation to the compulsory insurances under Article 249, Items 1 and 2.

(3) In case of insurance intermediation, the remuneration of the insurance broker shall be included in the insurance premium and shall be payable by the insurer, unless otherwise provided for in the contract under Paragraph 2.

(4) (Amended, SG No. 97/2007) In the performance of its operations, an insurance broker shall proceed at a full analysis of insurance risks, of the proposals for insurance or reinsurance cover, provide consultation services, on behalf of and on assignment by a consumer of insurance services negotiate the terms and conditions or conclude the insurance or reinsurance contract, supervise the periods for renewal of contracts and assist the consumer of insurance services with regard to the settlement of claims upon occurrence of an insured event.

Restrictions on operations

Article 154

(1) An insurance broker may not perform operations as an insurance agent.

(2) The restriction under Paragraph 1 shall also apply to members of the managing and control bodies of an insurance broker, to all other persons authorised to manage and represent an insurance broker, as well as to its employees directly involved in carrying out insurance or reinsurance intermediation.

(3) An insurance broker may not be a shareholder, a partner or a member of a managing or control body of an insurance agent.

Section II

Conditions for the performance of operations as insurance broker

Guarantees for the operations of the insurance broker

Article 155

(1) An insurance broker shall be hereby obligated to guarantee the discharge of his/her obligations to transfer an insurance premium having been paid to him/her, and intended for the insurer; or to transfer to the consumer of insurance services an insurance indemnity or a sum of money paid by the insurer, in one of the following ways:

1. (Amended, SG No. 24/2009, effective 31.03.2009) Maintain own funds on a permanent basis amounting to 4 per cent of the total amount of insurance premiums under the insurance and/or reinsurance contracts concluded through its intermediation in the preceding financial year, but not less than BGN 33,606, or

2. Set up a special client account, into which insurance premiums intended for the insurer and insurance indemnities or sums of money intended for the consumer of insurance services shall be transferred.

(2) Where the insurance broker has not made conditions available to guarantee the discharge of his/her obligations in any of the ways under Paragraph 1, the funds that have been paid to him by consumers of insurance services shall be considered paid to the insurer, and moneys paid to an insurance broker by the insurer shall not be considered paid to a consumer of insurance services until the latter receives these, unless the said moneys have not been paid to the insurance broker by the insurer in accordance with the explicit authorisation thereof granted by the insurance service consumer under a Power of Attorney, with a notarised signature.

(3) (Supplemented, SG No. 97/2007) The moneys under Paragraph 1, item 2 shall not constitute part of the insurance broker's property, shall not be subject to distraintment and shall not be included in the bankruptcy estate upon initiation of bankruptcy proceedings against the insurance broker. Upon a death of an insurance broker who is a sole trader, the Deputy Chairperson shall appoint a liquidator of a client account, who shall establish the receivables and shall make payments on it. The requirements of Article 157, Paragraph 1, Items 3 - 6 shall apply to the liquidator of the account.

(4) The insurance broker shall notify the Deputy Chairman which of the methods for guaranteeing the discharge of obligations under Paragraph 1 he/she will apply in his/her operations, of any subsequent amendment thereto, as well as of the method for guaranteeing the rights of consumers in the process of amendment thereto. The Deputy Chairperson may give additional directions for the protection of interests of consumers when switching from one method to guarantee the discharge of his/her obligations under Paragraph 1 to another.

Maintenance of compulsory professional liability insurance

Article 156

(1) (Amended, SG No. 24/2009, effective 31.03.2009) Insurance brokers shall be hereby obligated to maintain a compulsory professional liability insurance on a permanent basis, valid within the whole territory of the European Union and the European Economic Area, which covers liability for damages, incurred on the territory of a Member State in the performance of

operations for insurance and/or reinsurance intermediation as a result of their guilty action or omission. The minimum insurance amount shall be BGN 2,240,400 for each insured event, and BGN 3,360,600 for all insured events within one year.

(2) The insurance under Paragraph 1 shall also cover liabilities for damages caused by the guilty action or omission of the employees of an insurance broker during or in relation to the performance of insurance or reinsurance intermediation.

Requirements set to the insurance broker

Article 157

(1) In case the insurance broker is a natural person -a sole proprietor, he shall:

1. Have higher education;
2. Have professional experience in the field of insurance or have successfully passed a professional qualification examination organised by the Commission;
3. Have not been sentenced to imprisonment due a publicly actionable criminal offence of intent unless he/she has been rehabilitated;
4. Have not been divested of the right to hold an office accountable of assets;
5. (Supplemented, SG No. 97/2007) Have not been in the last three years before the initial date of the insolvency determined by the court a member of a managing or a control body or a general partner in a company, with regard to which bankruptcy proceedings have been initiated, or which has been liquidated as a result of bankruptcy, in case unsatisfied creditors have remained;
6. Have not been declared bankrupt and is not involved in bankruptcy proceedings;

(2) (Supplemented, SG No. 97/2007) In case an insurance broker is a legal person, the members of its managing and control body and all other persons authorised to manage or represent it shall meet the requirements of Paragraph 1.

(3) In case a member of a managing or control body of an insurance broker is a legal person, the requirements under Paragraph 1 shall relate to the natural persons who represent in such bodies;

(4) Employees of an insurance broker who directly carry out insurance or reinsurance intermediation shall have at least high school education and shall meet the requirements under Paragraph 1, Items 3 - 6.

(5) Professional experience under Paragraph 1, item 2 shall consist of at least two successive years in a management position or a position directly related to the conclusion and implementation of insurance contracts with an insurer, a reinsurer, an insurance broker or an

insurance agent.

(6) Insurance brokers shall be in accordance with the obligation to provide training to their employees under Paragraph 4.

(7) The conditions and procedure for conducting an examination of the presence of professional qualifications under Paragraph 1, item 2 shall be specified in an Ordinance of the Commission.

(8) Professional requirements in accordance with the present Article set for the insurance brokers who are natural persons or sole proprietors, as well as to the members of their managing bodies and their employees, where insurance brokers are legal persons, shall be obligatory.

Section III

Registration of an insurance broker

Necessary documents for entry into the registry

Article 158

An application form based on a sample endorsed by the Deputy Chairperson shall be submitted for entry into the Registry under Article 30, Paragraph 1, item 9 of the FSCA, to which the following shall be attached:

1. Articles of association or a contract of incorporation, in the case of a legal person;
2. Data about the persons under Article 157, Paragraphs 2 and 3, in the case of a legal person, and documents certifying the observation of requirements under Article 157, Paragraph 1 - of a natural person who is a sole proprietor;
3. Data about the address of the office or the branch office where the operations of insurance intermediation shall be carried out;
4. A certificate of up-to-date legal status;
5. Evidence of possession of own funds under Article 155, Paragraph 1, item 1, where the applicant has selected that particular method to guarantee the discharge of his/her obligations;
6. A certificate issued by a bank, carrying out operations in the Republic of Bulgaria, of setting up a client account under Article 155, Paragraph 1, item 2, where the applicant has selected that particular method to guarantee the discharge of his obligations.
7. (New, SG No. 97/2007) A document of paid fee for examination of documents.

Ruling on the application form

Article 159

(Supplemented, SG No. 97/2007)

The Deputy Chairperson shall rule in a resolution on the application form submitted for entry into the Registry within a one-month period of receipt thereof. Upon establishment of irregularities or should additional information be needed, Article 33, Paragraphs 2, 4 and 5 shall apply mutatis mutandis, the term for removal of said irregularities or submission of additional information not being shorter than fifteen (15) days. Where no irregularities have been established or they have been removed and/or additional information has been provided and no obstacles to entry exist, the Deputy Chairperson shall notify the applicant thereof. Entry shall be made after payment of the relevant fee according to the tariff - annex to Article 27, Paragraph 2 of the Financial Supervision Commission Act.

Certificate of registration

Article 160

(1) Upon entry of an insurance broker into the Registry, the Commission shall issue a Certificate of Registration based on a sample endorsed by the Deputy Chairperson that shall specify the company, the seat of business and the registered office of the insurance broker, an indication of the Registry into which it has been entered, and the way in which registration may be attested to, as well as the names of persons authorised to represent and manage said insurance broker.

(2) (Amended, SG No. 97/2007) The certificate of registration shall be given to the insurance broker upon submission to the Commission of a certified copy of the mandatory Professional Liability Insurance concluded pursuant to the requirements under Article 156.

(3) (Amended, SG No. 97/2007) The certificate of registration under Paragraph 1 shall be enclosed to the application for the entry of a change in the broker's objectives and the firm, into the Commercial Registry, and shall be a condition for its examination by the court.

Grounds for refusal

Article 161

(1) The Deputy Chairperson shall refuse entry into the Registry in case where:

1. The requirements set in accordance with the present Code have not been observed;
2. An applicant has submitted false data or documents with false content;

(2) The refusal of the Deputy Chairperson of entry into the Registry shall be reasoned in writing.

(3) In the case of refusal, an applicant may submit a new application form for entry into the Registry no earlier than six (6) months of the entry into force of the decision for refusal.

Notifications

Article 162

(1) An insurance broker shall be hereby obligated to notify the Commission of:

1. Newly arisen facts and circumstances subject to entry in the Commission Registry;
2. Amendments to circumstances entered in the Commercial Registry.

(2) The obligation under Paragraph 1 shall be fulfilled within a period of seven days from occurrence or learning of the relevant fact or circumstance, and in case it is a subject to entry into the Commercial Registry - within a seven-day period thereof. Documents proving the amendment made shall be attached to the notification.

(3) (New, SG No. 54/2006, amended, SG No 41/2010) Insurance brokers shall submit to the Commission:

1. annual information memos and reports, by the 31 January of the relevant year which follows the year to which the said documents refer;
2. semi-annual information memos and reports, by the 31 July of the relevant year.

(4) (New, SG No. 41/2010) The annual and semi-annual information memos and reports shall be drafted as per a template approved by order issued by the Deputy Chairperson.

Grounds for deletion from the registry

Article 163

(1) The Deputy Chairperson shall delete an insurance broker from the Registry by a resolution in case the insurance broker:

1. Has submitted false data or documents of untrue content, on the basis of which entry into the Registry has been made;
2. Has not started to carry out operations of insurance intermediation within a one- year term of entry in the Registry;
3. Has discontinued performing operations for more than six months;
4. Has ceased to meet the terms and conditions for performing operations as insurance broker;

5. Is involved in bankruptcy or liquidation proceedings;

6. (Supplemented, SG No. 97/2007) Has committed gross or systemic violations of the present Code or of the regulations concerning its implementation or other material violations of the law, established by an effective act;

7. Following decease of a natural person who is a sole proprietor;

8. At the request of an insurance broker.

(2) Upon deletion from the Registry, an insurance broker may not carry out insurance and reinsurance intermediation. An insurance broker shall be hereby obligated to return the Certificate of Registration issued by the Commission within a seven-day period from being notified of the deletion.

Chapter Fifteen

INSURANCE AGENT

Section I

General provisions

Definition. Types

Article 164

(1) An insurance agent shall be a natural person, or a merchant, entered into the Registry kept by the Commission under Article 30, Paragraph 1, item 9 of the Financial Supervision Commission Act, who, in return for payment and upon assignment by an insurer, carried out insurance intermediation on their behalf and at their expense. Insurance agents shall be tied and untied.

(2) A tied insurance agent may not collect premiums and effect payments to the consumers of insurance services.

(3) The relations between an insurer and an insurance agent shall be regulated in a written contract who is "contract for insurance agency". The type of agent shall be mandatorily specified in accordance with the insurance contract.

Restrictions on operations

Article 165

(1) An insurance agent may not work for an insurance broker.

(2) A natural person performing operations as insurance agent shall be a liberal profession.

(3) An insurance agent who is a natural person may not be in labour relations with an insurer.

Special restrictions

Article 166

(1) An insurance agent may intermediate for one insurer who has obtained a licence to perform insurance operations in respect to insurances under Section I of Annex No. 1, and for one insurer who has obtained a licence to perform insurance operations in respect to insurances under Section II of Annex No. 1.

(2) Upon consent given by the persons under Paragraph 1, an insurance agent may perform insurance intermediation for other insurers as well, provided he/she shall perform intermediation in respect to insurances, other than the types of insurance for which he/she has been authorised by the insurers under Paragraph 1.

Section II

Conditions for performance of operations as insurance agent

Guarantees for the operations of insurance agents

Article 167

(1) An insurance agent who is a natural person or the persons, managing and representing the insurance agent who is a legal person, shall at all times have a good reputation, at least secondary school education, and meet the requirements under Article 157, Paragraph 1, Items 3 - 6. Employees of an insurance agent who directly carry out insurance intermediation shall meet the requirements under Article 157, Paragraph 4.

(2) (Amended, SG No. 24/2009, effective 31.03.2009) An insurance agent shall be obligated to maintain a professional liability insurance, valid on the whole territory of the European Union and the European Economic Area, covering liability for damages, incurred within the territory of a Member State in carrying out insurance intermediation, as a result of his/her guilty action or omission. The minimum insurance amount shall be BGN 2,240,400 for each insured event, and BGN 3,360,600 for all insured events within one year.

(3) The insurance under Paragraph 2 shall cover liability for damages also caused by the guilty action or omission of an insurance agent who is a natural person or of his employees, if the agent is a legal person, in relation to carrying out insurance intermediation.

(4) The obligation under Paragraphs 2 and 3 shall be considered fulfilled, if an insurance agent presents a declaration by an insurer/insurer who has authorised him/her to pursue insurance

intermediation taking full responsibility for his/her actions as intermediary.

(5) For an insurance agent who is a legal person or a sole proprietor, the reserves of Article 155 shall apply. An insurance agent who is a legal person shall declare the circumstances under Article 155, Paragraph 4 before the insurer.

(6) For an insurance agent who is a natural person, the provisions of Article 155, Paragraph 1, item 2 and Paragraph 3 shall apply, unless a declaration under Paragraph 4 has been made.

(7) (New, SG No. 97/2007) The requirement for opening a client account by the insurance agent shall not apply where the insurer has authorized the agent to operate with its account to which insurance premiums for the insurer, as well as insurance indemnities or moneys for the consumer of insurance services are transferred directly.

(8) (Renumbered from Paragraph 7, SG No. 97/2007) Moneys paid to an insurance agent by consumers of insurance services shall be considered paid to the insurer, and moneys paid to an insurance agent by the insurer shall not be considered paid to a consumer of insurance services until the latter has received these.

Training of insurance agents

Article 168

(1) Insurers shall be hereby obligated to provide training to insurance agents with whom they have concluded a contract for insurance agency, as well as to their employees who directly carry out insurance intermediation. Said training shall comply with the requirements to insurances offered by insurance agents.

(2) The insurer shall be in accordance with the obligation to conduct an examination at the end of the training and to issue a certificate to the insurance agents who have successfully passed the above examination, thus certifying the presence of professional qualifications, reflecting the knowledge and relating to insurances, as well as the right to offer the types of insurances specified in accordance with the certificate.

Check-up for observation of requirements

Article 169

(1) Before entering a contract for insurance agency, an insurer shall establish whether the person, with whom it is going to sign such contract, meets the requirements set under Article 167, Paragraph 1, in combination with Article 157, Paragraph 1, Items 3 - 6.

(2) In case the person under Paragraph 1 has no professional liability insurance or does not meet the requirements under Article 167, an insurer who has signed a contract therewith, shall incur full responsibility for such person's actions in carrying out insurance intermediation under this contract.

Entry in the registry

Article 170

(1) An insurer shall keep a list of the persons, with whom it has concluded contracts for insurance agency based on a sample endorsed by the Deputy Chairperson. The relevant documents under Article 158, shall be attached to the list.

(2) (Supplemented, SG No. 97/2007) An insurer shall submit an application to the Commission for entry in the Registry under Article 30, Paragraph 1, item 9 of the Financial Supervision Commission Act of the persons in the list under Paragraph 1. The insurance agent shall submit independently an application for entry in the register of the Commission where he/she performs mediation for an insurer from another Member State operating in the Republic of Bulgaria under the conditions of the freedom to provide services, enclosing the relevant documents under Article 158 within 14 days from signing of the contract for insurance agency.

(3) (Supplemented, SG No. 97/2007) An insurer shall be in accordance with the obligation to register each change in the facts and circumstances on the list under Paragraph 1 notifying the Commission thereof. In the cases under Paragraph 2, Sentence Two, notification of change in the facts and circumstances shall be made by the insurance agent.

(4) (Amended, SG No. 97/2007) The obligation under Paragraph 3 shall be discharged within a period of seven days of gaining knowledge of the relevant fact or circumstance.

Identification card

Article 171

Upon entry of an insurance agent in the Registry, the insurer shall issue to the former an Identification Card based on a sample endorsed by the Deputy Chairperson, which shall contain at least the following data:

1. The name and address of the natural person, or the company, legal seat and registered office of the insurance agent who is a single proprietor;
2. The address of the office or branch office where operations will be performed;
3. The types of insurances the agent may offer and the maximum amount of insurance, up to which an insurance agent may conclude such insurances;
4. The names of the persons authorised to manage and represent the insurance agent who is a legal person;
5. The registry in which it has been entered and the way to prove such entry.

Grounds for deletion from the registry

Article 172

(1) Article 163, Paragraph 1 shall apply mutatis mutandis to the deletion of an insurance agent from the Registry. The Deputy Chairperson shall also delete an insurance agent from the Registry by virtue of an Order upon termination of the contract for insurance agency.

(2) Following deletion from the Registry, an insurance agent may not perform insurance agency. An insurance agent shall be in accordance with the obligation to return the Identification Card issued.

Chapter Sixteen

REQUIREMENTS FOR THE OPERATIONS OF INSURANCE INTERMEDIARIES

Principles

Article 173

(1) In the performance of their operations, insurance brokers and agents shall be in accordance with the obligation to observe the principle of voluntary participation and shall conscientiously and with due diligence explain the rights and obligations in accordance with the insurance contract, with a view to protecting the interests of consumers of insurance services.

Observation of secrecy

Article 174

In the performance of their operations, insurance brokers and agents shall be in accordance with the obligation to keep the trade secret and good reputation of the insurer and the reinsurer, as well as insurance secrecy, and they shall not use the acquired information for any other purposes than the exercise of the rights and the fulfilment of obligations under insurance legal relations.

Identification documents

Article 175

In the performance of his/her operations, an insurance broker shall identify him-/herself through the registration certificate issued by the Commission, and an insurance agent - through the identification card issued by an insurer.

Reporting and supervision of insurance agents

Article 176

(1) Insurance agents shall report to the insurer in accordance with the procedure and in the manner provided for in the contract for insurance agency.

(2) Insurance agents shall be subject to supervision by the Internal Control Department of the insurer, for whom they perform insurance intermediation.

Provision of information to consumers of insurance services

Article 177

(1) Upon conclusion of an insurance contract, and upon modification or renewal thereof, if necessary an insurance broker and an insurance agent shall provide the consumer of insurance services with the following information, at a minimum:

1. Their name and address, or company, seat of business and registered office;
2. The Registry, into which they have been entered, and how the entry may be verified;
3. Whether they hold directly or through related parties more than 10 per cent of the voting rights in the general meeting or of the capital of an insurer;
4. (Amended, SG No. 59/2006) Whether an insurer or a parent undertaking of an insurer holds directly or through related parties stocks and shares, exceeding 10 per cent of the voting rights in the general meeting or of the capital of the insurance broker or insurance agent;
5. The procedure, in pursuance of which complaints may be filed by consumers of insurance services and other parties concerned against the insurance broker or insurance agent, as well as the procedure for out-of-court settlement of disputes between them;

(2) Upon conclusion of the insurance contract, the insurance broker and insurance agent shall also notify the consumer of insurance services whether, in relation to the offered contract, they will:

1. Provide advice on grounds of the obligation under Paragraph 3, or
2. Have a contractual obligation to perform insurance intermediation exclusively for one or more insurers. In such case, upon request by the consumer of insurance services, the insurance broker or the insurance agent shall provide him/her with the names of these insurers, or
3. Have no contractual obligation to perform insurance intermediation exclusively for one or more insurers and will not provide advice on grounds of the obligation under Paragraph 3. In such case, upon request of the consumer of insurance service, the insurance broker or the insurance agent shall provide him/her with the names of insurers, for whom it may and does perform insurance intermediation.

(3) In case an insurance broker or an insurance agent notifies the consumer of insurance services of the provision of advice on grounds of a fair analysis, he/she shall be under the

obligation to provide said advice following the analysis of a sufficient number of insurance contracts in order to give a professional recommendation with regard to the insurance contract that shall be most adequate with a view to the needs of the consumer of insurance services.

(4) Before conclusion of a specific insurance contract, an insurance broker and an insurance agent shall be in accordance with the obligation, on grounds of the information provided by a consumer of insurance services in writing, to define his/her requirements and needs, as well as the reasons for the advice provided to the consumer of insurance services with regard to a particular insurance.

(5) The requirements for the provision of information under Paragraphs 1 - 4 shall not apply in case an insurance broker or an insurance agent performs insurance intermediation on high risk insurances, as well as in carrying out reinsurance intermediation.

Requirements to the information provided

Article 178

(1) The information under Article 177 shall be provided on paper or another permanent carrier, accessible to the consumer of insurance services, in the official language of the Member State where the risk is located, or in another language agreed upon by the parties, and shall be clear, accurate and understandable by the consumer of insurance services.

(2) The information under Article 177 may be provided verbally upon request submitted by a consumer of insurance services, as well as in case immediate cover is necessary. In such cases, the information shall be provided to the consumer of insurance services in accordance with the procedure of Paragraph 1, immediately upon conclusion of the insurance contract.

Chapter Seventeen

(Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union)

PERFORMANCE OF OPERATIONS BY INSURANCE BROKERS AND INSURANCE AGENTS FROM THE REPUBLIC OF BULGARIA IN ANOTHER MEMBER STATE. PERFORMANCE OF OPERATIONS IN THE REPUBLIC OF BULGARIA BY INSURANCE BROKERS AND INSURANCE AGENTS FROM ANOTHER MEMBER

STATE

Section I

Performance of operations by insurance brokers and insurance agents from the Republic of Bulgaria in another Member State

Right of establishment and freedom to provide services

Article 179

An insurance broker and an insurance agent, registered in accordance with the conditions and the procedure of Chapter Fourteen, Chapter Fifteen, may perform operations in accordance with the conditions of the right of establishment and the freedom to provide services within the territory of another Member State.

Notification and commencement of operations

Article 180

(1) An insurance broker or an insurance agent registered in the Republic of Bulgaria who intends to perform operations in one or more host Member States in accordance with the conditions of the right of establishment or the freedom to provide services, shall notify in advance the Commission thereof.

(2) (Supplemented, SG No. 97/2007) Within a one-month period of receipt of the notification under Paragraph 1, the Commission shall notify the relevant competent authority of the host Member State, if it wishes to be notified, of the intention of an insurance broker or an insurance agent to perform operations within its territory. The Commission shall immediately notify the insurance broker or insurance agent of any notification from the competent authority of the host Member State or of the fact or circumstance that the host Member State does not want to be notified.

(3) An insurance broker or an insurance agent may commence operations within the territory of the host Member State upon expiry of one month of his/her notification in accordance with the procedure of Paragraph 2. In case the host Member State does not wish to be notified, an insurance broker or insurance agent may immediately commence operations, observing the law of the host Member State.

(4) The Commission shall immediately notify the relevant competent authority of the host Member State in case an insurance broker or insurance agent has been deleted from the Registry under Article 30, Paragraph 1, item 9 of the Financial Supervision Commission Act.

Section II

Performance of operations in the Republic of Bulgaria by insurance brokers and insurance agents from another Member State

Right of establishment and freedom to provide services

Article 181

An insurance intermediary registered in a Member State may perform operations within the territory of the Republic of Bulgaria in accordance with the conditions of the right of establishment and of the freedom to provide services.

Commencement of Operations

Article 182

An insurance intermediary under Article 181 may commence operations within the territory of the Republic of Bulgaria in accordance with the conditions of the right of establishment and the freedom to provide services upon expiry of one month of the Commissions' notification to the relevant competent authority of the home Member State of the intention of the insurance intermediary to perform operations in the Republic of Bulgaria.

PART FOUR

INSURANCE CONTRACT

Chapter Eighteen

GENERAL RULES

Definition

Article 183

(1) An insurance contract shall bind an insurer to undertake certain risks in return for the payment of premium, and upon occurrence of an insured event to pay the insured or a third beneficiary party an insurance indemnity or an amount in cash.

(2) With regard to insurance contracts, the General Reserves of the Commerce Act and the Obligations and Contracts Act shall apply, insofar as the present Code does not provide for otherwise.

Form

Article 184

(1) An insurance contract shall be concluded in writing in the form of an insurance policy or of another written act. Upon request for certification of an insurance contract submitted by the insured, the insurer shall also issue an insurance acknowledgement, a certificate, or a voucher. The insurer shall mandatorily issue an insurance acknowledgement, certificate or another written document, certifying the existence of an insurance contract, in case this has been provided for by law.

(2) The written proposal or request addressed to the insurer concerning the conclusion of an insurance contract or written replies of the insured to queries made by the insurer with regard to circumstances of importance to assessing the nature and amount of risk, shall form an integral part of the insurance contract.

(3) The insurance contract shall specify:

1. The names or appellation, and the addresses of the parties;
2. The contract subject matter;
3. The insurance risks covered;
4. The contract term, including the beginning and the end of the insurance coverage period;
5. The insurance amount or the manner of its calculation;
6. The insurance premium or the manner of its calculation, as well as the timeframes and the procedure for payment;
7. The amount of participation with own funds, should such participation be agreed upon between the parties;
8. The names and address of the insurance intermediary should the contract be concluded through intermediary, and in the case of an insurance agent - the number of its identification document;
9. The date and place of conclusion of the contract;
10. Signatures of the parties.

(4) Upon conclusion of an insurance contract to the benefit of a third party, the contract shall also specify the names, the appellation and address of the beneficiary or the manner in which it may be identified.

(5) In case the contract is concluded with an insurer who carries out operations in the

Republic of Bulgaria under the conditions of the freedom to provide services, the name (firm) and the address of the representative under Article 55, Paragraph 3, of the branch office or the representative under Article 269, Paragraph 7 respectively, charged with its functions, shall also appear in the contract.

(6) The written form of the insurance contract shall also be considered observed in cases where the contract has been drawn up in the form of an electronic document, within the meaning of the Electronic Document and Electronic Signature Act.

(7) (Amended, SG No. 105/2006) The insurance contract may also be concluded through the means of long distance communication in compliance with the provisions of the present Code, if this has been provided for by law.

(8) The insurer shall be hereby obligated to provide a certified copy of the written document under Paragraph 1 within a seven-day period of the request. The absence of an original copy shall not serve as basis for refusal or reduction of an insurance payment.

Consumer information

Article 185

(1) An insurer shall be under the obligation to provide each consumer of insurance services, prior to conclusion of an insurance contract under Section I of Annex No. 1, with information in an appropriate written form about the particular types of insurance, such information including:

1. The name (appellation) of the insurer and its legal and organisational form;
2. The legal seat and registered office of the insurer, as well as of the branch office, through which the insurance is taken up;
3. The covered and excluded risks; possibilities for modification of the insurance contract in compliance with the general terms;
4. The term and methods for contract termination;
5. The method of specifying premiums, their term and the ways for their payment, as well as the consequences of non-payment;
6. Prerequisites and term for payment of the insurance indemnity or amount in cash;
7. Methods for calculation and distribution of bonuses, if any;
8. The method for calculation of the redemption values and reduced insurance amount, in case of early termination of payments, as well as of the amount up to which these are guaranteed with regard to contracts for insurances under Section I, Items 1, 2, 3 and 5 of Annex No. 1;
9. Detailed listing of particular investment funds, in which moneys under a contract for life

insurance may be invested, as regards the investment fund related insurance under Section I, item 3 of Annex No. 1, and the characteristics of assets the funds consist of;

10. Procedures for out-of-court settlement of disputes between the parties to an insurance contract, if any.

11. Conditions under which the unilateral termination of the contract is possible;

12. General information about taxes and fees in relation to the contract;

13. The law applicable to the contract, where the parties do not have the right to free choice of applicable law, or the applicable law proposed by the insurer, where the parties are entitled to a free choice.

(2) An insurer under Paragraph 1 shall be under the obligation to provide an insured person with the following information during the term of validity of a contract:

1. Data about any change in the circumstances under Paragraph 1, Items 1 and 2;

2. Information about Paragraph 1, Items 3 - 9, in the case of change in the general terms or the law, applicable to the insurance contract; and

3. Annual information on the status of bonuses.

(3) An insurer shall be hereby obligated to provide each consumer of insurance services who is natural person, prior to the conclusion of an insurance contract under Section II of Annex No. 1, with information in a suitable written form about the respective type of insurance, setting out the circumstances under Paragraph 1, Items 1, 2, 10 and 13. The information under Paragraph 1, Items 1 and 2 shall be specified in each document forwarded to each of the insured persons.

(4) (New, SG No. 77/2011) When offering Life insurance under para. 1, item 9 related to investment in units of a collective investment scheme, or when advising a client in relation to such insurance, the insurer shall provide the document with the key information about the investors to their clients, in compliance with Article 59, para. 3 of the Collective Investment Schemes and Other Undertakings for Collective Investments Act;

(5) (Renumbered from Paragraph 4, amended, SG No. 77/2011) In case an insurance contract is concluded through an insurance broker or an insurance agent, the information under paras. 1 and 4 or para. 3 shall be provided by them.

(6) (Renumbered from Paragraph 5, amended, SG No. 77/2011) The provisions of paras. 1 - 5 shall not apply to contracts for the insurance of high risk.

General terms

Article 186

(1) The general terms of an insurer, as established prior to the conclusion of a specific type of insurance, shall bind the insured in case these have been provided to the latter at the moment of conclusion of the insurance contract, and said insured has declared in writing to accept these. The general terms as accepted by the insured shall form an integral part of the insurance contract. In case of discrepancy between the insurance contract and the general terms, those stipulated in the contract shall be valid.

(2) The insurer's general terms shall be adopted by its managing body, and the date of their adoption and of any subsequent amendments shall mandatory be specified there.

(3) (Amended and supplemented, SG No. 97/2007) The general terms of the insurance policies shall not constitute a legally protected secret and the insurer may not deny access to them. The insurer shall be hereby obligated to provide the consumer of insurance services with the general terms of insurance prior to the conclusion of the insurance contract. In the cases where a questionnaire has been drawn up with regard to the insurance, the general terms shall be provided along with it.

(4) Any amendments to or substitution of the general terms with new ones during the validity period of an insurance contract, shall be binding on the insured only in case said amendments or the new terms have been provided to the insured who have approved them in writing.

(5) The general terms shall clearly and unambiguously specify:

1. The risks covered and the exclusions to coverage;
2. The conditions for payment of premiums by the insured and the consequences of non-payment or inaccurate payment;
3. The insurer's liabilities, payment term, and the manner of specifying the amounts of payments;
4. The obligations of the insured person upon occurrence of an insured event and its establishment;
5. The circumstances relating to amendments to the insurance legal relationship;
6. The terms and the amount of any preliminary payments or borrowings against life insurance policies and their redemption.

(6) (New, SG No. 24/2009, effective 31.03.2009) The general terms may not provide for a requirement that government authorities provide documents which are not relevant to the factual occurrence of the insured event or to the establishment of the amount of the damage.

(7) (New, SG No. 24/2009, effective 31.03.2009) The general terms may not provide for conditions and requirements on the insured party, including ones applicable to the occurrence of the insured event and relevant to the proving of such event, when it could reasonably be assumed

that they are not significant as regards limiting the risk of occurrence of the insured event or as regards the proving thereof, as well as ones whose implementation could be assumed as being legally or factually prevented.

Prohibition to place signs, marks or other indications

Article 186a

(New, SG No. 51/2011)

(1) It shall be prohibited to place signs, marks or other indications on the motor vehicle or in a visible position inside the vehicle that directly or indirectly signify the existence of an insurance contract executed for the same vehicle.

(2) An insurer or reinsurer may not require, in any form, the placement of signs, marks or other indications under Paragraph 1 as a condition precedent to execute and/or cause the entry into force of the insurance contract in respect of the relevant motor vehicle and/or to cover one or more risks under the insurance contract. Furthermore, no insurer or reinsurer may contract the placement of signs, marks or other indications under Paragraph 1, or include such placement in the general terms and conditions governing the vehicle insurance, as an obligation of the insured person, the insuring party or the third party beneficiary. The lack of such signs, marks or other indications may not be grounds to exclude one or more insurance risks from the coverage or to modify or terminate the insurance contract, nor may it be linked to any negative legal effects whatsoever concerning the insured person, the insuring party or the third party beneficiary.

(3) The prohibition under Paragraph 3 shall not concern the placement of signs, marks or other indications that is explicitly regulated by a statutory act or signs, marks or other indications which advertise a natural or legal person or such person's business sign or trade mark, product, goods, service, brand or other similar elements and they are not linked to the execution of the insurance contract when:

1. the person concerned owns or has taken the motor vehicle under rent, lease or another legal grounds for which the person has a contract, or

2. the placement implements a (written) advertising contract entered into with a natural or legal person who is the owner, user, renter or lessee of the motor vehicle on which the relevant signs, marks or other indications are placed.

Entry into force of an insurance contract

Article 187

An insurance contract shall enter into force upon payment of the whole premium due, or of its first installment, in the case of annuity premium payments, unless otherwise provided for by law or stipulated in the contract.

Obligation to declare

Article 188

(1) (Supplemented, SG No. 97/2007) Upon conclusion of an insurance contract, the insured person, his/her proxy or his/her insurance broker shall be under the obligation to accurately and comprehensively declare all substantial circumstances which are known to him/her and are of relevance to the risk.

(2) Only those circumstances under Paragraph 1 shall be considered substantial, for which an insurer has brought forward a query in writing.

(3) Non-reply to a query, with no concealment of a substantial circumstance of relevance to the risk, shall not constitute grounds for unilateral termination of the insurance contract, for demanding its amendment or refusing payment of indemnity under Article 189.

Intentional inaccurate declaration or reticence

Article 189

(1) In case an insured person has consciously made an incorrect statement or withheld a circumstance, in the presence of which circumstance an insurer would not have concluded a contract, had it been aware of this circumstance, the insurer may terminate the contract. The insurer may exercise this right within a one-month period of gaining knowledge of said circumstance.

(2) In the case under Paragraph 1, an insurer shall retain the paid share of premium, and shall have the right to demand payment for the period until contract termination.

(3) In case a consciously or inaccurately stated or withheld circumstance is of a nature that an insurer would have concluded the contract, but under different terms, the insurer shall have the right to demand modification. This right may be exercised within one month of gaining knowledge of the above circumstance. In case the insured does not accept the proposed modification within a two-week period of receipt thereof, the contract shall be terminated, entailing the consequences under Paragraph 2.

(4) Where in the cases under Paragraph 1, an insured event occurs, the insurer may fully or partially refuse to make the insurance payment or to pay an amount only where the inaccurately stated or withheld circumstance has affected the occurrence of the event. Where the circumstance under Paragraphs 1 or 3 has only resulted in the increase of the amount of damages, the insurer may not refuse payment, but may reduce it in the proportion of the amount of the premium paid to the premium which is to be paid according to the actual insurance risk.

(5) In case an insured person has concluded a contract through a representative or at the expense of a third party, it shall be deemed sufficient that the circumstance concealed had been known to the insured or to his/her representative, or to the third party.

Unintentional inaccurate statement

Article 190

(1) In case where upon conclusion of an insurance contract, a circumstance under Article 188, Paragraph 1 had not been known to the parties, each party may propose modification of the contract within a two-week period of coming into knowledge of said circumstance.

(2) In case the other party does not accept the proposal under Paragraph 1 within a two-week period following receipt thereof, the offeror may terminate the contract, and shall notify the other party thereof in writing.

(3) In case the contract is terminated, an insurer shall reimburse the share of the premium paid, which corresponds to the remaining term of the insurance contract.

(4) Upon occurrence of an insured event prior to the modification or termination of the contract, an insurer may not refuse the payment of an insurance indemnity or amount, but may reduce it in the proportion of the amount of the premium paid to the premium which is to be paid according to the actual insurance risk.

Declaration of newly arisen circumstances

Article 191

(1) While an insurance contract is in force, the insured shall be in accordance with the obligation to declare before the insurer all newly occurred circumstances, for which the insurer has placed a query in writing upon conclusion of the contract. A declaration of the circumstances shall be immediately made upon gaining knowledge thereof.

(2) In the case of non-performance of an obligation under Paragraph 1, Article 189, and 190 shall apply *mutatis mutandis*.

(3) The insured shall be obligated to immediately notify the insurer in writing of a change in the address specified in accordance with the insurance contract, and to communicate his new address to the insurer. Until notification of a change in the address has been received by the insurer, any notifications forwarded by the latter to the address of the insured stated in accordance with the insurance contract, shall be considered duly served and received by the person insured, and shall give rise to all legal consequences provided for in accordance with the law or the contract.

Insurance premium

Article 192

(1) The whole premium, or the first installment in the case of annuity payments, shall be paid upon conclusion of the insurance contract, unless stipulated otherwise.

(2) If, during the period of validity of the contract, the insurance risk considerably increases

or decreases, any of the parties may request a respective increase or decrease of the insurance premium or termination of the contract.

Payment of an insurance indemnity or amount

Article 193

(1) Upon occurrence of an insured event, the insurer shall be hereby obligated to pay an insurance indemnity or a cash amount to the person insured.

(2) An insurer may not be held liable for amounts exceeding the insured sum, unless this is provided for in accordance with the present Code or otherwise agreed upon between the parties.

(3) (New, SG No. 24/2009, effective 31.03.2009) (3) Before the payment of an indemnity determined as a total loss of a motor vehicle registered in the Republic of Bulgaria, the insurer shall require from the user of the insurance service proof of deregistration of the motor vehicle.

(4) (New, SG No. 24/2009, effective 31.03.2009) Within the meaning of Paragraph 3, a total loss of a motor vehicle shall be damage where the cost of the repairs needed exceeds 70 percent of its actual value. The amount of costs for the repairs needed shall be determined according to the specific indemnification method based on:

1. a proforma invoice issued by a service station in case the damages are repaired in kind, or
2. an expert assessment in case of cash indemnification.

Self-participation

Article 194

(1) The parties to an insurance contract may agree on self-participation of the insured, which shall constitute undertaking a part of the responsibility by the insured in case an insured event has occurred. Self-participation may be unconditional or conditional.

(2) In the case of unconditional self-participation, an insured person shall bear the risk of occurrence of an insured event up to a certain amount for each damage.

(3) In the case of conditional self-participation, an insurer shall pay the whole amount of damage, where it exceeds the amount of self-participation set in accordance with the insurance contract. Damages that do not exceed the amount of conditional self-participation specified in accordance with the insurance contract shall be undertaken by the insured.

(4) The amount of self-participation may not exceed 50 per cent of the contract insurance amount.

(5) Self-participation shall not be allowed with regard to compulsory insurances of risks in relation to the life and health of natural persons, the compulsory third party liability of motorists

insurance, as well as with regard to life insurances.

Insurable interest

Article 195

(1) An invalid insurance contract shall be the one concluded in the absence of insurable interest.

(2) An insured person may demand reimbursement of the whole premium paid or of the paid share thereof in case of annuity payments, unless he/she has been aware or should have been aware of the absence of insurable interest.

(3) The insurance contract shall be terminated in case the interest ceases to exist during the period of its validity. The insurer shall have the right to retain that share of the premium, which corresponds to the period of the insurance contract which has expired, until its termination.

Termination

Article 196

(1) An insurance contract shall terminate upon expiry of the term, for which it has been concluded, as well as in the cases provided for in accordance with the present Code.

(2) An insurance contract may also terminate on grounds stipulated thereunder, where these do not contradict good ethics and the interests of the consumers of insurance services are not unjustifiably affected.

Limitation

Article 197

Rights under an insurance contract shall lapse with a three-year period of limitation from the day of occurrence of an insured event, and with regard to life, accident insurances and third party liability insurances under items 10 - 13 of Section II, Letter "A" of Annex No. 1 - with a five-year period of limitation from the day of occurrence of the insured event.

Non-liability for sequestration

Article 198

(1) Enforcement on a cash amount shall not be allowed under life and accident insurances, as well as on an indemnity under third party liability insurance.

(2) Enforcement on an insurance indemnity, under property insurances, shall be allowed, where it might have been directed at the property insured.

Coinsurance contract

Article 199

(1) Under a coinsurance contract, two or more insurers shall distribute among them the liability undertaken by virtue of an insurance contract that has already been concluded by one of them, or under a contract that is to be concluded.

(2) The parties under a coinsurance contract shall mandatorily specify:

- a) the leading underwriter;
- b) the proportion, into which the insurers shall assume liability;
- c) the distribution of insurance premiums;
- d) the applicable general terms.

(3) Any relations with the insured person in accordance with the insurance contract shall be managed by the leading insurer, unless otherwise stipulated.

(4) Within a seven-day period of the conclusion of the insurance contract, the leading co-insurer shall notify the insured of the circumstances under Paragraph 2, in case these are not apparent from the insurance contract. In case the insured is a natural person, notification shall be made in accordance with the procedure of Article 185.

(5) The insured shall have the right to terminate the insurance contract by written notice forwarded to the leading co-insurer within a seven-day period of a notification under Paragraph 4.

(6) Where the insured has been notified under Paragraph 4, each of the co-underwriters shall be responsible to him/her for his/her respective part at the proportion, in which these have underwritten the responsibility, unless otherwise provided for in accordance with the insurance contract.

Insurance concluded in favour of a creditor

Article 199a

(New, SG No. 97/2007)

(1) (Effective 23.11.2007, SG No. 97/2007) In case of insurance concluded in favour of a creditor and upon occurrence of an insured event the insurer shall be liable to the creditor up to the amount of the unrepaid portion of the obligation, for the security of which the insurance contract is concluded, together with the interest and expenses as of the date of occurrence of the insured event. Where the indemnity or the insurance amount payable under the conditions of the contract exceeds the amount under Sentence One, they shall be paid to the debtor, its heirs or beneficiaries.

(2) An insurance contract between a creditor and an insurer concerning material or immaterial benefit of a debtor is concluded in favour of the creditor to secure its receivable only with the prior written consent of the debtor.

(3) (Effective 23.11.2007, SG No. 97/2007) The contract under Paragraph 2 shall be concluded under general terms referred to in Article 186. In the event of discrepancy between the insurance contract and the general terms, the covenants of which the debtor has been notified in writing in advance shall apply.

(4) The creditor shall provide to the debtor in advance all the information related to the conclusion and execution of the contract, including:

1. the general terms of the insurance and information about the insurer, the subject of the insurance, the insurance amount, the term of the insurance and the beneficiaries;
2. the questions posed by the insurer under Article 188;
3. the answers given by the creditor.

(5) The creditor shall, by the 15th day of the month following the month of conclusion of the contract under Paragraph 1, submit to the debtor a certificate containing information about the insurer, the subject of the insurance, the insurance amount, the term of the insurance and the beneficiaries.

(6) (Effective 23.11.2007, SG No. 97/2007) The creditor shall notify in writing the debtor of any changes, acts or failures to act or other circumstances which might have as a consequence the termination of the contract, reduction of the amount of the insurance indemnity or amount or which might jeopardise the interests of the debtor otherwise. Upon request, the insurer may not refuse the debtor to provide him/her with the information under Sentence One.

Chapter Nineteen

PROPERTY INSURANCE

Section I

General provisions

Object of the insurance contract

Article 200

Any property, which is assessable in monetary terms for an insured party may be the object of an insurance contract for property insurance.

Conclusion of contract without authority

Article 201

(1) Anyone who insures the property of another in his/her own name shall be held personally liable for the payment of insurance premium.

(2) The contract for insurance of the property of another shall be valid in case approval has been given by the property owner.

(3) In case the premium has been duly paid, the approval of an insurance contract shall also have effect in case it has been made upon occurrence of the insured event.

Payments of the insurance premium in installments

Article 202

(1) In cases of extended payment, the installments of the insurance premium shall be paid within the term agreed under the insurance contract. In the case of failure to pay an installment of the insurance premium, the insurer may reduce the insurance amount, amend the contract or terminate it.

(2) An insurer may exercise the rights under Paragraph 1 no earlier than fifteen days from the day on which the insured has received a written warning. The written warning shall also be considered served in case the insurer has explicitly specified in the insurance policy which of the rights under Paragraph 1 would be exercised upon expiry of the 15-day period from the maturity date of the installment.

(3) In case an insured event has occurred prior to full payment of the insurance premium by the insured, the insurer may deduct the amount of unpaid premium from the amount of insurance indemnity.

(4) In case it has been stipulated that the insurance cover shall commence, without payment of the whole premium, or of the first installment, in the case of extended payments, the insurer shall be entitled to require its payment, along with the legal interest from the date of delay.

Insurance amount

Article 203

(1) The insurance amount may not exceed the recovery or actual value of the property.

(2) The value, in return for which another property of the same quality, instead of the insured one, may be bought, shall be considered actual value.

(3) The price for recovery of a property of the same kind, including all inherent expenses incurred with regard to delivery, construction, setting up, etc., without applying depreciation shall

be considered its recovery value.

(4) Unless otherwise stipulated, it shall be accepted that the insurance amount is set in compliance with the actual value of property. In order to establish the actual value, the insurer shall have the right to inspect the property.

Overinsurance

Article 204

(1). In case the insurance amount agreed exceeds the actual value, or the recovery value of the property insured, the contract shall remain in force, and the insurance amount shall be reduced to the amount of the actual, or the recovery value, respectively.

(2) An insurer shall not be in accordance with the obligation to reimburse the part of the premium paid, which corresponds to the difference between the insurance amount agreed, and the actual, or the recovery value of insured property respectively, unless the insured has acted in good faith.

Underinsurance

Article 205

(1) In case the agreed insurance amount is less than the actual or the recovery value of the insured property, and the insured property perishes or is damaged, indemnity shall be determined as a proportion of the insurance amount to the actual or the recovery value, respectively.

(2) In case an insurance contract has been concluded with a covenant against first risk, the full amount of damage shall be compensated, provided it does not exceed the insurance amount.

(3) (New, SG No. 97/2007) In case an insurance contract has been concluded under Article 199a, the debtor may request that the insurance amount be determined up to the actual or recoverable value of the insured property, undertaking to pay additional insurance premium.

Obligation of reporting

Article 206

(1) Upon occurrence of an insured event, the insured person shall be in accordance with the obligation to notify the insurer within a seven-day period of gaining knowledge thereof, unless the contract provides for a different adequate term.

(2) The notification term in accordance with the contract may not be shorter than three days of gaining knowledge. In the case of insurance against theft or robbery, the notification term in accordance with the contract may not be shorter than 24 hours as of gaining knowledge.

(3) The insurer shall have the right to refuse payment in case the insured has not fulfilled

his/her obligations within the terms under Paragraphs 1 and 2 with the aim of hindering the insurer in establishing the circumstances, under which the event has occurred, or where such non-fulfilment has made it impossible for the insurer to establish said circumstances.

Prevention and limitation of damages

Article 207

(1) The insured person shall be under the obligation to take measures for the protection of the insured property from damages, to follow the instructions of the insurer and the competent authorities for elimination of the sources of risk, and to allow the insurer to make inspections.

(2) Upon violation of the obligations under Paragraph 1, the insurer shall have the right to terminate the insurance contract if no insured event has occurred. In the case of occurrence of an insured event, the insurer may accordingly reduce the insurance indemnity owed. In case the occurrence of the insured event ensues from non-fulfilment of the obligation under Paragraph 1, the insurer may refuse payment only in case the above has been explicitly stipulated in accordance with the contract.

(3) Upon occurrence of an insured event, the insured shall allow the insurer to make an inspection of the damaged property and shall have to submit the documents required by the insurer, which are directly related to the ascertainment of the event and the amount of damages.

(4) The insured shall be under the obligation to take the necessary actions for limitation of damages from the insured event and to follow the instructions of the insurer.

Insurance indemnity

Article 208

(1) Upon occurrence of the insured event, the insurer shall be under the obligation to pay insurance indemnity within the agreed term. The term may not exceed 15 days, and shall start running from the day on which the insured has performed his/her obligations under Article 206, Paragraphs 1 or 2, and Article 207, Paragraph 3.

(2) The insurer shall separately indemnify the insured person for the expenses he/she has incurred to limit the damages, acting with due care, in accordance with the circumstances of the case, even if his/her efforts have remained without result. In such case, the insurer's liability may even exceed the insurance amount, if expenses have been incurred in fulfilment of its directions.

(3) The indemnity shall be equal to the amount of the damage incurred on the day of occurrence of the event. The insurer shall not owe indemnity for lost profit, unless otherwise agreed in the insurance contract.

(4) In case two or more insurance contracts have been concluded for one and the same property right under equal insurance risk covers, and the total of separate insurance amounts exceeds the actual value of the property insured, each insurer shall be liable at the proportion of

the insurance amount to the total insurance amount of all insurances. The insured person shall be obligated to inform each of the insurers of the presence of other insurance contracts as well, indicating the other insures and the insurance amounts in accordance with the contracts concluded with them.

(5) In case upon payment of insurance indemnity the stolen or lost property is found, the insured shall be in accordance with the obligation to transfer the property right to the insurer or to a person specified in writing by the insurer. In case the insured wishes to keep the property found, he/she shall have to pay the insurer the compensation received.

Repair of damages

Article 209

(1) Upon occurrence of an insured event, the insurer may, with consent of the insured, also repair the damages incurred by the latter in kind.

(2) The term for repairing damages may not exceed 45 days from the day, on which the insured has fulfilled his/her obligations under Article 206, Paragraph 1, or Paragraph 2 and Article 207, Paragraph 3.

Partial loss

Article 210

In the case of partial loss of insured property, it shall be considered insured until the expiry of the insurance contract term at an amount, equal to the difference between the initial insurance amount and the insurance indemnity paid, unless otherwise provided for in accordance with the insurance contract.

Refusal to pay insurance indemnity

Article 211

An insurer may only refuse the payment of indemnity:

1. In case of deliberate causation of the insured event by the insured person or by a third benefiting party;

2. Upon non-fulfilment of an obligation in accordance with the insurance contract, which is material with a view to the insurer's interest and has been provided for in a law or in the insurance contract;

3. In other cases provided for by law.

Transfer of insured property

Article 212

(1) If the insured property is transferred, the recipient shall be subrogated into the rights defined in the insurance contract unless agreed otherwise. The transferor or the recipient shall inform the insurer about the transfer in writing within seven days.

(2) The recipient shall be jointly liable for the unpaid part of the premium until subrogation.

(3) The insurer shall enjoy the right to demand a premium from the transferor until he or she has been notified of the transfer.

(4) The insurer and the recipient may terminate the contract, giving advance notice to the other party no later than the 30 days from the notification in accordance with Paragraph 1.

Subrogation into the rights of the insured party

Article 213

(1) (Supplemented, SG No. 97/2007) On payment of the insurance compensation the insurer shall be subrogated into the rights of the insured party against the offending party up to the extent of the compensation paid and the usual expenses incurred in specifying the compensation. In cases when the offending party has third party insurance, the property insurer shall be subrogated into the rights of the insured party against the offending party or the offending party's third party insurer to the extent of the compensation paid and the usual expenses incurred in specifying the compensation. The property insurer may lay his or her claim directly to the third party insurer. Where the damage is caused by a driver of motor vehicle who has a valid compulsory third party insurance for motorists, the property insurer who has subrogated into the rights of the offended party may lay his or her claim to the offending party only to the amount of the damages caused which exceed the insurance amount under the contract for compulsory insurance as well as for the damages caused by the driver of the motor vehicle for which the insurer under the compulsory third party insurance for motorists has refused to pay indemnity on the grounds of Article 268.

(2) If the offending party is related by direct ascending or descending line, married to or belongs to the household of the insured party, the insurer shall enjoy the rights specified under Paragraph 1 if the offending party has acted deliberately.

(3) The insured party shall be required to cooperate with the insurer in the exercise of his or her rights against the offending party.

(4) If the property of the offending party is insufficient, the insurer shall receive satisfaction after the insured party has done so.

(5) In cases where the offending party has compensated the insured party in full, the insurer shall be relieved of his or her obligation to pay insurance compensation.

Settling of claims between the property insurer and the third

party insurer of the offending party

Article 213a

(New, SG No. 97/2007)

(1) The property insurer who has subrogated into the rights of the insured person against the third party insurer of the offending party who has guiltily caused a damage to the insured property shall lay its claim against such insurer, attaching the file with the available proofs, including proofs establishing occurrence of the accident. The third party insurer shall verify every claim laid under Sentence One.

(2) Where the property insurer has not submitted all proofs or where additional proofs are necessary for establishing the ground or the size of the damage, which could not have been foreseen as of the date of laying the claim, the third party insurer shall be entitled to require such proofs within 45 days from the date of laying the claim. Article 105, Paragraph 5 shall apply *mutatis mutandis*.

(3) Within 30 days from submission of all proofs the insurer shall:

1. determine and pay the amount of its obligation under the claim laid, or
2. legitimately refuse to effect payment.

Insurance subscription contract

Article 214

(1) The rights and obligations of the insured party over a given period shall be covered by an insurance subscription contract.

(2) The insured party shall be obliged to notify the insurer in advance about the insured property for each separate case in the order stipulated in the insurance contract. In these cases the insurer shall be obliged to issue a separate document on demand by the insured party.

(3) Each of the parties may terminate the contract with one month's written notice unless agreed otherwise.

Insurance against transportation risks

Article 215

(1) For overland, air and river transport the insurance contract shall cover all risks to which the transported goods are exposed, unless agreed otherwise.

(2) The transported goods may be insured at the market price at the destination.

(3) The insurance contract shall enter into force on delivery of the goods for transportation and shall remain in force until delivery of the goods to the recipient, including during transit and storage, unless agreed otherwise.

(4) The insurer shall not cover the risks when transportation is interrupted or diverted, unless agreed otherwise.

(5) If the recipient of the transported goods accepts the goods before any damage is ascertained, the insurer shall not be liable to pay compensation.

(6) If damage could not be ascertained externally on receipt and is subsequently noted, but within the deadline specified in the rules of the respective type of transport, the insurer shall be liable to pay compensation only if the recipient sends him or her notification, but not later than 15 days from receipt of the goods.

Maritime insurance contract

Article 216

A maritime insurance contract shall be regulated in accordance with the Merchant Shipping Code

Section II Legal costs insurance

Main points

Article 217

(1) Under a legal costs insurance contract the insurer shall be obliged to cover the expenses of the insured party in connection with his or her participation in judicial, pre-judicial, administrative and arbitration proceedings and to provide other services directly connected to the insurance contract, particularly when the insured party:

1. claims compensation for damage which he or she has sustained, or
2. is represented or defended in connection with all claims laid against him or her.

(2) The provisions under this section shall not be applied:

1. in cases of judicial dispute and risks arising from or in connection with the use of seagoing vessels;
2. in cases of defence or representation of the insured party in connection with a third party

insurance contract, which the insurer provides for the protection of his or her own interests.

(3) Liability for fines, confiscation or other material sanctions in accordance with a penal or administrative-penal provision shall not be eligible for insurance.

Form of a legal costs insurance contract. Compulsory contents

Article 218

(1) A legal costs insurance contract shall be signed:

1. separately from any contract covering other risks, or
2. as a separate part of a contract covering other risks in which the amount of the premium and the type of legal costs covered are indicated.

(2) A legal costs insurance contract shall expressly indicate:

1. the means accepted by the insurer of settling claims under Article 92;
2. the rights of the insured party under Article 219 and Article 220.

The right to choice

Article 219

(1) The insured party shall enjoy the right to authorise a solicitor or other person according to his or her own choice to provide legal advice or to implement procedural representation in proceedings under Article 217. Paragraph 1 in accordance with the law at the headquarters of the authority in which the proceedings are being held.

(2) The insured party shall also enjoy the right specified under Paragraph 1 in cases of conflict of interests in relations with the insurer.

(3) Persons authorised by the insured party in accordance with Paragraph 1 or 2 may not receive instructions from the insurer in connection with their activities.

Extra-judicial settlement of disputes

Article 220

The insured party shall enjoy the right to refer to an objective and impartial authority for extra-judicial settlement of disputes in all cases of disagreement with the insurer in connection with the legal costs insurance contract. The right to judicial claims may not be restricted.

Notification of the insured party

Article 221

The insurer, respectively the person designated for settlement of claims under Article 92, item 2, shall be obliged to notify the insured party of his or her rights under Article 219 and 220 in all cases of conflict of interests or of disagreement with the insured party.

Section III Travel Assistance Insurance

Main points

Article 222

(1) Under a travel assistance insurance contract the insurer shall be obliged, against payment of an insurance premium, to provide immediate assistance to a person who, as a consequence of a chance event, has encountered difficulties during travel. The events and conditions for provision of assistance shall be defined in the insurance contract.

(2) The insurer shall provide assistance in cash or in kind in accordance with the terms of the contract.

(3) The travel assistance insurance contract shall not cover repairs, overhaul or service of property under guarantee, nor expenditure incurred for intermediation in seeking and obtaining assistance.

Section IV (New, SG No. 60/2012, effective 7.08.2012) Health (medical) insurance

Medical insurance contracts

Article 222a. (New, SG No. 60/2012, effective 7.08.2012) (1) A medical insurance contract obliges the insurer to cover risks related to the occurrence of disease or accident and connected with the financial provision for certain health services and goods, in return for an insurance premium.

(2) By a medical insurance contract, the insurer may also undertake the financial provision for health services and goods related to disease prevention, pregnancy, child birth and other health-related issues of the insured person.

(3) By a medical insurance contract, the insurer may also undertake the financial provision for other health goods and services related to the healthcare provided to the insured person,

including transportation, specialised care and palliative care.

(4) Medical insurance contracts may stipulate the maximum monetary amount of the insurer's obligation in the form of a sum insured or in terms of the volume and scope of the health services and goods which are to be provided for a specified period.

(5) A medical insurance contract may oblige the insurer to reimburse expenses incurred by the insured person or to provide the relevant goods and services via contractors with whom the insurer has entered into contracts.

(6) Medical insurance contracts may be of indefinite duration and in such cases the insurance premium may not be increased as a consequence of the insured persons' age or deterioration of their health condition.

(7) Medical insurance contracts may cover risks related to the loss of income due to an accident or disease, whereby the insurer shall be obligated to compensate the insured person for the loss of income via one-time reimbursement or regular payments.

Chapter Twenty

THIRD PARTY INSURANCE

Definition

Article 223

(1) Under a third party insurance contract the insurer shall be obliged, within the guarantees of the insurance amount specified in the contract, to cover the liability of the insured party for material and non-material damage caused by the insured party. With a third party insurance contract the insurer may be obliged, within the guarantees of the insurance amount specified in the contract, to cover the liability of the insured party for defaulting on his or her contractual obligations.

(2) The insurer shall pay compensation, including for damages representing a direct and immediate result of tort, and for interest accrued during delays when the insured party answers to the damaged party for the payment. The insurer shall answer for interest accrued during delays adjudicated to be at the expense of the insured party, calculated from the date of notification under Article 224, Paragraph 1.

(3) The insurer may cover liability for damages arising from defaulting on contractual obligations in exchange for an additional premium, unless agreed otherwise.

(4) The insurer shall pay a sum not exceeding the insurance amount and expenses incurred for judicial proceedings against the insured party to ascertain his or her third party liability, when the insurer is involved in the proceedings.

Notification and involvement. Representation

Article 224

(1) The insured party shall be required to notify the insurer of any circumstances which may lead to third party claims within seven days of the circumstances being brought to his or her attention. The insured party shall be obliged to notify the insurer within the same deadline of any claims made against him or her or of any payments which he or she has made.

(2) In cases of claims laid by the damaged party, the insured party shall be obliged to demand the involvement of the insurer in the proceedings when this is permissible by law.

(3) The insurer or a person designated by the insurer may, if authorised by the insured party, represent him or her in judicial proceedings or in extra-judicial settlement of claims in connection with his or her third party liability when this is in the interest of the insurer. Expenditure incurred in the authorisation and representation shall be paid by the insurer and shall not exceed the insurance amount. Any circumstances ascertained in court rulings enacted with the participation of the persons under sentence 1 shall bind the insurer.

Implementation of the rules for property insurance

Article 225

The rules under Article 202, Article 207, Paragraph 3 and 4 and Article 208, Paragraph 1 shall be applied to third party insurance.

Direct claim

Article 226

(1) The damaged party to whom the insured party is liable shall enjoy the right to seek compensation directly from the insurer.

(2) (Supplemented, SG No. 97/2007) The insurer may submit objections arising from the contract and from the third party liability of the insured party, with the exception of objections under Article 207, Paragraph 3 and 4 and Article 224, Paragraph 1. When third party insurance is required by law the insurer may not submit objections about the self-participation of the insured party. Furthermore, the insurer may not submit objections under Article 189, Paragraph 4, Article 190, Paragraph 4, and Article 191, Paragraph 2 in connection with Article 189, Paragraph 4, and Article 190, Paragraph 4 under a compulsory third party insurance for motorists.

(3) With compulsory third party insurance the insurer shall be answerable to the damaged party even when the insured party has caused the damage deliberately.

Regressive claims

Article 227

The insurer shall enjoy the right to make a regressive claim against the insured party:

1. for all payments to the damaged party in cases under Article 226, Paragraph 3;

2. for interest payments accrued during delay, corresponding to the period from the date of the insurable event until the date on which the circumstances under Article 224, Paragraph 1 were notified by the insured party or the date of the direct claim under Article 226, Paragraph 1, unless the insured party has defaulted on his obligations for reasons by which he or she cannot be held responsible.

3. for the amount of the agreed participation in cases under Article 226, Paragraph 2, sentence 2.

Settlement

Article 228

(1) A settlement between the damaged party and the insured party, as well as an admission on the part of the insured party of his or her obligations, shall have effect on the insurer if he or she approves them.

(2) A settlement reached with the knowledge and settlement of a representative under Article 224. Paragraph 3 shall be considered to be approved by the insurer.

Rights of the insured party

Article 229

The insured party shall enjoy the right to receive insurance compensation if he or she has satisfied the damaged party.

Chapter Twenty-One LIFE INSURANCE AND ACCIDENT INSURANCE

Object of the insurance contract

Article 230

(1) Life insurance and accident insurance contracts shall be taken out against events related to the life, health or corporal integrity of physical persons.

(2) A life insurance contract may cover death or reaching a certain age, or may have combined coverage.

(3) Life insurance or accident insurance contracts which cover the death of an under-aged person or a person under full judicial disability, as well as those which cover risks of miscarriage or stillbirth, shall be invalid. the insurer shall be obliged to reimburse the insurance premiums received under life insurance or accident insurance contracts which cover these risks. When the insured party has knowingly concealed information about a person under sentence 1, whose life is the object of a life insurance or accident insurance contract, the insurer shall enjoy the right to deduct the value of the expenses incurred in concluding a contract from the premium which is subject to reimbursement.

Retirement or annuity insurance

Article 230a

(New, SG No. 97/2007)

(1) Under a retirement or annuity insurance the insurer undertakes to make life or term regular payments against payment of lump-sum or regular premium.

(2) Contracts concluded by the nature of trade and containing operations for acquisition of real rights in real estate through payment of life or term pension or rent shall be established under this Code. In the cases of Sentence One transfer of real rights shall be accepted as payment of insurance premium.

(3) In the case of retirement or annuity insurance contracts under Paragraph 2, the value of the real estate shall be determined by at least two independent assessors of real estate.

Retirement insurance or annuity in the transfer of retirement

rights from the retirement schemes of the Union

(Title amended, SG No. 60/2011, effective 5.08.2011)

Article 230b

(New, SG No. 19/2010)

When concluded upon transferring retirement rights under Article 343c, Paragraph 3, item 3 in the Social Insurance Code, the retirement insurance or annuity contracts regulate:

1. provision of life monthly payments of the insured person not earlier than attaining 60 years of age and not later than 65 years of age;

2. inadmissibility of termination of contract before attaining the specified in it age under item 1 and following the beginning of life monthly payments;

3. payment of the amount due under the insurance contract to the heirs or to the third party beneficiaries upon a death of the insured person.

Group insurance

Article 231

(1) Two or more persons whose number is defined or definable may be insured under one life insurance or accident insurance contract. In this case it is not necessary for the contract to contain the names and addresses of the insured parties if they are defined in another unambiguous manner, including by indicating particular qualities which they have.

(2) An employer may obtain group insurance for his employees and/or workers, whose life, health and able-bodied ness are the object of the insurance.

(3) An employer under Paragraph 2 shall be obliged to provide his or her insured workers or employees with the entire information which he or she has received from the insurer about the life insurance or accident insurance contract and which the insured persons require for the exercise of their rights in accordance with the insurance contracts.

Mutual insurance

Article 232

(1) A mutual insurance contract may be signed by spouses, persons living in actual extra-marital cohabitation, related persons, associates in a company under Article 357 of the Obligations and Contracts Act, as well as associates in a partnership, a limited joint-stock company or a company of solicitors.

(2) Mutual insurance shall be divided in cases of divorce between spouses. This rule shall not be implemented if the contract is in favour of a child from the discontinued marriage.

(3) Mutual insurance shall be divided in cases of discontinuation of companies listed under Paragraph 1.

(4) On discontinuation of a relationship between persons living in actual extra-marital cohabitation, they may request Section of the insurance unless the contract is in favour of a child born to and recognised by these persons.

Life insurance and accident insurance on a third party

Article 233

(1) An insured party may take out a life insurance or accident insurance contract, the object of which is the life, health or corporal integrity of a third party. This contract shall be valid only if it is signed with the express written agreement of the third party.

(2) The person whose life is the object of insurance may at any moment discontinue it by means of a unilateral written declaration addressed to the insurer. In this case, if the contract has

been in force for at least two years, the insurer shall be obliged to pay the premium reserve on the insurance to the insured party.

(3) If the insured party dies before the third party on whose life, health or corporal integrity the contract has been signed, the contract shall be terminated unless otherwise agreed.

(4) In cases specified under Paragraph 3, if a life insurance contract has been in force at least two years, the insurer shall be obliged to pay the premium reserve on the insurance to the heirs of the insured party or to a third party beneficiary.

(5) The insurer shall not pay any amounts specified under the contract if the insured party deliberately causes the insurable event.

Life insurance and accident insurance in favour of a third party

Article 234

(1) On taking out a life insurance or accident insurance contract, as well as at any time during which such a contract is in force, the insured party may define a third party as beneficiary.

(2) The agreement of the third party beneficiary shall not be required for taking out an insurance contract in favour of the third party. The beneficiary shall be obliged to give his or her express written agreement if the object of the contract under the conditions specified in Article 233 is the life, health or corporal integrity of a third party who is not the insured party.

(3) When an insurance contract is signed in favour of the children of the insured party, the beneficiaries shall include the children born after the signing of the contract unless otherwise agreed.

(4) If the insurance contract is signed in favour of the spouse of the insured party, the rights under the contract shall be enjoyed by the person married to the insured party on the day on which the insurable event occurs unless otherwise agreed.

(5) When there are several beneficiaries, they shall enjoy equal rights unless otherwise agreed.

(6) If the third party beneficiary dies before the insured party and no other beneficiaries are defined under the contract, the insurance amount shall be paid to the insured party or to his or her heirs.

(7) A third party beneficiary shall forfeit his or her rights under the contract if he or she has deliberately caused the insurable event. If there are several beneficiaries, the part ascribable to the beneficiary who deliberately caused the insurable event shall be divided equally between the other beneficiaries unless otherwise agreed.

(8) If no other beneficiaries have been defined in the cases under Paragraph 7, the insurance amount shall be paid to the insured party or to his or her heirs.

(9) If an insurance contract is rescinded in accordance with a claim laid by a creditor on the insured party, the third party beneficiary shall be answerable for the amount of money received, not exceeding the amount paid from the insurance premium.

Rights of third party beneficiaries

Article 235

(1) The insurance amount shall not be considered part of the inheritance of the insured party even when his or her heirs are defined as the beneficiaries.

(2) If the beneficiary is an heir, he or she shall enjoy the right to the insurance amount even if he or she declines the inheritance.

Payment of the premium

Article 236

(1) If a party insured for life fails to pay a due installment of the premium under deferred premium payment, the insurer shall not enjoy the right to claim payment of the premium in court.

(2) The insurer shall be obliged to request in writing that the insured party pay the premium installment by a deadline at least one month from receipt of that request.

(3) If the premium installment is not paid within the deadline defined under Paragraph 2, the insurer may reduce the insurance amount to the value of the redemption payment, when the premium installments under the insurance contract have been paid for at least two years. Failing this, the insurer may terminate the contract.

(4) If the insurable event takes place before the insurance amount is reduced or before the contract is terminated under the conditions specified in Paragraph 3, the insurance amount shall be considered to have been reduced or the contract to have been terminated.

The right to unilateral termination of the contract

Article 237

(1) A physical person who has signed an individual life insurance contract with a term exceeding six months shall enjoy the right to terminate the contract unilaterally within 30 days of the date on which he or she has been notified of the signing of the insurance contract.

(2) (Supplemented, SG No. 54/2006) A person under Paragraph 1 shall exercise his or her right to terminate the contract by means of written notification addressed to the insurer. The insurance contract shall be terminated from the date on which the insurer is notified, in which case the insured party shall be relieved of his or her obligations under the contract and shall enjoy the right to receive the insurance premium paid, not including the part corresponding to the

period during which the insurer has carried a risk, if an insurable event has not taken place. The insurer shall reimburse the part of the premium within 30 days of receiving notification.

Insurance amount

Article 238

(1) On occurrence of the insurable event or the conditions specified in the contract the insurer shall be obliged to pay the insurance amount or the part thereof which has been specified in the insurance contract.

(2) The insurance amount shall also be paid in cases when the party which has caused the damage is obliged to compensate the insured party or has already compensated him or her, and if the insured party has received payment under another insurance contract.

(3) The insurer shall make the payment within 15 days of the date on which the required evidence for ascertainment of the insurable event and the amount of payment has been presented.

(4) On specifying the amount payable for disability caused by the insurable event, except in cases of loss of limbs or other human organs, the insurer may stipulate a deadline for stabilisation of the disability, which may not exceed one year from the date on which the insurable event has taken place. In this case, within the deadline specified in Paragraph 3, the insurer shall specify and pay an amount in advance no smaller than the minimum indisputable amount of payment.

(5) The insurance amount shall be paid to the insured party or to the third party beneficiaries.

(6) In case of death of the insured party, if the insurance has not been taken out in favour of third parties, the insurance amount shall be paid to the heirs of the insured party, or if there are none, to the persons living in the same household as the insured party.

(7) Under life insurance or accident insurance contracts an insurer who has paid the insurance amount may not be subrogated into the rights of the insured party against the person who has caused the event.

Excluded risks

Article 239

(1) If not agreed otherwise, the insurer shall be exempted from his or her obligations under the insurance contract if:

1. the insured party deliberately causes his or her own death within one year of the signing of the contract;

2. injury, damage to corporal integrity, disability or death takes place as a result of a publicly actionable criminal offence committed by the insured party;

3. death takes place as a result of execution carried out under a valid death sentence;

4. death takes place during war, military action or as a result of an act of terrorism.

(2) The parties may also agree to other excluded risks.

(3) Under life insurance, if the premium installments have been paid for at least two full years, the insurer shall pay the mathematical reserve on the insurance to the heirs of the insured party or to other third party beneficiaries.

The right to redemption. The right to a loan

Article 240

(1) Under life insurance, the insurer shall be obliged to pay the redemption value on the insurance contract on demand by the insured party if at least two years have passed since the beginning of the period of insurance cover and all premium payments for this period have been paid. The redemption value shall be paid by the insurer within 20 days of the demand.

(2) The conditions must be indicated in the insurance contract under which the insured party may demand payment of the redemption value, as well as the amount of the redemption value for each year of the term of the contract.

(3) If a beneficiary has been specified on signing the contract and he or she has declared acceptance of the stipulation in his or her favour, the beneficiary shall enjoy the right to receive the redemption value.

(4) The insurer may, against the insurance, grant the insured party a loan not exceeding the redemption value. The conditions and procedures for granting and paying off the loan and the interest on the loan shall be specified in the insurance contract. When the insurable event has taken place and the loan has not been paid off, the contract shall remain in force for the reduced insurance amount.

Life insurance connected to an investment fund

Article 241

Under life insurance connected to an investment fund, the insured party shall carry the risks of investing the mathematical reserve in the assets which he or she has chosen, unless otherwise agreed.

Permanent health insurance

Article 241a. (New, SG No. 60/2012, effective 7.08.2012) (1) By signing a contract for permanent health insurance, the insurer shall be obligated to make regular payments in favour of the insured person to compensate the loss of income due to an accident or disease.

(2) The compensation under permanent health insurance contracts shall be paid until the complete recovery of the insured person or until the latter obtains the entitlement to pension for length of insurance service and old age.

Covering health risks under supplementary insurance

Article 241b. (New, SG No. 60/2012, effective 7.08.2012) (1) Supplementary insurance under Section I of Annex No. 1 shall be executed for the purpose of providing additional coverage supplementing other insurance under the same section.

(2) For the purpose of covering health risks under supplementary insurance, the insurer shall make one-time or regular payments in compliance with the conditions laid down in the contract.

Insurance as security against obligations

Article 242

(1) When life insurance or accident insurance has been taken out in favour of a creditor to cover against the obligations of a physical person, he or she shall enjoy the right to claim against the insurer even if he or she has not been a party to the insurance contract and has paid his or her obligations on occurrence of the insurable event. All third parties who have paid this obligation on a legal basis shall also enjoy this right.

(2) The insurer may make any objection arising from the insurance contract.

(3) (Repealed, SG No. 97/2007).

Provision of information

Article 243

(1) Before signing a life insurance or accident insurance contract and during the term of the contract, the insurer shall enjoy the right to receive detailed and precise information about the age, sex and health status of the person whose life, health or corporal integrity of the object of the insurance.

(2) On occurrence of an insurable event the insurer shall enjoy the right of access to the entire medical documentation in connection with the health status of the person whose life is insured, and may demand it from all persons who keep such information.

Chapter Twenty-Two

(Effective from the date of entry into force of the Treaty for the

**Accession of the Republic of Bulgaria to the European
Union)**
**LEGISLATION APPLICABLE TO INSURANCE
CONTRACTS IN THE FRAMEWORK
OF THE EUROPEAN UNION AND THE EUROPEAN
ECONOMIC SPACE**

**Legislation applicable to insurance contracts under Section
II of Annex No. 1
(Title amended, SG No. 97/2007)**

Article 244

(1) (Amended, SG No. 97/2007) The legislation applicable to insurance contracts under Section II of Annex No. 1 covering risks located on the territory of member states shall be defined as follows:

1. when the risk is located on the territory of the Republic of Bulgaria and the insured party is ordinarily resident or has headquarters on the territory of the country, the applicable legislation is the legislation of the Republic of Bulgaria;

2. when the risk is located on the territory of the Republic of Bulgaria and the insured party is not ordinarily resident and does not have headquarters on the territory of the country, the parties may select as applicable the legislation of the Republic of Bulgaria or the territory of the member state in which the insured party is ordinarily resident or has headquarters; the parties to the contract may define the applicable legislation in accordance with sentence 1 even when the risk is located in another member state and the insured party is ordinarily resident or has headquarters on the territory of the Republic of Bulgaria;

3. when the insured party carries out commercial activity or a liberal profession and the contract covers two or more risks related to this activity or profession, and the risks are located on the territory of the Republic of Bulgaria and in one or more member states, the parties to the contract may define as applicable to the legislation of the member state in which one of the risks is located, or the legislation of the member state in which the insured party is ordinarily resident or has headquarters;

4. when the respective member state under item 2 and 3 provides greater freedom of choice of applicable legislation, the parties may define as applicable the legislation of the other state in accordance with the choice made available;

5. when the risks covered by the contract are restricted to insurable events which can take place in a member state other than the states under item 1, 2 or 3, the parties to the contract may

choose the legislation of the member state in which the insurable event has taken place;

6. when the insurance contract covers large risks, the parties may freely choose the applicable legislation.

(2) In the cases under Paragraph 1, item 6, the circumstance that the parties to the contract have chosen as applicable the legislation of a country other than the Republic of Bulgaria shall not affect the enforcement of the compulsory provisions of the legislation of the Republic of Bulgaria if all other elements of the insurance contract at the moment of choice are connected only to the Republic of Bulgaria.

(3) The choice of legislation applicable to an insurance contract must be explicit and follow clearly from the clauses of the contract. If the condition in sentence 1 is not fulfilled, the legislation applicable to the contract shall be the legislation of the member state under Paragraph 1 in which the contract is most closely connected.

(4) When part of the insurance contract may be separated from its other parts and the former part is more closely connected to another member state other than the respective states under Paragraph 1, the legislation of this other member state may be applied to the former part as an exception. It is assumed that the insurance contract shall be most closely connected to the member state in which the risk is located.

(5) When a given state comprises more than one territorial unit, each of which has its own contract legislation, each territorial unit shall be considered as a state when defining the applicable legislation in accordance with this chapter.

(6) The provisions of this chapter shall not affect the enforcement of the provisions of the legislation of the Republic of Bulgaria which compulsorily regulate the case, irrespective of the legislation applicable to the insurance contract.

(7) Inasmuch as the legislation of the Republic of Bulgaria stipulates, the compulsory provisions of the legislation of the member state in which the risk is located, or of the member state whose legislation stipulates a requirement for insurance, may be enforced if, in accordance with the legislation of these member states, the compulsory provisions indicated are enforced in an obligatory manner irrespective of the legislation applicable to the insurance contract.

(8) When the insurance contract covers risks located in more than one member state, for the purposes of Paragraph 6 and 7 it shall be considered that a number of contracts exist, each of which is connected only to one member state

Legislation applicable to compulsory insurance contracts

Article 245

(1) Bulgarian law shall be enforced for insurance stipulated as compulsory under Bulgarian legislation.

(2) In cases of contradiction between a Bulgarian law stipulating compulsory insurance and the legislation of a member state in which the risk is located, the Bulgarian law shall be enforced.

(3) In cases when the compulsory insurance contract covers risks in two or more member states, at least one of which stipulates compulsory insurance, Article 244, Paragraph 8 shall be enforced.

Legislation applicable to life insurance and accident insurance

contracts

Article 246

The legislation applicable to life insurance and accident insurance contracts shall be defined as follows:

1. when the risk is located in the Republic of Bulgaria, Bulgarian legislation shall be applicable. When the risk is located in a member state, the legislation of that member state shall be applicable;

2. when a party to the contract is a citizen of the Republic of Bulgaria who is ordinarily resident in a member state, the parties to the contracts may define as applicable the legislation of the Republic of Bulgaria; when a party to the contract is a citizen of a member state who is ordinarily resident in the Republic of Bulgaria, the parties to the contract may define as applicable the legislation of that member state;

3. when a given state comprises more than one territorial unit, each of which has its own contract legislation, each territorial unit shall be considered as a state when defining the applicable legislation under this chapter;

4. regardless of the legislation applicable to the insurance contract, the provisions of item 1, 2 and 3 shall not affect the enforcement of the compulsory provisions under the legislation of the Republic of Bulgaria which regulate the case;

5. inasmuch as the legislation of the Republic of Bulgaria stipulates, the compulsory provisions under the legislation of the member state in which the risk is located, or of the member state whose legislation stipulates obligatory insurance, may be enforced if, in accordance with the legislation of these member states, the compulsory provisions indicated are enforced in an obligatory manner irrespective of the legislation applicable to the contract.

Public order

Article 247

Insurance contracts may be concluded under the conditions of this chapter inasmuch as this does not adversely affect public order in Bulgaria.

Implementation of the International Private Law Code

Article 248

If not stipulated otherwise in this chapter, the provisions of the International Private Law Code shall be enforced for insurance contracts in the framework of the European Union and the European Economic Space.

PART FIVE COMPULSORY INSURANCE

Chapter Twenty-Three GENERAL PRINCIPLES

Types of compulsory insurance

Article 249

Compulsory insurance shall include:

1. third party insurance for motorists under section II, letter A, item 10.1 of Annexe No. 1, hereinafter referred to as "compulsory third party insurance for motorists";
2. accident insurance for public transport vehicle passengers under section II, letter A, item 1 of Annexe No. 1, hereinafter referred to as "compulsory accident insurance for passengers";
3. other insurances established by law or by international treaty which has been ratified and promulgated and entered into force in the Republic of Bulgaria.

Compulsory insurance contract

Article 250

An insurer who carries out compulsory insurance may not refuse to sign a contract for the respective compulsory insurance.

Term of compulsory insurance

Article 251

(1) The term of the compulsory insurance shall be defined by the parties to the contract unless stipulated otherwise by law.

(2) A compulsory insurance contract shall be renewed before expiry of its term except in

cases when interest in the insurance has lapsed.

Compulsory insurance contract with a insurance amount

exceeding minimum requirements

Article 252

A compulsory insurance contract may be signed for an insurance amount exceeding the minimum requirements established by law. In this case the requirement to take out insurance shall be considered to have been fulfilled.

Control on the signing of compulsory insurance contracts

Article 253

(1) Control on the existence of signed compulsory insurance contracts shall be exercised by the authorities assigned by law to do so.

(2) (Amended, SG No. 33/2006) Control on the existence of signed compulsory accident insurance contracts for employees in state institutions shall be exercised by a higher state authority of the respective institution, or in the absence thereof, by the Public Financial Inspection Agency.

(3) Control on the existence of signed compulsory third party insurance contracts for motorists for motor vehicles which are ordinarily located on the territory of the Republic of Bulgaria or on the territory of a third state shall be exercised by the Ministry of Interior authorities.

(4) Control on the existence of signed compulsory accident insurance contracts for passengers shall be exercised by the Ministry of Transport and Ministry of Interior authorities.

Special rules for the control of compulsory third party

insurance for motorists

Article 254

(1) Control on the existence of signed compulsory third party insurance contracts for motorists as part of state border control shall be exercised with relation to:

1. motor vehicles ordinarily located on the territory of a third state and entering the territory of the Republic of Bulgaria from a third state, as well as in cases when such motor vehicles leave the territory of the Republic of Bulgaria;

2. (effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) motor vehicles under special registration rules,

exempted from compulsory third party insurance for motorists in accordance with the legislation of the respective member state and included in a list elaborated by this member state and placed at the disposal of the Republic of Bulgaria.

3. (new, SG No. 97/2007) motor vehicles ordinarily located on the territory of the Republic of Bulgaria, when such motor vehicles leave the territory of the Republic of Bulgaria.

(2) (Amended, SG No. 21/2012) (*Regarding entry into force, see § 28 of the Transitional and Concluding Provisions (TCP) of the Insurance Code) Control shall not be implemented on the existence of signed compulsory third party liability insurance contracts for motorists for motor vehicles ordinarily located on the territory of another member state or of the Republic of Croatia, the Confederation of Switzerland, the Principality of Andorra and the Republic of Serbia (states whose national insurers' bureaux are parties to the Multilateral Agreement), nor for motor vehicles ordinarily located on the territory of a third state, which enter the territory of the Republic of Bulgaria from the territory of another member state. This shall not apply to spot checks carried out on other grounds by the authorised control bodies.

(3) (New, SG No. 97/2007) The authorities of Border Police General Directorate shall not allow motor vehicles under Paragraph 1, Item 1 and 3 to leave the territory of the Republic of Bulgaria without proof of concluded and effective compulsory third party insurance contract for motorists.

Delegation

Article 255

(1) The Commission shall issue regulations on the procedures and conditions for taking out compulsory insurance under Article 249, item 1 and 2, and for the procedures for reporting it.

(2) The rule set out under Paragraph 1 shall also define the procedure for introducing unified numeration of compulsory insurance policies and their minimum contents.

Information on compulsory insurance to be placed at the disposal of the

European Commission

Article 256

(Effective from the date of entry into force of the Treaty for the

Accession of the Republic of Bulgaria to the European Union)

(1) The Commission shall notify the European Commission of compulsory insurance stipulated by Bulgarian legislation, indicating:

1. particular legislative provisions relating to this insurance;

2. obligatory properties of the certifying documents which the insurer is obliged to place at the disposal of the insured party in order to prove that the obligation to take out insurance has been fulfilled.

(2) When the compulsory insurance has been taken out with an insurer from a member state in adherence with the requirements under Paragraph 1, item 2, it shall be accepted that the obligation to take out insurance has been fulfilled.

Chapter Twenty-Four

COMPULSORY THIRD PARTY INSURANCE FOR MOTORISTS

Object of insurance and insurance cover

Article 257

(1) An object of compulsory third party insurance for motorists shall be the civil liability of the insured physical persons and judicial entities for material and non-material damage caused by them to third parties, connected to the ownership and/or use of motor vehicles for which the insured parties are answerable in accordance with Bulgarian legislation or the legislation of the state in which the damage has been caused.

(2) Insured parties shall include the owner of the motor vehicle for which a valid signed insurance contract is in existence, as well as all persons who use the motor vehicle on a legal basis.

(3) Third parties shall be considered to be all persons except those answerable for the damage caused.

(4) Agreements shall not be permitted which exclude from third party cover damage caused to a third party who has known or was obliged to know that the driver of the motor vehicle was under the influence of alcohol or other intoxicating substance at the time of the road transport accident.

(5) Third party insurance for motorists shall not cover the liability of the insured party as a freight hauler.

Operation of a contract for compulsory third party

insurance for motorists

Article 258

(1) An insurance contract for compulsory third party insurance for motorists shall cover the

liability of the insured parties for damage caused on the territory of:

1. the Republic of Bulgaria in accordance with Bulgarian law;
2. (effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) a member state in accordance with its law;
3. (effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) a third state when the damage has been caused to persons from the member state while travelling between the territories of two member states and on condition that there is no national insurance office to bear liability for this territory; in this case the liability shall be covered in accordance with the law of the member state in which the motor vehicle is ordinarily located, in connection with which the insurance has been taken out;
4. (new, SG No. 21/2012) a third state whose national insurers' bureau is a party to the Multilateral Agreement in accordance with its law.

(2) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union, amended, SG No. 21/2012) A compulsory third party liability insurance contract for motorists shall provide cover on the territory of the Republic of Bulgaria, on the territory of other member states and on the territory of third states whose national insurers' bureaux are parties to the Multilateral Agreement, on the basis of one insurance premium and throughout the entire term of the contract, including in every period in the framework of this term in which the motor vehicle is located in another member state.

(3) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) A compulsory third party insurance contract for motorists shall provide cover in every member state in accordance with its legislation, or cover in accordance with the legislation of the territory in which the motor vehicle is ordinarily located, when this cover is higher.

(4) The territory on which the motor vehicle is ordinarily located shall be the territory of the state:

1. where the registration number of the motor vehicle has been issued, irrespective of whether it is permanent or temporary;
2. where the insurance or other distinguishing mark, analogous to the registration number under item 1, of the motor vehicle has been issued - in cases in which the registration of particular kinds of motor vehicles is not necessary;
3. in which the owner of the motor vehicle is permanently resident - in cases in which a registration number or an insurance or other distinguishing mark is not required for particular kinds of motor vehicles.

(5) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) For the purposes of laying a claim to a guarantee

fund or a national insurance office in cases in which the motor vehicle has no registration number, or when it has a registration number which does not refer to that vehicle, and the road transport accident takes place with its participation, the territory on which the motor vehicle is ordinarily located shall be the territory of the state where the road transport accident has taken place.

Obligation to sign compulsory third party insurance

contracts for motorists

Article 259

(1) A compulsory third party insurance contract for motorists must be signed by every person who:

1. owns a motor vehicle which is registered on the territory of the Republic of Bulgaria and has not been prohibited from using the road;

2. drives a motor vehicle on entry into the territory of the Republic of Bulgaria, when he or she does not have valid insurance for the territory of the Republic of Bulgaria.

(2) A person as defined under Paragraph 1, item 2 shall take out frontier third party insurance for motorists at the border crossing point at which he or she enters the territory of the Republic of Bulgaria. A person as defined under Paragraph 1, item 2 must have valid frontier third party insurance for motorists until he or she leaves the territory of the Republic of Bulgaria.

(3) a person as defined under Paragraph 1, item 2 shall not be obliged to take out a motorist's third party insurance contract on entering the territory of the Republic of Bulgaria on condition that:

1. he or she owns a valid "green card" certificate, or

2. compensation payments in relation to his or her civil liability are guaranteed by a competent institution of a member state and the driver is included in a list elaborated by the competent authority of the member state indicating persons relieved of the obligation to take out compulsory third party insurance for motorists and placed at the disposal of the Republic of Bulgaria.

(4) The conditions and procedure for taking out and reporting on frontier third party insurance for motorists set out in Paragraph 2 shall be defined in the regulation under Article 255.

Deferred premium payments for compulsory third party

insurance for motorists

Article 260

(1) In cases of deferred payment, the deferred installments of the insurance premium shall be paid within the terms specified in the insurance contract.

(2) If the deferred installment of the insurance premium is not paid, the insurer may terminate the contract in accordance with the procedure set out in Article 202, Paragraph 2, also applying Paragraph 4 of the same article.

Certification of the signing of an insurance contract

Article 261

(1) The existence of a compulsory third party insurance contract for motorists shall be certified by means of an insurance policy and a mark issued by the guarantee fund. The insurance policy under sentence 1 shall be a numbered report form printed in accordance with the procedure for printing securities established by the Council of Ministers.

(2) In cases of deferred premium payment, the mark under Paragraph 1 shall certify the period for which the insurance premium has been paid.

(3) (Supplemented, SG No. 21/2012) With third party liability insurance for motorists, cover may be provided against payment of an additional premium for third states participating in the "green card" system and whose national insurers' bureaux are not parties to the Multilateral Agreement, for which the insurer shall issue a "green card" certificate.

(4) (New, SG No. 97/2007) Upon conclusion of third party insurance contract for motorists the insurer shall provide a form of bilateral written statement of ascertainment of road accident in two counterparts according to template approved by the ordinance under Article 125a, Paragraph 2 of the Road Traffic Act.

Term of compulsory third party insurance for motorists

Article 262

The term of compulsory third party insurance for motorists shall be one year. Taking out third party insurance for motorists for a shorter term, but no less than 30 days, shall be permitted in the following cases:

1. insurance for motor vehicles which have temporary or transit registration in accordance with acting Bulgarian legislation;
2. frontier insurance;
3. insurance for companies which import and sell motor vehicles;
4. insurance for slow motor vehicles;
5. insurance for self-propelled machines.

Changes in ownership

Article 263

(1) In cases of change of ownership of a motor vehicle, the compulsory third party insurance contract for motorists shall not be terminated. The transferor shall be obliged to deliver to the recipient of documents certifying the compulsory third party insurance for motorists. The transferor and the recipient shall be obliged to notify the insurer in writing within 7 days of the transfer.

(2) The recipient shall be jointly liable for the unpaid part of the premium until the transfer.

(3) The insurer shall enjoy the right to seek the premium from the transferor until notified of the transfer.

(4) The recipient may unilaterally terminate the contract without indicating the grounds for doing so within the deadline specified under Paragraph 1.

Motor vehicle

Article 264

(1) (Amended, SG No. 97/2007) For the purposes of compulsory insurance under this chapter, a motor vehicle shall be defined as any vehicle for overland transport propelled by its own engine, as well as tram cars, trolley buses and self-propelled equipment under the Agricultural and Forestry Machines and Equipment Registration and Control Act. Trailers and half-trailers shall also be considered to be motor vehicles.

(2) For the purposes of compulsory insurance under this [chapter, the following shall not be considered to be motor vehicles:](#)

[1. rail vehicles, with the exception of tram cars;](#)

[2. self-propelled machinery, in the sense of Paragraph 1, item 12 of the additional regulations to the Registration and Agricultural and Forestry Machines and Equipment Registration and Control Act,](#) of which the engine power does not exceed 10 kW.

(3) Movement of a motor vehicle on roads open for public use in the sense of Article 2, Paragraph 1 of the Road Traffic Act shall not be permitted unless the driver is insured in accordance with this code.

Injured party. Damaged party.

Article 265

(1) An injured party shall be a person who have died or has suffered bodily injury caused by

motor vehicles.

(2) A damaged party shall be a person, including an injured party, who has the right to compensation for damage caused by motor vehicles.

Insurance amount

Article 266

(Effective 11.06.2012)

Compulsory third party insurance for motorists shall be taken out with the following minimum insurance amounts:

1. for non-material material damage resulting from bodily injury or death:
 - a) 2,000,000 BGN for every event for one injured party;
 - b) 10,000,000 BGN for every event for two or more injured parties.
2. for damage to property (chattels) - 2,000,000 BGN for every event.

Insurance cover

Article 267

(1) An insurer providing compulsory third party insurance for motorists shall cover the liability of the insured party for damage caused to third parties, including pedestrians, cyclists and other road users, resulting from the ownership or use of a motor vehicle, including:

1. non-material and material damage resulting from bodily injury or death;
2. damage caused to the property of third parties;
3. damages representing a direct and immediate result of the injury;
4. reasonable expenditure incurred in connection with claims laid under item 1-3, including legal fees adjudicated to be at the expense of the insured party.

(2) The insurance under Paragraph 1 shall cover liability for damage caused in connection with the ownership or use of a motor vehicle by a person who:

1. is not explicitly or tacitly authorised for this, on condition that he or she has not acquired possession of the motor vehicle by means of theft, robbery or criminal act under Article 346 of the Criminal Code;
2. does not own a driving licence or whose driving licence has been temporarily withdrawn;

3. has infringed the legal requirements for motor vehicle roadworthiness.

(3) Compensation under Paragraph 1 may not exceed the insurance amount under the contract.

(4) Interest and legal fees adjudicated to be at the expense of the insurer shall not be restricted by the insurance amount.

Exceptions

Article 268

The insurer shall not pay compensation for:

1. damage suffered by the offending driver of the motor vehicle;
2. damage caused to the property of a passenger in the motor vehicle driven by the offending driver or to the property of a member of the family of the offending driver;
3. damage caused to the motor vehicle driven by the insured party and damage caused to property transported in this motor vehicle;
4. damage caused during the use of a motor vehicle in competitions, on condition that adherence to road traffic regulations was not compulsory for the participants in the competition and if not agreed otherwise;
5. damage caused in the course of use of the motor vehicle during an act of terrorism or war, on condition that the injury to third parties is directly connected to such an act;
6. damage caused by the haulage of radioactive, chemical or dangerous materials;
7. damage representing environmental pollution;
8. damage resulting from loss or destruction of money, jewellery, securities, all kinds of documents, stamps, coins or other similar collections;
9. reimbursement of payments made by the state social or health insurance system in cases of, or by reason of, death or bodily injury resulting from the insurable event;
10. interest and legal fees except in the cases defined under Article 223, Paragraph 2 and 4;
11. depreciation of the damaged property.

Claims settlement representatives

Article 269

(1) An insurer who has received or wishes to receive a licence for providing third party insurance for motorists shall be obliged to appoint a representative for settlement of claims under this type of insurance in all member states. Appointment of a representative under sentence 1 shall not represent opening a branch in the respective member state.

(2) A claims settlement representative as defined under Paragraph 1 for a member state may be a physical person resident, or a judicial entity, respectively a sole trader, with headquarters in this member state. Physical persons directly occupied with settling claims must have a fluent command of the official language of the respective member state. Other restrictions in the choice of claims settlement representative shall not be permitted.

(3) A claims settlement representative may work for more than one insurer.

(4) A claims settlement representative shall answer for the consideration and settlement of claims made by damaged parties resident in the member state in which the representative is appointed, when:

1. the motor vehicle with which the insurable event has been caused has taken out compulsory third party insurance for motorists with the insurer who has appointed the representative;

2. the motor vehicle with which the insurable event has been caused is ordinarily located in a member state other than the member state in which the damaged party is resident, and

3. the insurable event has taken place in a member state other than the member state in which the damaged party is resident or on the territory of a third state during travel between two member states.

(5) In cases as defined under Paragraph 4 the claims settlement representative shall have the authority to gather all the necessary information to ascertain the occurrence of the insurable event and the cost of the damage caused, as well as to reach extra-judicial agreement on settlement of the claim and to fulfil the obligations arising from these claims in full.

(6) Appointment of a representative under this article shall not restrict the rights of the damaged party to lay his or her claims directly to the headquarters of the insurer or to the headquarters of the insurer's branch.

(7) Paras 1-6 shall also be applied respectively to the activities of claims settlement representatives acting in the country in the name of insurers whose headquarters are outside the Republic of Bulgaria.

(8) The Guarantee Fund shall maintain a register of claims settlement representatives specified by insurers in member states to represent them on the territory of the Republic of Bulgaria.

Obligations of the insured party on occurrence of a road

transport accident

Article 270

(1) On occurrence of an insurable event, the insured party shall be obliged, in accordance with his or her abilities, to do whatever is necessary to rescue the damaged parties and restrict the damage caused to property, to notify the competent road traffic control authorities and to fulfil his or her obligations under Article 224.

(2) The insured party shall be obliged to place at the disposal of the damaged party the information necessary for laying a claim, including:

1. his or her name and address;
2. the name and address, respectively the company, headquarters and management address of the owner of the motor vehicle;
3. the registration number of the motor vehicle;
4. the company and headquarters of the insurer who has signed the compulsory third party insurance contract for motorists, and the policy number.

Obligations of the insurer

Article 271

(1) The deadline for final pronouncement on claims under compulsory third party insurance for motorists may not exceed three months from the date on which the claim is laid to the insurer who signed the third party insurance for motorists or to his or her claims settlement representative.

(2) Within the deadline specified under Paragraph 1, the party to whom the claim is addressed must:

1. define and pay the sum of the compensation, or
2. provide a reasoned standpoint on the claims laid when he or she refuses payment or when the grounds and extent of the damage have not been ascertained in full.

(3) (New, SG No. 97/2007) An insurer shall not refuse to rule on the validity of the claim for compensation under compulsory third party insurance for motorists where any of the following documents has been presented to ascertain the road accident:

1. a written statement of ascertainment of a road accident;

2. a protocol of a road accident;
 3. a protocol of a road accident not visited by the authorities of the Ministry of Interior;
 4. another certificate issued on legal grounds by the authorities of the Ministry of Interior,
- or
5. a bilateral written statement of ascertainment registered according to the established procedure with the offices of the Ministry of Interior and execute, where only property damages are caused as a result of the road accident, which do not prevent the motor vehicleTs self-propelled motion and there is an agreement between the participants in the road accident on the circumstances related to its occurrence.

(4) (New, SG No. 97/2007) Where the documents under Paragraph 1 are insufficient to ascertain material circumstances related to the occurrence of the road accident, the insurer may require presentation of documents and proofs prepared by other competent bodies or persons. Sentence One shall not limit the right of the consumer to submit proofs.

(5) (Renumbered from Paragraph 3, SG No. 97/2007) The damaged party shall enjoy the right to the interest at the legally established rate accrued during the period of delay on the sum of the compensation, calculated from the date of expiry of the deadline specified under Paragraph 1.

Obligations of the damaged party

Article 272

The damaged party shall be obliged to present to the insurer the available documents which are connected to the insurable event and the damage incurred and to cooperate with the insurer in ascertaining the circumstances connected with the event and the extent of the damage.

Insurance compensation

Article 273

(1) In cases of death or bodily injury to third parties, the compensation shall be defined by an expert insurance commission of the insurer of the offending driver or by judicial procedure.

(2) In cases of damage to property, the compensation may not exceed the actual cost of the damage caused. Compensation for damage to motor vehicles shall be defined in accordance with the regulations approved by the commission for the method of claims settlement for damage caused to motor vehicles.

(3) Compensation under compulsory third party insurance for motorists shall be defined and paid in the currency in which they claim has been laid, except in cases under Article 78, Paragraph 3. Compensation claims connected with insurable events which have occurred in the Republic of Bulgaria shall be laid in the local currency.

(4) In cases of dispute between the Guarantee Fund and the insurer who has provided the compulsory third party insurance for motorists about who must compensate the damaged party, the compensation shall be paid by the insurer. If it is established that the liability is with the Guarantee Fund, the latter shall reimburse the amount paid to the damaged party, together with the interest at the legally established rate, to the insurer.

The right to regression

Article 274

(1) Except in cases as defined under Article 227, the insurer shall enjoy the right to receive from the insured party the compensation paid by the insurer when the insured party, at the time of occurrence of the road transport accident:

1. was driving the motor vehicle after use of alcohol in a concentration of alcohol in the blood exceeding that permissible by law or under the influence of a narcotic substance or analogue thereof, or has refused to be subjected to, or has guiltily evaded, a test for alcohol, narcotic substances or analogues thereof;

2. has failed to stop and has not taken measures to repair a fault to the vehicle which has arisen in the course of driving and which jeopardises road safety, and the road traffic accident has occurred as a result of this.

(2) The insurer shall enjoy the right to receive the compensation paid from a person who has driven the motor vehicle without a driving licence.

Certificate of previous insurable events

Article 275

(1) A person who has taken out compulsory third party insurance for motorists shall enjoy the right at all times to receive from the insurer who has signed the insurance contract a certificate of compensation claims for damage caused in connection with ownership or use of the motor vehicle for which the contract has been signed, or of the lack of such claims over a period of five years before the date on which the application is submitted.

(2) The insurer shall be obliged to issue the certificates within fifteen days of the date on which the application is submitted.

Chapter Twenty-Five

COMPULSORY ACCIDENT INSURANCE FOR PUBLIC TRANSPORT PASSENGERS

Parties under obligation

Article 276

(1) Operators of public transport, when the point of departure and terminus are located within the territory of the Republic of Bulgaria, shall be obliged to take out and maintain compulsory accident insurance for passengers.

(2) Public transport vehicles shall be:

1. rail vehicles;
2. trolley buses and omnibuses;
3. aircraft;
4. all kinds of seagoing and river craft;
5. cable cars, chairlifts and drag lifts;
6. taxi cabs

Object of insurance

Article 277

(1) The object of compulsory accident insurance for passengers shall be the health, life and corporal integrity of passengers in public transport vehicles.

(2) Passengers under Paragraph 1 shall be considered to be persons located in the vehicle or in the immediate vicinity of the vehicle before embarkation and after alighting.

(3) The health, life and corporal integrity of the drivers of the vehicles and service personnel shall not be objects of the insurance

(4) Public transport operators may take out voluntary accident insurance for persons defined under Paragraph 3.

Operation of compulsory accident insurance

Article 278

(1) Compulsory insurance under Article 276 shall operate only when the insurable event has taken place on the territory of the Republic of Bulgaria.

(2) Embarkation and alighting of passengers while the vehicle is moving or away from the

places designated for this purpose shall annul the operation of the insurance unless abandonment of the vehicle while moving was provoked by immediate danger to the life or health of the passenger.

(3) When, under travel conditions as defined in Paragraph 1, an emergency dictates diversion of a passenger aircraft, seagoing or river vessel, the insurance shall operate during this diversion.

Insurance cover

Article 279

(1) Insurer liability to pay the insurance amount or the respective part of it shall arise in cases when death or permanent disability of a passenger is caused as a result of an accident covered by the insurance contract under Article 276.

(2) On occurrence of an accident, the insured passenger or his or her heirs shall enjoy the right to seek payment of the insurance amount or the respective part of it from the insurer.

Exceptions from cover

Article 280

The insurer shall not owe payment when the death or permanent disability caused to the passenger results from:

1. war, unrest or actions of a military character, rebellions, riots or similar;
2. an act of terrorism, except in cases when cover of such a risk has been explicitly agreed with the insurer;
3. a general criminal act committed by the passenger or an attempt to do so;
4. suicide or attempted suicide by the passenger;
5. an ailment of any kind of the passenger, including epileptic fits or fits arising from other ailments, haemorrhages, paralyses, gastro-intestinal infections, food poisoning and others, except in cases when suffering from sickness has arisen from the insurable event and causes death or bodily injury;
6. premature birth or miscarriage by a passenger, unless they are caused by the accident;
7. temperature disorders (colds, freezing, sunstroke or heatstroke), operations, irradiation, injections and other medical attention to a passenger, inasmuch as these are not a consequence of the accident;
8. alcohol poisoning and injury to the passenger resulting directly from alcohol poisoning or

the use of narcotics or analogues thereof by the passenger;

9. earthquake or atomic and nuclear explosions, radioactive products and pollution by radioactive products, ionizing radiation.

Insurance amount

Article 281

The minimum insurance amount for compulsory accident insurance for passengers shall be 20,000 BGN for every event for every passenger.

Chapter Twenty-Six NATIONAL OFFICE OF BULGARIAN MOTOR VEHICLE INSURERS AND GUARANTEE FUND

National Bureau of Bulgarian Motor Vehicle Insurers

Article 282

(1) The National Bureau of Bulgarian Motor Vehicle Insurers, hereinafter referred to as "the Bureau", shall be a non-profit organisation with headquarters in Sofia, registered under the Non-Profit Legal Persons Act.

(2) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union, SG No. 103/2005, supplemented, SG No. 54/2006) A member of the Bureau shall be any insurer who has received a licence under section II, letter A, item 10.1 of Annex No. 1, or who offers compulsory third party insurance for motorists in the Republic of Bulgaria in accordance with the procedures stipulated in this code. Membership in the Bureau shall be terminated only pursuant to withdrawal of the licence issued under the first sentence or when an insurer from a member country has ceased to offer compulsory third party insurance for motorists in the Republic of Bulgaria. No activity on offering this type of insurance may be performed if the insurer is not a member of the Bureau. Bureau members shall be obliged to provide and maintain a bank guarantee pursuant to the statutes under Article 6 and a reinsurance contract in compliance with criteria determined by a resolution of the Commission.

(3) The Bureau shall be a representative national office for the Republic of Bulgaria in the sense of the Internal Interbureau Regulations and will participate and cooperate in the functioning of the "green card" system and compulsory third party insurance for motorists in the member states.

(4) (*Regarding entry into force, see § 28 of the Transitional and Concluding Provisions (TCP) of the Insurance Code) The Bureau shall also implement the functions of a compensation

authority, dispensing payments in the cases defined under Article 284. The funds required for payment of compensation by the Compensation Authority shall be allocated in the budget of the National Bureau of Bulgarian Motor Vehicle Insurers for the corresponding year.

(5) When a compensation claim is addressed to the Bureau, Article 271 shall be applied except in cases when it is acting as Compensation Authority.

(6) (Supplemented, SG No. 54/2006) The organisation and activities of the Bureau shall be regulated in its statutes. Bureau members shall pay the Bureau a membership fee and other contributions provided for in the statutes. Payments due shall be established in terms of justification and amount with a resolution of the Bureau Managing Board.

(7) (New, SG No. 54/2006) The Bureau shall be subject to oversight under this Code through the application of Article 297, Paragraph 1 and Articles 298, 302, 303 and 304 respectively.

Provision of information to the Bureau

Article 283

(1) The Ministry of Interior authorities shall notify the Bureau of road transport accidents on the territory of the Republic of Bulgaria in which motor vehicles ordinarily located in a member state have taken part, of the territory on which these vehicles are ordinarily located and of their registration numbers.

(2) (Amended, SG No. 69/2008) The police authorities shall also place at the disposal of the Bureau information about the insurance according to the documents and information presented by the driver of the motor vehicle.

(3) The Bureau shall send the information received to the insurer and to the national insurance office of the member state in which the motor vehicle is ordinarily located.

(4) Paras 1 and 2 shall also be applied in cases of road transport accidents in which motor vehicles ordinarily located on the territory of a third state have taken part.

Compensation authority

Article 284

(*Regarding entry into force, see § 28 of the Transitional and

Concluding Provisions (TCP) of the Insurance Code)

(1) In its capacity as compensation authority, the Bureau shall pay compensation to a damaged party resident in the Republic of Bulgaria when:

1. the insurer of the offending driver or the representative of the insurer for settlement of

claims in the Republic of Bulgaria has not fulfilled his or her obligations within the deadline specified Article 271, Paragraph 1, or

2. the insurer of the offending driver has not appointed a representative for settlement of claims in the Republic of Bulgaria.

(2) A damaged party resident in the Republic of Bulgaria shall enjoy the right to compensation under Paragraph 1 on condition that:

1. the insurance contract of the offending driver has been taken out with an insurer established in a member state other than the Republic of Bulgaria;

2. the insured motor vehicle of the offending driver is ordinarily located in a member state other than the Republic of Bulgaria, and

3. the insurable event has taken place outside the Republic of Bulgaria in a member state or on the territory of a third state in the course of travel between the territories of two member states.

(3) In its capacity as Compensation Authority, the Bureau shall pay compensation to a damaged party resident in the Republic of Bulgaria, including when:

1. it is not possible to identify the motor vehicle which has caused the insurable event in a member state other than the Republic of Bulgaria;

2. the insurer of the offending driver cannot be identified within two months of the insurable event in a member state other than the Republic of Bulgaria, or

3. the insurable event has taken place in the Republic of Bulgaria and was caused by a motor vehicle as defined under Article 259, Paragraph 3, item 2.

(4) In its capacity as compensation authority, the Bureau shall not pay compensation:

1. under the conditions specified in Paragraph 1, item 2, when the damaged party has claimed compensation directly from the insurer and has received his reasoned standpoint on the claim within three months, or

2. when the damaged party has laid his or her claim to the insurer under a judicial procedure.

Compensation authority procedure

Article 285

(*Regarding entry into force, see § 28 of the Transitional and

Concluding Provisions (TCP) of the Insurance Code)

(1) The damaged party shall lay his or her claims for compensation payment to the Compensation Authority by means of a written application accompanied by the available evidence.

(2) The deadline for pronouncement by the Compensation Authority may not exceed two months from the date on which the claim is laid. After expiry of the deadline in sentence 1, the Compensation Authority shall owe interest at the legally established rate for the period until the date of payment. Expenses incurred in ascertaining and paying the compensation shall be paid by the offending driver or the compensation authority in cases under Article 284, Paragraph 3, item 1.

(3) On receipt of an application in accordance with Paragraph 1, the Compensation Authority shall immediately notify the following parties of this circumstance within the deadline specified in Paragraph 2:

1. the insurer of the offending driver or the claims settlement representative of the insurer;
2. the institution charged with the acting as compensation authority in the member state where the insurer is established, and
3. the offending driver, if his or her identity and address are known.

(4) Compensation authority proceedings shall be discontinued if, before the deadline for pronouncement, the damaged party receives the due compensation from the offending driver, from the insurer or from a third party, except in cases when life insurance or accident insurance payment has been received. Proceedings for compensation in accordance with Article 284, Paragraph 1 shall also be discontinued when the insurer or the claims settlement representative of the insurer issues a reasoned standpoint on the claim against them before the deadline for pronouncement specified in Paragraph 2.

(5) The damaged party shall not be obliged to prove that the offending driver is unable or refuses to pay compensation.

(6) The functions of the Compensation Authority shall comprise settlement of claims in cases which are subject to objective ascertainment, for which reason its activities are limited to verifying whether a given compensation claim has been laid in accordance with established procedures and within the stipulated deadlines, without making any assessment on the claim on its own merits. Grounds must be provided for refusal of payment under Article 284.

Reimbursement of compensation paid and subrogation into the rights of
the satisfied creditor

Article 286

(*Regarding entry into force, see § 28 of the Transitional and

Concluding Provisions (TCP) of the Insurance Code)

(1) In cases of payment under Article 284, Paragraph 1, a claim addressed to the institution acting as compensation authority in the member state in which the insurer of the offending driver is registered shall benefit the Compensation Authority.

(2) In cases of payments made under Article 284, Paragraph 3, claims addressed to the following shall benefit the Compensation Authority:

1. the institution charged with making guaranteed payments analogous to the Guarantee Fund under Article 287 in the member state in which the motor vehicle of the offending driver is habitually located, when the insurer cannot be identified;

2. the institution charged with making guaranteed payments analogous to the Guarantee Fund under Article 287 in the member state in which the insurable event has taken place, when the motor vehicle cannot be identified;

3. the institution charged with making guaranteed payments analogous to the Guarantee Fund under Article 287 in the member state in which the insurable event has taken place, when the motor vehicle is ordinarily accommodated in a third state;

4. the institution charged with making guaranteed payments analogous to the Guarantee Fund under Article 287 in a member state which has included the motor vehicle in a list of vehicles excluded from compulsory third party insurance for motorists in accordance with Article 259, Paragraph 3, item 1.

(3) In cases of claims addressed to the Compensation Authority by a compensation authority in a member state, the Compensation Authority shall reimburse the compensation paid by this authority in full and shall be subrogated into the rights of the damaged party with respect to the offending driver or with respect to his or her insurer.

(4) After fulfilling its obligations under Paragraph 3, the Compensation Authority shall send a written request to the offending driver or his or her insurer, specifying a deadline of one month from receipt of the written request in which to settle the obligation. If the obligation is not settled within the deadline under sentence 1 by persons in the Republic of Bulgaria, the Compensation Authority shall acquire a writ on the basis of the documents and account statements whereby to ascertain the claims.

Guarantee Fund

Article 287

(1) The Guarantee Fund hereinafter referred to as the "Fund", shall be a legal person with a seat in Sofia. All insurers offering compulsory "Third party liability" insurance to motorists and/or compulsory "Accident" insurance to passengers in the Republic of Bulgaria under the conditions of the right of establishment or the freedom to provide services shall make

contributions to the Fund at an amount determined in accordance with this Code. The minimum amount of available financial resources in the Fund shall be BGN 3,000,000.

(2) The financial resources in the Fund shall be raised from:

1. contributions of the insurers under Paragraph 1, determined on the basis of the concluded compulsory "Third party liability" insurances with motorists and compulsory "Accident" insurances with passengers, including the boundary insurances under Article 259, Paragraph 2.

2. additional contributions of the insurers under Article 290, Paragraph 2, item 7;

3. (supplemented, SG No. 97/2007) fines and sanctions under Article 315 and fifty per cent of the sanctions under Article 317a, Paragraph 4;

4. income from investments of the Fund's financial resources;

5. other sources, not prohibited by the law.

(3) (Amended and supplemented, SG No. 54/2006, supplemented, SG No. 97/2007, amended, SG Mo. 86/2010, effective 1.01.2011) The Commission shall determine upon proposal of the Council Fund or at its own discretion the amount of the contributions under Paragraph 2, item 1 and the term for their payment. The resolution under sentence one shall be published in the State Gazette. The annual contributions of the insurers shall be accounted for as expenses and shall be part of the insurance premium. The contribution shall be indicated on a separate line in the insurance policy or in the insurance contract.

(4) (Supplemented, SG No. 54/2006) The Commission shall determine upon proposal of the Council Fund or at its own discretion the amount of the additional contributions under Paragraph 2, item 2 and the term for their payment. The resolution under sentence one shall be published in the State Gazette.

(5) (Supplemented, SG No. 54/2006) Insurers who fail to make the payments under Paragraph 2, item 1 and 2 shall be liable for the statutory interest for the period of delay. The Fund's receivables for contributions and interest thereto shall be determined in terms of justification and amount by a resolution of the Fund's Managing Board.

(6) (Supplemented, SG No. 54/2006) The financial resources of the Fund shall be invested in pursuance of the procedure for investment of the technical reserves of the insurers provided herein. The fund shall purchase liability cover under this Code at the international reinsurance market according to criteria specified with a resolution of the Commission. The Commission relieve the Fund from its obligation under the second sentence after a sufficient financial capacity has been reached.

(7) The Commission shall adopt Rules for the Structure and Operations of the Fund, which shall be published in the State Gazette.

Payments from the Fund

Article 288

(1) The Fund shall pay compensations under compulsory Third party liability insurance to motorists for:

1. tangible and intangible damages resulting from death or physical injuries in case the road accident occurred on the territory of the Republic of Bulgaria and was caused by an unidentified motor vehicle;

2. tangible and intangible damages resulting from death or physical injuries, and for damages to third party's property, in case:

a) (amended, SG No. 21/2012) the road accident occurred on the territory of the Republic of Bulgaria, on the territory of another Member State or on the territory of a third state whose national insurers' bureau is a party to the Multilateral Agreement and was caused by a motor vehicle which is habitually located on the territory of the Republic of Bulgaria, and the guilty driver has not concluded a motorists' compulsory "Third party liability" insurance;

b) (supplemented, SG No. 97/2007) the road accident occurred on the territory of the Republic of Bulgaria or of another Member State and was caused by a motor vehicle delivered to the Republic of Bulgaria from another Member State which was not formally registered in the Republic of Bulgaria, provided that the event occurs within 30 days from the acceptance of the motor vehicle from the transferee and the guilty driver has not concluded a motorists' compulsory "Third party liability" insurance;

c) the road accident occurred on the territory of the Republic of Bulgaria and was caused by a motor vehicle habitually located on the territory of a third country and the guilty driver had no border insurance or "Green Card" certificate.

d) (amended, SG No. 21/2012) the road accident occurred on the territory of the Republic of Bulgaria, on the territory of another Member State or on the territory of a third state whose national insurers' bureau is a party to the Multilateral Agreement and was caused by a motor vehicle habitually located on the territory of the Republic of Bulgaria, the possession of which was taken by theft, robbery or a crime under Article 346 of the Criminal Code.

(2) (effective from 11.06.2007) In a road accident under Paragraph 1, item 1, when the unidentified motor vehicle caused death or considerable injuries that necessitated hospital treatment, the Fund shall also pay compensation for the damages caused to the property of all persons damaged by the same road accident exceeding BGN 500. Substantial bodily injuries shall be determined in the Rules for the Structure and Operations of the Fund.

(3) The Fund shall not make payment for damages endured by a person, who willingly travelled in the motor vehicle, having been aware that the possession thereof had been taken by theft, robbery or a crime under Article 346 of the Criminal Code.

(4) The Fund shall also pay compensations under a compulsory "Accident" insurance to

passengers, in case the carrier did not have insurance.

(5) The amount of compensation paid by the Fund cannot exceed the minimum insurance amount under compulsory insurances determined for the year in which the road accident occurred. The interests for delay under Paragraph 7, first sentence, shall be calculated separately.

(6) The Fund determines and pays compensations, Article 273 being applied *mutatis mutandis*. The compensation for damages other than the damages caused to motor vehicles shall be determined in accordance with Article 290, Paragraph 2, item 9.

(7) The Fund shall pay compensations in pursuance of the procedure determined by the Rules for the Structure and Operations of the Fund and shall be liable for interest for delay from the expiry of the term for decision on the claim presented by the injured person. The term for decision cannot exceed three months from the date of the claim presented in accordance with Article 9.

(8) The expenses for setting and paying compensation shall be borne by the guilty driver, or carrier respectively, or by the Fund, in the cases under Paragraph 1, items 1 and 2.

(9) Injured persons shall present compensation claims before any of the insurers licensed for and offering motorists' compulsory "Third party liability" insurances or passengers' compulsory "Accident" insurances, or before the Fund, by means of a written request enclosed with evidence of the road accident, the right to receive compensation in respect to the event and the amount of the damages endured. An insurer licensed for and offering motorists' compulsory insurance "Third party liability; or passengers' compulsory "Accident" insurance respectively, cannot refuse to accept a claim presented in accordance with sentence one, or to proceed at an observation of the damaged property should such be needed. The insurer shall not later than two months from receiving the request from the injured party collect the additional evidence needed; proceed at an observation if such is necessary, and submit to the Fund the entire file concerning the claim. The collection of additional evidence, determination of the amount and payment of the compensation to the injured party shall be made by the Fund within the term and in pursuance of the procedure herein provided for. The relations between the Fund and the insurer shall be regulated in an agreement.

(10) The injured party should not prove that the guilty driver cannot or refuses to pay the compensation.

(11) The injured party may present the claim for payment before the court only if the Fund has not decided on the request within the term under Paragraph 7; refuses to pay compensation, or the injured party disputes the compensation amount.

(12) After payment of the compensation under Paragraph 1 and 2, the Fund shall accede to the rights of the injured party up to the amount of the sum paid and the expenses under Paragraph 8. Where the injured party has obtained a writ of execution against the guilty driver, the Fund may use the rights thereunder on the basis of the documents and excerpts from the accounts evidencing the amounts paid. In case the Fund has determined and paid a compensation which is lesser than the amount under the writ of execution, the injured party shall be satisfied for the

difference with privilege to the Fund in the execution proceeding.

(13) After payment of the compensation under Paragraph 4, the Fund shall have a claim against the carrier up to the amount paid and the expenses under Paragraph 8.

(14) The Fund can obtain a writ of execution for its receivables under Paragraph 12 and 13 on the basis of the documents and excerpts from accounts evidencing them, upon failure of the guilty driver or carrier respectively to provide payment within one month from receiving a written invitation thereto.

Recovery of amounts paid by a compensation fund of a Member State

Article 288a

(New, SG No. 97/2007)

The Guarantee Fund shall recover amounts paid by a compensation fund of a Member State where:

1. the motor vehicle of the guilty driver is ordinarily located on the territory of the Republic of Bulgaria and the insurer cannot be identified within two months from occurrence of the insured event;

2. the insured event has occurred on the territory of the Republic of Bulgaria and the motor vehicle cannot be identified;

3. the insured event has occurred on the territory of the Republic of Bulgaria and has been caused by a motor vehicle ordinarily located on the territory of a third country and the insurer cannot be identified within two months from occurrence of the insured event.

(2) The amounts under Paragraph 1 shall be recovered in full within 15 days from the written application of the relevant compensation authority.

(3) After payment of compensation under Paragraph 1, Article 288, Paragraphs 12 and 14 shall apply.

Payments for preventive events

Article 288b

(New, SG No. 97/2007, effective 1.01.2008)

(1) (Amended, SG No. 24/2009, effective 31.03.2009) Five per cent of the funds of the Fund raised under Article 287, Paragraph 2, Item 1 in the previous year under compulsory third party liability insurance for motorists shall be spent on investment in equipment and information and communication technologies for improving road traffic safety. The funds shall be expended on projects approved by a joint decision of the Commission and the Minister of Interior, after

consulting the Fund's opinion. If necessary, an opinion by the government authorities and non-government organisations dealing with road safety shall also be requested.

(2) (Amended, SG No. 24/2009, effective 31.03.2009) The projects referred to in Paragraph 1 shall be annual and shall contain a financial justification of the specific activities and the funds required for them.

(3) (Amended, SG No. 24/2009, effective 31.03.2009) The contracts on the implementation of the projects referred to in Paragraph 1 shall be concluded by the Fund. Ownership of the items acquired in accordance with such contracts shall be granted for free to the authorities in charge of road safety.

(4) The planned funds under Paragraph 1 for the respective year, which have not been utilised under programmes adopted for the same year, shall remain in favour of the Fund.

(5) The report on the activity of the Fund shall include a detailed report on the spending of funds under Paragraph 1.

(6) Paragraph 1 shall not apply where the amount of funds of the Fund, after deduction of the funds under Paragraph 1, is less than BGN 20 million. Where the deficiency arises after approval of the annual programme of costs, the managing board shall notify the Commission, the Minister of Interior and the parties to the contracts under Paragraph 2, and shall stop financing. A person who is a party to a contract financed with funds under Paragraph 1 shall not be liable for penalties and other damages where financing under the contract has been stopped under the terms of sentence one.

Managing bodies of the Fund

Article 289

The Fund shall have the following managing bodies:

1. a Council;
2. a Managing Board;
3. an Executive Director

Council of the Fund

Article 290

(1) The Council of the Fund shall consist of representatives of all insurers offering motorists' compulsory "Third party liability" insurance and/or passengers' compulsory "Accident" insurance in the Republic of Bulgaria under the conditions of the right of establishment or the freedom to provide services.

(2) The Council shall:

1. determine the number, nominate and release the members of the Managing Board and set their remunerations;

2. nominate and release the Executive Director from among the members of the Managing Board and set his/her remuneration;

3. supervise the operations of the Managing Board;

4. (supplemented, SG No. 97/2007) adopt the Managing Board's annual report and financial report for the operations of the Fund;

5. (supplemented, SG No. 41/2010) adopt the annual budget of the Fund upon the Commission's approval;

6. propose to the Commission the amount of contributions under Article 287, Paragraph 2, item 1;

7. in case the financial resources of the fund are below the minimum amount under Article 287, Paragraph 1, third sentence or in the presence of any other need to finance the Fund's activities, propose to the Commission the amount of additional contributions under Article 287, Paragraph 2, item 2 in accordance with the average market share of insurers under these insurances in the last three calendar years;

8. take decisions on the general principles of investment of the Fund's financial resources;

9. adopt rules in compliance with the case-law regarding the procedure for settlement of claims for damages as a result of death or injuries.

(3) The Council shall have meetings at least twice a year. The meeting shall be valid where more than half of the insurers under Paragraph 1 are represented.

(4) The Council shall be convened by the Managing Board upon its initiative or upon request of at least one third of the insurers under Paragraph 1. The meeting shall be convened by means of a written invitation received by each of the insurers under Paragraph 1 not later than 14 days before the date of the meeting, or by means of an invitation published in the State Gazette not later than 14 days before the date of the meeting.

(5) The invitation for the meeting should specify the date, hour and place of the meeting, the issues on the agenda and draft resolutions. The Council may take decisions on issues not included in the agenda, only in case all insurers under Paragraph 1 are represented at the meeting, and agree the issue to be discussed.

(6) Each insurer under Paragraph 1 shall be entitled to one vote at the Council's meetings.

(7) The Council shall make decisions with a majority of more than half of the attending

insurers.

(8) (New, SG No. 41/2010) The Commission shall approve the draft annual budget of the Fund, or send it back to be redrafted where the budget contradicts the provisions of this Code or the statutory regulations governing its application, where the budget poses threats to the financial stability of the Fund or to the interest of the persons who are entitled to receivables from the Fund or where the administrative expenditures of the Fund are unjustifiably inflated, while giving binding instructions thereof.

(9) (New, SG No. 41/2010) Where no annual budget of the Fund is adopted by the beginning of the relevant year, the expenditures of the Fund until the budget adoption shall not exceed the respective expenditure amount as set for the corresponding period in the preceding year. Where the need of making higher expenditure occurs, the Managing Board shall obtain the Commission's approval for such expenditure.

Managing Board and Executive Director

Article 291

(1) The Managing Board of the Fund shall consist of 5 to 7 members.

(2) The members of the Managing Board shall be nominated for a term of office of 4 years. A member of the Managing Board can be re-elected without restriction.

(3) The Managing Board shall:

1. elect Chairperson of the Managing Board from among its members, who shall summon and manage the meetings of the Board;

2. determine the administrative-management structure, adopt the organisational chart and the rules for the salary at the Fund;

3. organise the collection of financial resources of the Fund;

4. decide on claims for compensations;

5. take decisions on the investment of the financial resources of the Fund in compliance with the law and the decisions of the Council of the Fund;

6. (supplemented, SG No. 41/2010) adopt the draft annual budget of the Fund and present it to the Council of the Fund and to the Commission;

7. organise and be liable for the spending the financial resources of the Fund;

8. (supplemented, SG No. 97/2007) prepare an annual financial report and a report for the operations of the Fund and present it to the Council of the Fund;

9. take decisions for the Fund's participation in specialized international organisations with a similar scope of activity;

10. approve agreements for cooperation of the Fund with state institutions and public organisations in relation to its activity;

11. review and decide on other issues related to the operations of the Fund outside the exclusive competence of the Council of the Fund.

(4) The Managing Board shall hold meetings at least once a month. The meetings shall be convened by the Chairperson on its initiative or upon a member's request.

(5) The meetings of the Managing Board shall be valid where more than half of its members attend. The Managing Board shall make decisions with a majority of more than half of its members.

(6) The Executive Director shall:

1. represent the Fund and perform the daily management thereof;

2. employ and release the Fund's employees;

3. perform the legal and factual actions related to the investment of the financial resources of the Fund in accordance with the decisions of the Managing Board and in compliance with the law;

4. dispose of the financial resources of the Fund in accordance with the decisions of the Managing Board; the Rules for the Structure and Operations of the Fund and this Code;

5. perform other actions assigned by the Managing Board:

(7) Article 13 and 14 hereunder shall apply to the Chairperson, the members of the Managing Board and the Executive Director of the Fund.

Information Centre

Article 292

(1) An Information Centre shall be established with the Fund, in order to allow injured persons to receive compensation under the "Third party liability" and "Accident" insurances. The Information Centre shall keep registers of:

1. (amended, SG No. 24/2009, effective 31.03.2009) the registration numbers of the motor vehicles habitually located on the territory of the Republic of Bulgaria, this information being received at the Information Centre from the Commission in accordance with the Ordinance under Article 295, Paragraph 6;

2. the insurers in the Republic of Bulgaria offering motorists' compulsory "Third party liability" insurance under the conditions of the right of establishment and the freedom to provide services;

3. (supplemented, SG No. 54/2006) data from the contracts for motorists' compulsory "Third party liability" insurance, the Green Card certificates and the contracts for border insurances including the number of the insurance contract, the insurer's name; the starting and expiry date of the coverage, the registration number of the motor vehicle and the chassis number of the vehicle, name and address/registered address of the vehicle owner;

4. a list of the representatives acting for the settlement of claims of the insurers offering motorists' compulsory "Third party liability" insurance assigned for the Republic of Bulgaria by insurers with a seat in a Member State and assigned for the Member States by insurers with a seat in the Republic of Bulgaria;

5. data about the carriers licensed to carry out public transportation of passengers, received in the Information Centre from the Ministry of Transport in accordance with Article 295, Paragraph 6

6. the insurers in the Republic of Bulgaria offering passengers' compulsory "Accident" insurance under the conditions of the right of establishment and the freedom to provide services;

7. data from the contracts for passengers' compulsory "Accident" insurance including the number of the insurance contract, the insurer's name, the starting and expiry date of the coverage, the registration number of the public transportation vehicle;

8. (amended, SG No. 54/2006) data about the motor vehicles in each Member State released from the liability to conclude motorists' compulsory "Third party liability" insurance and the authorities liable for payment of compensation to the persons injured from such motor vehicles; data under this item should be collected in accordance with Article 293, Paragraph 4.

9. (new, SG No. 97/2007) data about road accidents and participants therein.

10. (new, SG No. 24/2009, effective 31.03.2009) data about indemnities paid under insurances referred to in Items 3 and 10 of Section II, Letter "A" of Annex No. 1.

(2) (Amended, SG No. 54/2006, No. 97/2007) The Information Centre shall collect, process and preserve the information under Paragraph 1 and present it to the authorized persons under the conditions and pursuant to the procedure specified herein and in the Rules under Article 287, Paragraph 7. The information under Paragraph 1, items 1 - 4 and 9 shall be kept for 7 years following termination of the motor vehicle's registration or termination of the insurance contract. The information under Paragraph 1, item 7 shall be kept for 5 years from the termination of the operations as carrier of passengers using public transportation vehicles, or from the termination of the insurance contract.

(3) Personal data shall be processed in compliance with the Personal Data Protection Act.

(4) The structure and operations of the Information Centre shall be regulated in the Rules under Article 287, Paragraph 7.

(5) The National Bureau of the Bulgarian Motor Insurers can access the information kept in the Information Centre which is necessary for the operations of the Bureau under this Code under the terms and conditions provided for in Article 287, Paragraph 7.

Disclosure of information before an injured person

Article 293

(1) The Information Centre shall provide information to the injured party in respect to the right for compensation under the motorists' compulsory "Third party liability" insurance, as follows:

1. the firm, seat and registered address of the insurer;

2. the number of the insurance contract;

3. the name and the address, respectively the firm, seat and registered address of the representative for the purposes of the settlement of claims in the Member State of which the injured party is a resident.

(2) The Information Centre shall also provide data about the identity and address of the owner, the habitual driver or registered holder of the transportation vehicle in accordance with the documents for its registration, in case the damaged person has legal interest to receive such data.

(3) The Information Centre shall provide the injured person, with regard to his/her right to compensation under the passengers' compulsory "Accident" insurance, with the firm, seat and registered address of the insurer, and the number of the insurance contract, as well as information about the firm, seat and registered address of the carrier, should the injured party have legal interest to receive such information.

(4) The Information Centre shall require the necessary data from information centres in the Member States with regard to the provision of the information under Paragraph 1 about insurance contracts executed outside the Republic of Bulgaria, or in relation to motor vehicles habitually located outside the Republic of Bulgaria. Upon request of the information centres in Member States, the Information Centre shall be obligated to provide information from the registry.

(5) (Supplemented, SG No. 24/2009, effective 31.03.2009) In case the Information Centre has no information about the identity or address of the persons under Paragraph 2, respectively the firm, seat or registered office of the persons under Paragraph 3, it may receive it upon written request from the insurer who is a party to the respective insurance contract, or from the competent state authority keeping the registers of the owners of motor vehicles or of the carriers, or from another authority having the relevant data at its disposal.

(6) In order to receive the information under Paragraph 1, 2 or 3, the injured party shall

specify in the application the exact date and place of occurrence of the insurance event and the registration number of the motor vehicle, and other data for the establishment of such event of which the injured party is aware.

(7) The Information Centre shall provide the information under this law no later than three day after receiving a written inquiry from the injured person. This term may be extended as regards the information under Paragraph 5, but for no longer than 15 days after receipt of the written inquiry from the injured person. The information shall be provided free of charge.

(8) Access to the information under Paragraph 1 and 2 shall be guaranteed to the injured party for a period of 7 years from the date of the insurance event. Access to the information under Paragraph 3 of the persons benefiting from the rights under the motorists' compulsory "Third party liability" insurance shall be guaranteed for a three-year period from the date of the insurance event.

Provision of information by insurers

Article 294

(1) Every insurer offering a motorists' compulsory "Third party liability" insurance or a passengers' compulsory "Accident" insurance in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services shall present no later than the second working day of every week to the Information Centre reports on the executed and terminated insurance contracts as of the end of the preceding week.

(2) The reports under Paragraph 1 shall include the information under Article 292, Paragraph 1, items 3 and 7 and shall be submitted in the way and format determined by the Managing Board of the Fund in accordance with the requirements of the system for automated processing of information, the correctness and security of the submitted data being guaranteed.

(3) Insurers under Article 292, Paragraph 1, item 2 shall annually present to the Information Centre a list of their establishments within Member States, and of their representatives for the settlement of claims under Article 269, and update these lists within 15 days from any change in the respective circumstances.

(4) The information under Paragraph 1 shall also be submitted to the Commission.

(5) (New, SG No. 24/2009, effective 31.03.2009) By the end of the first business day following the conclusion of an insurance contract for compulsory third-party liability insurance for motorists, the insurance intermediaries shall provide the original contract and a copy thereof to the relevant insurer.

(6) (New, SG No. 24/2009, effective 31.03.2009) Any insurer offering compulsory third-party liability insurance for motorists and/or insurance under Item 3 of Section II, Letter "A" of Annex No. 1 in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services, shall, on a daily basis, present to the Information Centre a report of indemnities paid under insurances referred to in Items 3 and 10 of Section II, Letter "A" of

Annex No. 1.

(7) (New, SG No. 24/2009, effective 31.03.2009) The report referred to in Paragraph 6 shall contain such information, and shall be submitted in such manner and format as determined in the ordinance referred to in Article 125a, Paragraph 2 of the Road Traffic Act, in view of the requirements of the automated data processing system, with the authenticity and security of the data submitted being guaranteed.

Exchange of information and cooperation with the competent state

authorities

Article 295

(1) For the purposes of keeping the register under Article 292, Paragraph 1, the Information Centre shall exchange information with the competent state authorities registering the motor vehicles in the Republic of Bulgaria and exercising state supervision over public transportation passenger carriers.

(2) (Supplemented, SG No. 97/2007, amended, SG No. 24/2009, effective 31.03.2009) On the first business day of each week the Ministry of Interior shall provide the Commission with an up-to-date list of the motor vehicles registered in the Republic of Bulgaria as well as of deregistered motor vehicles, with information on the registration number and the frame (chassis) number of the motor vehicle, the name and address/registered address of the motor vehicle's owner. By the second business day of each week the Commission shall provide the Information Centre with an up-to-date list of the motor vehicles registered in Bulgaria as well as of deregistered motor vehicles, with information on the registration number and the frame (chassis) number of the motor vehicle. The competent authorities in charge of state supervision of public vehicle passenger carriers shall, on a weekly basis by the first business day of the following week, provide the Information Centre with an up-to-date list of registered public vehicle passenger carriers. The information indicated in the third sentence shall also be provided to the Commission.

(3) (Amended, SG No. 54/2006) The Information Centre shall provide to the respective competent authorities under Paragraph 1, no later than the Friday of every week, data updated as of the end of the preceding calendar week regarding all vehicles with concluded and acting insurance contracts for obligatory third party liability insurance and all public vehicle passenger carriers with concluded and valid insurance contracts for accident insurance for the passengers. The Information Centre shall notify the owners of vehicles for which no contract for obligatory third party liability insurance has been concluded for the motorists or the insurance contract has been terminated and has not been renewed and shall give them a 14-day term as of the date of sending the notification to provide evidence of the existence of a concluded and valid insurance contract for this type of insurance. The Information Centre shall provide on a weekly basis to the competent authorities of the Ministry of the Interior a list of the vehicles for which no evidence has been provided under the preceding sentence. The Information Centre shall notify the authorities exercising government oversight on public vehicles passenger carriers about the carriers who have not concluded obligatory third party liability insurance for the passengers.

(4) (Amended and supplemented, SG No. 54/2006) The competent authorities under Paragraph 1 shall immediately take measures for decommissioning the motor vehicles or the vehicles for public transportation of passengers and imposing the respective administrative sanctions when no obligatory insurance has been concluded.

(5) (Supplemented, SG No. 97/2007, SG No. 24/2009, effective 31.03.2009) The Information Centre shall exchange information with the competent state authorities registering the road accidents that have occurred on the territory of the Republic of Bulgaria. Monthly, by the 25th day of the month, the Ministry of Interior shall provide to the Information Centre information containing individualised data under the terms of the ordinance under Article 125a, Paragraph 2 of the Road Traffic Act about road accidents caused in the previous month and participants therein. The Information Centre shall on a daily basis provide the Ministry of Interior with information as per Article 294, Paragraph 6.

(6) (Supplemented, SG No. 24/2009, effective 31.03.2009) The forms and manner of exchanging information and of interaction under this article shall be set out in an Ordinance issued jointly by the Minister of Foreign Affairs, the Minister of Transport and the Commission, the opinion of the Fund being also considered. The Ordinance under sentence one shall also provide for measures for the preservation of confidentiality protected by the law. Insurers shall provide the Information Centre with information on the accidents documented by a bilateral written statement of ascertainment, in such format and according to such procedure as provided for in the ordinance referred to in Article 125a, Paragraph 2 of the Road Traffic Act.

(7) (New, SG No. 54/2006) The documents drawn up by the Fund on the basis of data of the Information Centre, unless the opposite has been proven, shall certify the insurer, the number the contract for the obligatory third party liability insurance or accident insurance for the passengers, the starting and end date of the cover, the registration and the chassis numbers of the vehicle, the name and address/registered address of the vehicle owner or of the public vehicle passenger carrier.

Information system

Article 295a

(New, SG No. 24/2009, effective 31.03.2009)

(1) The Information Centre shall establish and maintain an electronic information system for risk assessment, management and control, including for policy issuance.

(2) The establishment and maintenance of the information system referred to in Paragraph 1 shall be based on the following principles:

1. guaranteeing that the data submitted and stored is up-to-date and accurate;
2. ensuring an adequate data exchange environment;

3. guaranteeing regulated and controlled access to the data in the electronic information system, subject to statutory requirements, and

4. ensuring operational compatibility and information security.

(3) The collection and storage of the information referred to in Paragraph 1 as well as insurers' access thereto shall be regulated by an ordinance of the Commission and by the Rules referred to in Article 287, Paragraph 7.

Supervision over the operations of the Fund

Article 296

The Fund shall be subject to supervision hereunder, the rules for the supervision over insurers shall apply *mutatis mutandis*.

PART SIX ON-GOING SUPERVISION. COERCIVE ADMINISTRATIVE MEASURES

Chapter Twenty-Seven ON-GOING SUPERVISION

Scope of the on-going supervision

Article 297

(1) The Commission and the Deputy-Chairperson shall exercise on-going supervision over the insurers and re-insurers seated in the Republic of Bulgaria regarding their overall operations herein carried out. Supervision under Article 88 shall be exercised by the Commission and the Deputy Minister regarding their operations carried out within the Member States.

(2) The on-going supervision over the insurers from Member States carrying out operations in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services shall be exercised the Commission and the Deputy Chairperson regarding their operations in the country, except for the supervision over their financial condition within the meaning of Article 88, which shall be exercised by the competent authorities of the Member State at their seat.

(3) The on-going supervision over insurers from a third country carrying out operations in the Republic of Bulgaria through a branch office, shall be exercised by the Deputy Chairperson regarding their overall operations in the country. In case the competent supervision authorities hereunder have been selected in accordance with Article 47, Paragraph 3, on-going supervision

shall be exercised pursuant to Paragraph 1, and in case the authorities of another Member State were selected, on-going supervision shall be exercised pursuant to Paragraph 2.

(4) The Deputy Chairperson shall exercise on-going supervision over the entire operations of the insurance agents with permanent residence or seat in the Republic of Bulgaria; shall see for the continuous compliance with the conditions for their operations and undertake the measures hereunder for removal of established violations.

Powers of the competent authorities

Article 298

(1) (Supplemented, SG No. 97/2007) Article 18 and 19 from the Financial Supervision Commission Act shall apply to on-going supervision. The Deputy Chairperson may order inspections at the insurer's, respectively reinsurer's premises.

(2) (Amended and supplemented, SG No. 97/2007) The insurers and reinsurers seated in a Member State shall present to the Commission and the Deputy Chairperson the documents and information needed with regard to supervision under Article 297, Paragraph 3.

(3) (Supplemented, SG No. 97/2007) The Commission and the Deputy Chairperson shall publish the insurers' and reinsurers' annual and regular financial reports and the applied coercive administrative measures and imposed administrative sanctions under the conditions and pursuant to the procedure set out in the Ordinance under Article 30, Paragraph 2 of the Financial Supervision Commission Act.

Additional supervision over insurers and reinsurers belonging to an

insurance or a reinsurance group

(Title supplemented, SG No. 97/2007)

Article 299

(1) (Supplemented, SG No. 97/2007) Insurers or reinsurers licensed for the performance of operations hereunder shall be subject to additional supervision, should:

1. (supplemented, SG No. 97/2007) they be a shareholding company of at least one insurer, re-insurer or insurer or reinsurer from a third country;

2. (amended, SG No. 59/2006, amended and supplemented, SG No. 97/2007) whose parent undertaking is an insurance holding, an insurer from a third country or a reinsurer from a third country;

3. (amended, SG No. 59/2006) whose parent undertaking is an insurance holding with mixed operations.

(2) (Amended, SG No. 97/2007) Supervision under Paragraph 1 shall take into account the operations of the companies:

1. related to the insurer;
2. holding interest in the capital of the insurer or reinsurer;
3. related to those holding interest in the capital of the insurer or reinsurer.

(3) (Supplemented, SG No. 97/2007) The insurer, respectively the reinsurer under Paragraph 1 shall provide the Commission with information for the purposes of the additional supervision under the conditions and pursuant to the procedure herein provided for. In case the information is not presented in pursuance of the procedure under sentence one, the Deputy-Chairperson can obtain it from any of the persons under Paragraph 2, and make an inspection on site of any of the persons under Paragraph 2 for the purpose of its collection or confirmation.

(4) (Supplemented, SG No. 97/2007) In exercising additional supervision under Paragraph 1, the Commission and the Deputy Chairperson may not consider the condition of any of the persons under Paragraph 2, should they be in a third country where legal restrictions for the provision of the necessary information apply. The rules for assessment of the insurer's, respectively reinsurer's indices in the absence of information shall apply in this case.

(5) (Supplemented, SG No. 97/2007) In exercising additional supervision under Paragraph 1, the Deputy Chairperson may in some cases not consider the condition of a person under Paragraph 2, should the person be of negligible interest for the purposes of additional supervision over insurers or reinsurers or consideration of its financial situation is inappropriate or misleading in view of the purposes of additional supervision over insurers or reinsurers.

(6) (Supplemented, SG No. 97/2007) Additional supervision under Paragraph 1 shall not be regarded as separate supervision over insurers from third countries, reinsurers from third countries, an insurance holding or an insurance holding with mixed operations.

(7) (Amended, SG No. 59/2006, No. 97/2007) In case insurers or reinsurers belonging to an insurance or a reinsurance group are seated in different Member States and have a parent undertaking by one insurance holding, insurer from a third country, reinsurer from a third country or insurance holding with mixed operations, the Commission may by virtue of an agreement concluded with a competent authority of a Member State transfer the power of exercising additional supervision over insurers under Paragraph 1, or be vested with exercising additional supervision over insurers seated in another Member State.

(8) (Supplemented, SG No. 97/2007) In order to establish or confirm essential information necessary for additional supervision under Paragraph 1, kept by a person under Paragraph 2 seated in a Member State, the Commission or the Deputy Chairperson can request assistance from the competent authorities of this Member State subject to local rules. In case the Commission has received a request from a competent authority of a Member State for assistance in the establishment or confirmation of essential information necessary for the additional supervision exercised by such authority, kept by a person seated in the Republic of Bulgaria,

which is related party to the insurer or reinsurer in the Member State, holds interest in this insurer or reinsurer or is related party to a person holding interest in this insurer or reinsurer, the Chairperson of the Commission shall order an inspection under Article 19 of the Financial Supervision Commission Act. Representatives of the authority of the Member State or experts thereby nominated may participate in the inspection upon request thereof.

Exchange of information with the competent authorities

Article 300

(1) The Commission and the Deputy Chairperson shall take the opinion of the competent authorities carrying out insurance supervision in Member States:

1. (amended, SG No. 59/2006, supplemented, SG No. 97/2007) before granting a licence to an insurance or reinsurance undertaking whose parent undertaking is an insurance or reinsurance undertaking with head office in a Member State or which is controlled by another natural or legal person exercising control over an insurance or reinsurance undertaking with head office in a Member State;

2. (amended, SG No. 59/2006, supplemented, SG No. 97/2007, repealed, SG No. 24/2009, effective 31.03.2009).

(2) The Commission and the Deputy - Chairperson shall take the opinion of the Bulgarian National Bank and the authorities carrying out bank supervision in a Member State:

1. (amended, SG No. 59/2006, supplemented, SG No. 97/2007) before granting a licence to an insurance or reinsurance undertaking whose parent undertaking is a bank authorized in the Republic of Bulgaria or in another Member State, or which is controlled by another legal or natural person which exercises control over a bank authorized in another Member State;

2. (amended, SG No. 59/2006, repealed, SG No. 24/2009, effective 31.03.2009).

(3) (Amended, SG No. 97/2007) The Commission and the Deputy Chairperson shall take the opinion of the competent authorities carrying out supervision over the investment intermediaries in the Member States:

1. (amended, SG No. 59/2006, amended and supplemented, SG No. 97/2007) before granting a licence to an insurance or reinsurance undertaking whose parent undertaking is an investment intermediary with head office in a Member State or which is controlled by another legal or natural person which exercises control over an investment intermediary with head office in a Member State;

2. (amended, SG No. 56/2006, No. 97/2007, repealed, SG No. 24/2009, effective 31.03.2009).

(4) (Amended, SG No. 59/2006, amended and supplemented, SG No. 97/2007, amended, SG No. 24/2009, effective 31.03.2009) The Commission and the Deputy Chairperson shall provide

upon request by the competent authorities under Paragraphs 1 - 3 an opinion in case an insurer or a reinsurer seated in the Republic of Bulgaria, a natural or legal person controlling an insurer or a reinsurer seated in the Republic of Bulgaria exercises control over an insurer or a reinsurer, a bank or an investment intermediary subject to the supervision of these authorities.

(5) The information about the suitability of shareholders and the reputation and professional experience of the members of the management and control bodies within the group shall be subject to exchange. This information shall also be provided with regard to the proceedings for issuance of license or acquisition of qualified shareholding, and with regard to the on-going supervision exercised over the operations of these companies,

(6) (Supplemented, SG No. 97/2007) Should an insurer or a reinsurer seated in the Republic of Bulgaria be directly or indirectly related to an insurer or a reinsurer seated in a Member State or these insurers or reinsurers have a common shareholder, the Commission and the Deputy Chairperson shall exchange with the competent authorities in such state any information of relevance to the additional supervision over the insurers or reinsurers within the meaning of Article 299, Paragraph 1. The information shall be provided upon request of the interested party, or ex officio, should it be considered important for the respective supervision body.

(7) (New, SG No. 97/2007) The Commission and the Deputy Chairperson shall exchange with the competent authorities exercising insurance supervision in Member States other documents and information for the purposes of supervision over insurers and reinsurers.

Supervision over the technical basis

Article 301

The insurers carrying out operations under Section I of Annex No 1 shall, at the order of the Deputy Chairperson, present the technical basis used for the calculation of the insurance tariffs and the formation of the technical reserves. The Deputy Chairperson shall give instructions for their amendment should incompliance with a legal instrument be established.

Chapter Twenty-Eight COERCIVE ADMINISTRATIVE MEASURES

Section I

Types of coercive administrative measures. Proceedings.

Types of measures

Article 302

(1) (Amended, SG No. 97/2007) The Deputy Chairperson can apply the measures under Paragraph 2 when he/she ascertains that an insurer or a reinsurer, its employees, any of the

persons under Articles 13, 22, 26, Article 41, Paragraph 2, item 4 or Article 47b, Paragraph 2, Item 4, any persons concluding transactions on behalf of an insurer or a reinsurer, the shareholders or members in a cooperative, holding directly, together with or through related parties 10 or more per cent of the votes in the general meeting or of the capital of the insurer or the reinsurer, have committed actions that resulted in, or because of failures to act, they have allowed:

1. (supplemented, SG No. 97/2007) a violation of the provisions of this Code, the secondary legislation concerning its implementation, the acts of the Commission or of the Deputy Chairperson, or of the programme of operations of the insurer or reinsurer;

2. have impeded insurance supervision;

3. (supplemented, SG No. 97/2007) have concluded transactions or taken actions that affect the financial or organisational stability of an insurer or a reinsurer;

4. (amended, SG No. 97/2007) have threatened the interests of the consumers of insurance services.

(2) In cases under Paragraph 1, the Deputy Chairperson shall apply the following coercive administrative measures:

1. order in writing the undertaking of specific measures for the elimination of committed violations and the repair of their harmful consequences;

2. prescribe the attainment of: yield which for insurers offering "Life" insurances is equal to not less than the technical interest; security and liquidity of the investments of technical reserves and equity;

3. (supplemented, SG No. 97/2007) impose measures for rehabilitation of the insurer's or reinsurer's financial condition;

4. (supplemented, SG No. 97/2007) obligate the insurer or reinsurer in writing to increase its own funds within a prescribed time limit;

5. (supplemented, SG No. 97/2007) determine the structure of assets that would guarantee payments under insurance or reinsurance contracts;

6. summon a general meeting of the shareholders or of the members of a cooperative, under an agenda determined by the Deputy Chairperson, or schedule a meeting of the managing or controlling authorities for the adoption of a decision on the measures that should be undertaken, and send representatives of the Commission to the sessions of the general meeting of the shareholders or of the members of a cooperative, respectively, or of the management and control bodies;

7. temporarily suspend the payment of dividends;

8. obligate an insurer offering compulsory insurance to conclude a contract with a person that has been refused such conclusion;

9. for a term of up to 12 months suspend a shareholder from exercising the right of voting;

10. prohibit the conclusion of new insurance or re-insurance contracts for all or separate types of insurances, the extension of concluded insurance contracts, and the extension of coverage thereunder for a period of up to 6 months ;

11. (supplemented, SG No. 97/2007) limit or prohibit the free disposal of assets in cases under Article 72, Paragraph 2, Article 79b, Paragraph 2, Article 86, Paragraph 1 or 2, and upon revocation of the insurer's or reinsurer's license;

12. (supplemented, SG No. 97/2007) impose additional reporting requirements to the insurer or reinsurer;

13. (supplemented, SG No. 97/2007) obligate the insurer or reinsurer to dismiss the head of the office for internal control, individuals holding management positions, and/or terminate the powers of persons concluding transactions on behalf of the insurer or reinsurer;

14. (supplemented, SG No. 97/2007) order the insurer or reinsurer to terminate an agreement under Article 60;

15. (supplemented, SG No. 97/2007) appoint a registered auditor, licensed actuary or expert to perform financial, actuary or other inspection at the expense of the insurer or reinsurer.

(3) In cases under Paragraph 1, the Commission upon proposal of the Deputy Chairperson can:

1. (amended and supplemented, SG No. 97/2007) order in writing the insurer or reinsurer to make the necessary arrangements for the dismissal of one or more persons authorized to manage or represent the insurer, or each of the persons under Articles 13, 22, 26, 41, Paragraph 2, item 4, or Article 47b, Paragraph 2, Item 4, and the responsible actuary under Article 95;

2. order in writing a shareholder to transfer its shares within a specified term;

3. assign a questor for up to one year.

(4) Revocation of a license under Article 36 shall also be a coercive administrative measure, unless the person has explicitly made a waiver the of issued license.

(5) The Commission may inform the public of the measures imposed under Paragraph 2, 3, and 4 or of operations that threaten the interests of the insured persons.

(6) (Amended, SG No. 30/2006) Administrative Procedure Code shall not apply to coercive administrative measures under Paragraph 2, item 5, 7, 9 and 11, Paragraph 3 and Paragraph 4 as regards the explanations and objections of interested parties.

(7) Coercive administrative measures under Paragraph 2, item 1 and 4 and Paragraph 3, item 1 can also be imposed on insurance brokers.

(8) (Amended, SG No. 34/2006) At the request of the Deputy Chairperson, respectively of the commission, the circumstances, respectively the acts referred to in Items 3, 7, 9, 10 and 11 of Paragraph (2) shall be entered in the Commercial Register.

Proceedings for implementation of coercive administrative measures

Article 303

(1) The proceedings for implementation of coercive administrative measures shall be initiated upon initiative of the Deputy Chairperson.

(2) Notices and communications in the proceedings for implementation of coercive administrative measures can be made by registered mail with a return receipt, by phone or by fax. Notices and communications sent by registered mail with a return receipt shall be evidenced with the receipt for their delivery; notices made by phone shall be documented in writing by the official who has made them; and notices made by fax - by written confirmation of sending.

(3) In case the notices and communications are not accepted at the address, telephone or fax specified by the persons or recorded in the register under Article 30, these shall be considered validly made if placed at the specifically designated areas of the building of the Commission. The latter circumstance shall be certified by a protocol prepared by officials designated in an order of the Deputy Chairperson.

(4) The coercive administrative measures under Article 302, Paragraph 2 shall be imposed by a written reasoned resolution of the Deputy Chairperson, and the coercive administrative measures under Article 302, Paragraph 2 - by a written reasoned resolution of the Commission. Resolutions shall be notified to the interested person within 7 days from their issuance.

(5) The resolution for implementation of coercive administrative measures shall be subject to immediate execution, irrespective of being appealed. The appeal of a resolution for implementation of a coercive administrative measure shall not suspend its execution.

Applicability of the Administrative Procedure Code

(Title amended, SG No. 30/2006)

Article 304

(Amended, SG No. 30/2006)

The Administrative Procedure Code shall apply to the implementation of coercive administrative measures, unless otherwise herein provided for.

Section II

Specific rules in the proceedings for implementation of coercive administrative measures

Notifying Member States of coercive administrative measures taken

Article 305

(1) (Supplemented, SG No. 97/2007) The Deputy Chairperson shall notify the competent authorities of the Member States where an insurer or a reinsurer seated in the Republic of Bulgaria carries out operations under the conditions of right of establishment or freedom to provide services of the imposed coercive administrative measures under Article 302, Paragraph 2, items 3 and 11, and advise whether they should undertake the same measures.

(2) (Supplemented, SG No. 97/2007) In case the Deputy Chairperson has imposed a coercive administrative measures under Article 320, Paragraph 2, item 11 with regard to the revocation of license of an insurer or a reinsurer seated in the Republic of Bulgaria and carrying out operations under the conditions of the right of establishment or the freedom to provide services, the Deputy Chairperson suggests to the competent authorities of the respective Member States to impose the same measure.

Acts of the Commission upon notification of the implementation of a

coercive administrative measure to an insurer or a reinsurer seated in

another Member State

(Title supplemented, SG No. 97/2007)

Article 306

(1) (Supplemented, SG No. 97/2007) In case the Commission is notified by the respective competent authority of a Member State of origin of an imposed restriction or prohibition for disposal of assets, and of measures undertaken with regard to the application of a short-term plan to an insurer or a reinsurer carrying out operations in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services, it shall undertake the same measures against the insurer or reinsurer should there be a request to this effect.

(2) In case the Commission is notified by the respective competent authority of a Member State of origin of the revocation of license of an insurer carrying out operations in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services,

the Commission shall undertake actions to prevent the conclusion by the insurer of new insurance contracts, the extension of existing contracts, the increase of the insurance amounts and the extension of coverage. In cooperation with the competent authorities of the Member State of origin, the Commission shall take all necessary measures for protection of the interests of the insured persons, including the restriction of the insurer's right to dispose of its assets.

(3) (New, SG No. 97/2007) Paragraph 2, sentence one shall also apply where the Commission is notified by the relevant competent authority of a Member State of origin of revocation of license of a reinsurer carrying out operations in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services.

Coercive administrative measures against an insurer or a reinsurer

seated in another Member State

(Title supplemented, SG No. 97/2007)

Article 307

(1) In case the Deputy Chairperson ascertains that an insurer seated in another Member State carrying out operations in the Republic of Bulgaria under the conditions of the right of establishment and the freedom to provide services violates this Code or the secondary legislation concerning its implementation, the Deputy Chairperson shall order in writing that the violations are discontinued and the damages caused - eliminated.

(2) In case the violations are not discontinued within the specified term, the Deputy Chairperson shall notify the competent authority in the Member State at the origin of the insurer and advise on the need to undertake measures.

(3) (Supplemented, SG No. 97/2007) Should in spite of the measures undertaken by the competent authorities of the Member State of origin or if these turned out to be inappropriate or insufficient, or if such measures have not been undertaken, the insurer continue to violate this Code or the acts concerning its implementation, the Deputy Chairperson may, after notifying the competent authorities of the Member State of origin of the insurer, undertake the necessary measures to cease and desist the violations and to impose sanctions, and in very serious cases - prohibit the conclusion of new insurance contracts in the Republic of Bulgaria.

(4) In exceptional cases, the Deputy Chairperson may impose the measures under Paragraph 3 without prior notification to the competent authority of the Member State at the origin of the insurer, as provided for in Paragraph 2 and 3.

(5) (New, SG No. 97/2007) Paragraphs 1, 3 and 4 shall also apply to reinsurers seated in a Member State. The notification under Paragraph 2 shall be made simultaneously with the issue of the order under Paragraph 1.

Actions of the commission

Article 308

(Supplemented, SG No. 97/2007)

In case the Commission is notified by the respective competent authority of the Member State of the branch office or at the provision of services of an insurer or a reinsurer seated in the Republic of Bulgaria that violates the legislation of the state on the territory of which it carries out operations under the conditions of right of establishment or the freedom to provide services, the Commission, or the Deputy Chairperson, respectively, shall apply coercive administrative measures under Article 302 and notify the competent authority of the respective Member State of the applied measures.

Special rules for participation in administrative, administrative penal
and legal proceedings. Delivery of documents

Article 308a

(New, SG No. 97/2007)

(1) An insurer, a reinsurer, an insurance or a reinsurance intermediary from a Member State or from a third country who has opened a branch within the meaning of § 1, Item 8 of the additional provisions in the Republic of Bulgaria, shall participate in administrative, administrative penal and legal proceedings before Bulgarian administrative, administrative penal and judicial authorities through the authorized representative of the branch. The actions performed by or against the authorized representative shall be binding on the insurer, reinsurer or intermediary. The documents delivered in accordance with the established procedure at the registered address of the branch shall be considered delivered to the insurer, reinsurer or intermediary. This provision shall apply mutatis mutandis to insurers, reinsurers or intermediaries seated in the Republic of Bulgaria carrying out operations in a Member State under the conditions of the right of establishment.

(2) In proceedings for imposing coercive administrative measures and for implementing administrative penalties for violations committed by an insurer, reinsurer, insurance or reinsurance intermediary from a Member State carrying out operations in the territory of the Republic of Bulgaria under the conditions of the freedom to provide services, the Commission, its Chairperson or Deputy Chairperson shall send documents and notifications in accordance with the procedure set out by the law of the Member State by the person's seat, and may request cooperation from the competent authorities of the other Member States for the delivery or notification. Where such procedure is not stipulated and delivery of documents or notification cannot be effected with the cooperation of the competent authorities, the documents and notifications shall be sent by registered post with advice of delivery to the registered address of the person in the Member State by its seat and shall be considered delivered on the date of receipt written in the advice of delivery.

(3) In proceedings for implementing coercive administrative measures and for imposing administrative sanctions for violations committed by an insurer, reinsurer, insurance or

reinsurance intermediary seated in the Republic of Bulgaria and carrying out operations in the territory of a Member State under the conditions of the freedom to provide services, the competent authority of the Member State by place of providing the services shall send documents and notifications by registered post with advice of delivery to the registered address of the person in the Republic of Bulgaria. The documents and notifications shall be considered delivered on the date of receipt written in the advice of delivery. Where the law of the state by place of providing the services does not provide for notification under sentence one and sentence two, the Deputy Chairman shall organise delivery of the documents and notifications on behalf of the competent authority of the Member State.

Chapter Twenty-Nine QUESTOR

Requirements

Article 309

(1) The questor shall be a natural person.

(2) The questor should comply with the requirements of Article 13, Paragraph 1, item 3-5, and 7, and:

1. not be the husband, relative in direct or collateral line to the sixth degree inclusive or relative by-law to the third degree inclusive, of a member of a management or control body of the insurer whose powers were terminated by the questor's assignment deed;

2. not be in relations with the insurer or with its debtor that give rise to reasonable doubts in his/her objectivity;

(3) The questor shall declare in writing before the Commission the circumstances under Paragraph 2 and notify it immediately of any changes therein.

Grounds for the appointment of a questor

Article 310

(1) The Commission may appoint one or more questors in case:

1. the insurer submits untrue information about the results of its operations or in any other way impedes insurance supervision;

2. the insurer is in a short-term plan procedure;

3. (amended, SG No. 34/2006) The licence of insurer is withdrawn until the appointment of trustee into bankruptcy or entry of liquidator into the Commercial Register.

(2) After the issuance of the deed for appointment of questor the Commission shall immediately submit it to the respective insurer and publish notification thereof in one central daily newspaper. The questor may step in office immediately.

(3) The Commission may issue binding instructions for the questor's operations and terminate his/her powers at any time, and appoint another questor in its stead. The deeds under sentence one shall not be subject to appeal.

Rights and obligations of the questor

Article 311

(1) The appointment of a questor shall suspend all powers of the management and control bodies of the insurer, which shall be exercised by the questor to the extent of the restrictions provided for in the its assignment deed. The questor shall take all necessary measures for the protection of the interests of the insured persons.

(2) The questor shall be entitled to remuneration at the amount determined by the Commission. The remuneration shall be at the expense of the insurer.

(3) Acts and transactions carried out on behalf and at the expense of the insurer without the preliminary authorization of the questor shall be void.

(4) Should two or more questors be appointed, they shall take decisions by unanimity and exercise their powers jointly, unless the Commission decides otherwise.

(5) The questor has unlimited access of and control over the insurer's premises, accounting and other documentation and property.

(6) All employees of the insurer shall cooperate with the questor in the performance of his/her powers.

(7) The questor shall report for its operations to the Commission only and shall immediately present upon request a report for its activity.

(8) During the management by a questor the general meeting of the Shareholders or of the members of a cooperative of the insurer can be convened by the questor only and takes decisions on the agenda announced by the questor except for the decision to wind up the insurer.

(9) Upon request of the questor the public prosecution and the authorities with the Ministry of Interior shall provide assistance in the exercise of powers under Paragraph 1.

(10) The questor shall exercise his/her powers with due level of care. It shall be liable only for damages caused intentionally or in gross negligence.

Questor of a reinsurer

Article 311a

(New, SG No. 97/2007)

This Chapter shall also apply to the questor of a reinsurer.

PART SIX "A" **(New, SG No. 97/2007)** **GUARANTEE OF INSURANCE RECEIVABLES ON AN** **INSURER'S BANKRUPTCY**

Scope

Article 311b

(New, SG No. 97/2007)

(1) Under the conditions of this Chapter are guaranteed receivables of consumers of insurance services in case of bankruptcy of an insurer seated in the Republic of Bulgaria or an insurer from a third country who has registered a branch under the Commerce Act in the Republic of Bulgaria.

(2) Insurers who are licensed to provide the insurances under Article 311c, Paragraph 2 shall make contributions to the Insurance Receivables Security Fund, hereinafter referred to as "the Security Fund", under the terms and procedure set out in this Part. Insurers from a third country shall make contributions to the Security Fund only for the operations performed through the branch registered in the Republic of Bulgaria.

Guaranteed insurance receivables

Article 311c

(New, SG No. 97/2007)

(1) Guaranteed shall be receivables under Paragraph 2 of natural persons, non-profit legal entities and merchants representing micro enterprises within the meaning of the Small and Medium-Sized Enterprises Act.

(2) Guaranteed shall be all insurance receivables of the persons under Paragraph 1 arising from insurance contract for compulsory third party liability insurance for motorists or for accident insurance of passengers or for insurance under Section I of Annex I. Interest receivables on an insurer's default on payable insurance receivables shall not be guaranteed.

(3) Insurance receivables shall be guaranteed:

1. (supplemented, SG No. 24/2009, effective 31.03.2009) regarding the compulsory third party liability insurance for motorists and the compulsory accident insurance of passengers - in full up to the amount of the minimum compulsory level of the insurance amount set out hereby, subject to the limitation under paragraph 4;

2. regarding insurances under Section I of Annex No. 1 - in the amount of 70 per cent of their value, but not more than BGN 8,000.

(4) (New, SG No. 24/2009, effective 31.03.2009) Insurance receivables under Paragraph 3, Item 1 concerning material damage sustained by merchants shall be guaranteed up to BGN 301,000, subject to the terms and procedure of the effective Community Regulation on the application of Articles 87 and 88 of the Treaty to de minimis aid.

(5) (Renumbered from Paragraph 4, SG No. 24/2009, effective 31.03.2009) For the purposes of this Part, insurance receivables shall be the receivables arising from:

Exceptions

Article 311d

(New, SG No. 97/2007)

(1) No guaranteed insurance receivables shall be paid under Article 311c, Paragraph 3, Item 2 to:

1. persons holding shares entitling them to 1 or more than 1 per cent of the votes in the general meeting of the insurer;

2. members of managing or control bodies of the insurer, the managing director of the branch of the insurer from a third country registered in the Republic of Bulgaria under the Commerce Act, as well as to other persons who have been empowered to manage or represent the insurer or the branch of the insurer from a third country registered in the Republic of Bulgaria under the Commerce Act;

3. the head and the employees of the internal control department of the insurer and the auditors appointed in accordance with the legally established procedure to audit the annual report of the insurer;

4. companies under Article 299, Paragraph 2, as well as persons under Items 1 - 3 in such companies;

5. persons liable for the bankruptcy of the insurer or have benefited from it;

6. spouses, relatives in direct and collateral line up to the second degree inclusive of natural persons under Items 1 - 5.

(2) No guarantee shall be provided on insurance receivables arising from or related to transactions and actions constituting money laundering within the meaning of Article 2 of the Measures against Money Laundering Act if the offender is convicted and has an enforced sentence.

(3) The circumstances entailing the exceptions under Paragraphs 1 and 2 shall be established at the date of the decision of the Commission on revocation of the issued licence for insurance.

Insurance Receivables Security Fund. Status

Article 311e

(New, SG No. 97/2007)

(1) An Insurance Receivables Security Fund shall be established.

(2) The Security Fund shall be a separate account managed by the bodies of the Guarantee Fund under Article 287, who are supported in this activity by the administration of the Guarantee Fund.

(3) The Security Fund shall be transformed, dissolved or liquidated by a law.

(4) (Supplemented, SG No. 24/2009, effective 31.03.2009) Upon liquidation of the Security Fund, after payment of its liabilities, the remainder of its property shall be distributed among the insurers, after the initial contribution referred to in § 146, Paragraph 2 of the transitional and final provisions of the Act Amending and Supplementing the Insurance Code (SG, No. 97 of 2007) is refunded, pro rata to the contributions paid by them, except for those insurers whose liabilities to consumers of insurance services have been paid by the Security Fund.

Functions of the Guarantee Fund with regard to the Security Fund

Article 311f

(New, SG No. 97/2007)

(1) The Guarantee Fund under the conditions and procedure of this Part shall:

1. collect the annual contributions of the insurers;
2. pay the guaranteed amounts of insurance receivables.

(2) The funds of the Security Fund may not be used for other payments by the Guarantee Fund.

Powers of the Managing Board of the Guarantee Fund with regard to the

management of the Security Fund

Article 311g

(New, SG No. 97/2007)

The Managing Board of the Guarantee Fund shall:

1. carry out the actions for collection of insurers' contributions;
2. invest the funds of the Fund in compliance with the requirements for security and ongoing liquidity;
3. organise payment of guaranteed amounts of insurance receivables under the conditions and procedure of this Part;
4. prepare and adopt a separate annual financial report on the operations of the Security Fund and submit it to the Commission;
5. every year, by 31st March, adopt and promulgate in the State Gazette an annual financial report for the previous year.

Sources of raising funds for the Security Fund

Article 311h

(New, SG No. 97/2007)

The sources of raising funds for the Security Fund shall be:

1. contributions by insurers;
2. income from investment of funds of the Security Fund;
3. amounts received by the Security Fund from the property of the insurer in the cases of subrogation;
4. income from receivables on recourse claims;
5. other sources (loans, donations, foreign aid, etc.).

Annual contribution and basis for its determination

Article 311i

(New, SG No. 97/2007)

(1) Any insurer shall make an annual contribution to the Security Fund as follows:

1. for any person insured under every risk insurance contract under Section I of Annex No. 1, ensuring cover in the respective year - BGN 0.70;

2. for any person insured under all the other insurance contracts under Section I of Annex No. 1, ensuring cover in the respective year - BGN 1.00, but not more than 2 per cent of the amount of the due annual premium;

3. for every motor vehicle in respect of which a compulsory third party liability insurance for motorists is concluded for the respective year - BGN 1.50;

4. for every seat except the driver's seat for which a compulsory accident insurance of the passengers for the respective year is concluded - BGN 0.20.

(2) Insurers, including branches of insurers from a third country, shall transfer the due annual contribution by 31 May of the year following the year for which the contribution refers.

(3) On failure to pay the contribution within the stipulated time limit, a default interest shall be charged on the due amount in the amount of the legal interest.

(4) (Amended, SG No. 86/2010, effective 1.01.2011) Annual contributions of insurers shall be reported as expenses and shall be part of the insurance premium. The contribution shall be specified on a separate line in the insurance policy or in the insurance contract.

Non-refundability of contributions

Article 311j

(New, SG No. 97/2007)

Contributions made by the insurer shall not be subject to refund, including upon dissolution of the insurer, except in the cases under Article 311e, Paragraph 4 or if a law provides for otherwise.

Covering the deficiency of funds on the Fund

Article 311k

(New, SG No. 97/2007)

(1) If the funds of the Security Fund are not sufficient to cover its liabilities under this Code, by a decision of the managing board of the Guarantee Fund the deficiency shall be covered in one of the following ways:

1. obliging insurers to transfer in advance annual contributions, and determination of the

amount of the advance contributions shall be made on the basis of the annual contributions for the previous year;

2. increasing the annual contribution;

3. using loans under terms and procedure approved by the managing board of the Guarantee Fund; the managing board of the Guarantee Fund may not approve less favourable loans than the market ones.

(2) The amount paid in advance under Paragraph 1, Item 1 shall be deducted from the annual contribution due by the insurer for the next year and the excess amount shall be subject to return within the time limit under Article 311i, Paragraph 2.

(3) In case of deficiency the Fund may use loans:

1. from Bulgarian and foreign banks as well as from other persons;

2. from the state budget subject to a decision of the National Assembly.

(4) The loans used by the Security Fund may be secured by a guarantee issued by the state or by assets of the Fund, including future receivables of the Fund from insurers for annual contributions.

Consequences from non-payment of annual contributions

Article 311l

(New, SG No. 97/2007)

If within three months an insurer fails to pay the required contribution or interest due under Article 311i, Paragraph 3, the managing board of the Guarantee Fund shall notify the Commission of the need to implement coercive measures under Article 302.

Gathering of information by the Security Fund

Article 311m

(New, SG No. 97/2007)

(1) The Commission shall provide, upon request by the managing board of the Guarantee Fund, the necessary information for calculation of the contributions due by insurers.

(2) The managing board of the Guarantee Fund may use the data received thereby only for performance of the functions assigned.

(3) The members of the managing board of the Guarantee Fund and the employees of the Guarantee Fund may not disclose personally or through somebody else information which has

come to their knowledge professionally, where such information constitutes insurance, commercial or other legally protected secret.

Use of the funds of the Security Fund

Article 311n

(New, SG No. 97/2007)

(1) The funds of the Security Fund may be used only for payment of guaranteed insurance receivables up to the guaranteed amounts in the cases set out herein and for payment of principal and interest on loans taken by the Fund in the cases of Article 311k, Paragraph 3.

(2) The funds of the Security Fund shall be invested in:

1. securities issued or guaranteed by the state or other Member States;
2. short-term deposits with banks with an investment credit rating assigned by at least one of the rating agencies determined by a decision of the Commission.

Terms and procedure for payment of amounts on the guaranteed insurance receivables

Article 311o

(New, SG No. 97/2007)

(1) Out of the funds of the Security Fund liabilities of the respective insurer to consumers of insurance services under Article 311c, Paragraph 1 shall be paid upon entry into force of the decision on the insurer's filing into bankruptcy.

(2) Out of the funds of the Security Fund the guaranteed amounts of insurance receivables shall be paid through a bank designated by the managing board of the Guarantee Fund.

(3) The trustee of the insurer in bankruptcy shall submit the list under Article 689 of the Commerce Act to the managing board of the Guarantee Fund immediately after its drawing up. The managing board of the Guarantee Fund may submit a written objection before the court with a copy to the trustee against admitted or non-admitted receivable by the trustee under the procedure of Article 690 of the Commerce Act. Within 15 days from the date of publication of the final list of admitted receivables under Article 692 of the Commerce Act, the trustee shall submit it to the managing board of the Guarantee Fund. If the managing board of the Guarantee Fund has submitted an objection under Article 690, Paragraph 1 of the Commerce Act, it may lay a claim for establishing the existence of a non-admitted receivable or non-existence of admitted receivable under the procedure of Article 694 of the Commerce Act.

(4) Within 15 days from receipt of the final list under Paragraph 3, sentence three, the

managing board of the Guarantee Fund shall make public in at least two central daily newspapers the day from which authorized consumers of insurance services may receive payments from the Security Fund as well as the bank through which such payments will be made.

(5) Payment of amounts from the Security Fund on indisputable insurance receivables shall commence not later than 45 days from the date of the publication under Paragraph 4. The time limit under sentence one shall be 15 days for additionally claimed and admitted receivables approved by the court.

(6) Where the guaranteed receivable is denominated in foreign currency, the consumer of insurance services shall be paid the lev equivalent of the guaranteed amount of the receivable at the exchange rate of the Bulgarian National Bank on the initial day of payment of the guarantee on the receivables.

(7) The amount of the liabilities of the respective insurer to the consumers of insurance services shall be reduced by the amount of the paid sum.

(8) The managing board of the Guarantee Fund shall notify the trustee on a regular basis of the amount of paid receivables to every consumer of insurance services.

(9) For their receivables above the amount received from the Security Fund, the consumers of insurance services shall satisfy themselves against the property of the insurer in accordance with this Code.

Subrogation

Article 311p

(New, SG No. 97/2007)

(1) From the date of publication of the final list of admitted receivables, the Security Fund shall enter into the rights of the consumers of insurance services against the insurer up to the amount of the guaranteed sums, regardless of the amount and the date on which the Fund has made payments on the guarantee to every consumer of insurance service.

(2) The Guarantee Fund shall owe no interest on the guaranteed sums.

Limitation of advertisement

Article 311q

(New, SG No. 97/2007)

The insurers covered by the system for guarantee of insurance receivables may not advertise guarantee of insurance receivables in amounts exceeding those stipulated in this Part.

PART SEVEN

ADMINISTRATIVE PENAL PROVISIONS

Liability for violation of the conditions and procedure of this Code

Article 312

(1) Any person that carries out or allows the performance of insurance without license obtained in pursuance of the procedure herein provided for or in violation of the rules of the right of establishment or the freedom to provide services, shall be sanctioned by:

1. fine amounting from BGN 2,000 to BGN 10,000 - for natural persons;
2. pecuniary sanction of BGN 50,000 to BGN 200,000 - for legal persons or sole traders.

(2) The pecuniary sanction under Paragraph 1, item 2 shall also be imposed on an insurer who has carried out insurance operations under the types of insurance for which it is not licensed.

(3) Upon repeated violation the sanction under Paragraph 1, item 1 shall amount from BGN 4,000 to BGN 20,000, and under Paragraph 1, item 2 and Paragraph 2 - from BGN 100,000 to BGN 400,000

(4) Any person that carries out or allows the performance of operations as insurance broker or insurance agent without being registered in pursuance of the procedure provided for in this Code in the Register under Article 30, Paragraph 1, item 9 of the Financial Supervision Commission Act or in violation of the rules for the right of establishment or the freedom to provide services, shall be sanctioned by:

1. fine amounting from BGN 2,000 to BGN 10,000 - for natural persons;
2. pecuniary sanction of BGN 5,000 to BGN 50,000 - for legal persons and sole traders.

(5) Upon repeated violation the sanction under Paragraph 4, item 1 shall amount from BGN 4,000 to BGN 20,000, and under Paragraph 4, item 2 from BGN 100,000 to BGN 400,000

(6) Paragraphs 4 and 5 shall not apply to persons carrying out insurance agency under Article 150, Paragraph 3.

(7) The sanctions under Paragraph 4, item 2 and Paragraph 5 shall also be imposed on the insurer or re-insurer using for their operations on the territory of the Republic of Bulgaria the agency services of persons under Paragraph 4 provided that these persons do not perform insurance agency under Article 150, Paragraph 3.

Liability for violation of the requirements for technical reserves

Article 313

(Amended, SG No. 97/2007)

An insurer, respectively reinsurer which commits or has allowed a violation of Article 66, Paragraph 1 or 3, Article 68, Paragraph 1 - 4, Article 72, Paragraph 1 and Article 77, shall be imposed a pecuniary sanction amounting from BGN 10,000 to BGN 40,000, and upon repeated violation - from BGN 20,000 to BGN 80,000

Liability for Non-Fulfilment of a Coercive Administrative Measure

Article 314

(1) The non-fulfilment of a coercive administrative measure imposed by the Commission or by the Deputy Chairperson shall be sanctioned by:

1. fine amounting from BGN 1,000 to BGN 20,000 - for natural persons;
2. pecuniary sanction of BGN 4,000 to BGN 40,000 - for legal persons and sole traders.

(2) Upon repeated violation the sanction under Paragraph 1, item 1 shall amount from BGN 2,000 to BGN 4,000, and under Paragraph 1, item 2 from BGN 8,000 to BGN 80,000.

Liability for failure to conclude compulsory insurance

Article 315

(1) (Supplemented, SG No. 54/2006) Any person that has not concluded a compulsory insurance under Article 249, item 1 or 2, or that is driving a vehicle whose ownership and use is not covered by a concluded and valid contract for obligatory third party liability insurance of the motorists shall be sanctioned by:

1. (amended, SG No. 54/2006) fine amounting from BGN 400 to BGN 600 - for natural persons;
2. (amended, SG No. 54/2006) pecuniary sanction of BGN 2000 to BGN 5,000 - for legal persons and sole traders.

(2) (Amended, SG No. 54/2006) Upon repeated violation the sanction under Paragraph 1, item 1 shall amount BGN 2000, and under Paragraph 1, item 2 - BGN 10,000.

(3) An insurer which has violated Article 250 shall be sanctioned by a pecuniary sanction amounting from BGN 5,000 to BGN 20,000, and upon repeated violation - from BGN 10,000 to 40,000.

Liability as to placing signs, marks or other indications

Article 315a

(New, SG No. 51/2011, effective 6.10.2012)

A person who drives a motor vehicle with signs, marks or other indications placed in breach of the prohibition under Article 186a(1), excluding those under Article 186a(3) or ones that represent micro engraving which does not directly or indirectly point to the existence of an insurance contract, shall be sanctioned by a fine of BGN 50.

Liability for violation of the procedure for acquisition and

disposal of qualified interest in an insurance company

Article 316

(Amended, SG No. 24/2009, effective 31.03.2009)

Any person that acquires or transfers shares in an insurance company in violation of Article 16, Paragraph 3 and Article 16a, Paragraph 11, or of the prohibition under Article 16a, Paragraph 5, shall be sanctioned by:

1. a fine amounting to BGN 2,000 to BGN 10,000 - for natural persons, regardless of whether this person acquires or transfers the shares on his/her own behalf or for another person;
2. a pecuniary sanction of BGN 5,000 to BGN 10,000 - for legal entities.

Liability for the provision of untrue information

Article 317

(1) A member of a management or control body of an insurer or re-insurer, or another person that manages or represents such body, that provides or allows the provision of untrue information with regard to insurance supervision shall be sanctioned by a fine from BGN 10,000 to BGN 50,000, in case the violation does not qualify as a crime.

(2) The Deputy Chairperson may also impose temporary suspension of the right to exercise operations as a person under Paragraph 1.

(3) For a violation under Paragraph 1 an insurer shall be imposed a pecuniary sanction amounting from BGN 20,000 to BGN 100,000.

Liability for violations in providing information under Article 294

Article 317a

(New, SG No. 97/2007)

(1) An insurer who has provided the information about a concluded insurance contract for compulsory third party liability for motorists under the procedure of Article 294, Paragraphs 1 and 4 in the period from the 8th to the 45th day inclusive from the date of its conclusion shall be penalised with a sanction of BGN 20 for each individual contract.

(2) For insurance contracts for compulsory third party liability for motorists concluded in the period from 15 December to 15 February, the sanction under Paragraph 1 shall be imposed where the information is provided in the period from the 45th day to the 60th day from the date of conclusion of the contract.

(3) Where the information about the conclusion of insurance contracts for compulsory third party liability for motorists is provided with delay exceeding the period specified in Paragraphs 1 and 2, the sanctions under Article 319 shall be imposed.

(4) (Effective 1.04.2008, SG No. 97/2007) An insurer who has provided incomplete or incorrect entry of information under the terms of Article 294, Paragraphs 1 and 4 about a registration number, number of frame, name and address of the owner of a motor vehicle for which a compulsory third party liability insurance for motorists is concluded, shall be penalised with a sanction of BGN 20 for every separate entry.

Liability as to introducing requirements for the placement
of signs, marks or other indications

Article 317b

(New, SG No. 51/2011)

An insurer that commits or allows a violation of Article 186a shall be liable to a pecuniary sanction from BGN 30,000 to BGN 60,000. In case of recurring violations, the pecuniary sanction shall amount from BGN 60,000 to BGN 120,000.

Liability of the questor, the liquidator and the trustee

Article 318

(Amended, SG No. 97/2007)

A questor, liquidator or trustee who fails to implement or has breached an instruction or order of the Commission, its Chairperson or the Deputy Chairperson shall be sanctioned by a fine amounting from BGN 1,000 to BGN 10,000.

Liability for violations of the legal framework

Article 319

(1) (Amended, SG No. 97/2007) Any person who violates or allows violation of this Code, the acts concerning its implementation, except for the cases under Article 312 - 318 of direction or order of the Commission, its Chairperson or Deputy Chairperson, shall be sanctioned by:

1. fine amounting from BGN 500 to BGN 3,000 - for natural persons;
2. pecuniary sanction of BGN 1,000 to BGN 0,000 - for legal persons.

(2) Upon repeated violation the sanction under Paragraph 1, item 1 shall amount from BGN 1,000 to BGN 6,000, and under Paragraph 1, item 2 from BGN 2,000 to BGN 40,000.

Procedure for imposition of administrative sanctions

Article 320

(1) (Amended, SG No. 54/2006, supplemented, SG No. 51/2011, effective 6.10.2012) The acts for establishment of an administrative violation shall be issued by officials authorised by the Deputy Chairperson, and in the cases under Article 315, Paragraph 1 and 2 and Article 315a - by the officials from the controlling services under the Road Traffic Act.

(2) (Supplemented, SG No. 54/2006, amended, SG. No. 82/2006, No. 97/2007, SG No. 69/2008, supplemented, SG No. 51/2011, effective 6.10.2012) The penalty decree shall be issued by the Deputy Chairperson, and for violations under Article 315, Paragraph 1 and 2 and Article 315a - by the Director of the Regional Directorate of the Ministry of Interior.

(3) The establishment of violations, the appeal and implementation of penalty decrees shall be carried out in accordance with the Administrative Violations and Sanctions Act.

(4) (New, SG No. 97/2007, repealed, SG No. 77/2012, effective 9.10.2012).

ADDITIONAL PROVISIONS

§ 1. Within the meaning of this Code:

1. "Consumers of insurance services" shall be the insured person, the third beneficiary party, the injured party, other persons for whom rights under an insurance contract have arisen, and the natural person or the legal person interested in using the services provided by an insurer or by an insurance intermediary, regard being had at his/her objectives.

2. "Insurance risk" is the objective probability for damages to be caused to material or immaterial goods, the realization of which is uncertain, unknown and inattributable to the will of the insured person.

3. "Insurance event" is the occurrence of a covered risk under insurance within the term of insurance cover.

4. "Insured person" is the one whose material and/or immaterial goods make the object of an insurance contract

5. "Insurance amount" (limit of liability) is the amount determined in a legal instrument or specified in an insurance contract representing the upper limit of the insurer's liability to the insured person, the beneficiary or the third injured party.

6. "Member State" is a state member of the European Union or another country belonging to the European Economic Area.

7. "Third country" is a country, which is not a Member State within the meaning of item 6.

8. (Supplemented, SG No. 97/2007) "Branch office" is a legal form through which an insurer or a reinsurer is present on a permanent basis on the territory of a Member State, having established an office therein managed by its employees or by other persons explicitly and continuously authorized by the insurer to act on its behalf. "Branch office of an insurer or a reinsurer from a third country" shall be a branch office registered under the Commerce Act by an insurer or a reinsurer seated in a third country.

9. (Amended, SG No. 59/2006) "Control" shall exist where a particular entity (the controlling entity):

(a) holds more than half of the votes in the general meeting of another legal person (subsidiary undertaking), or

(b) has the right to determine more than half of the members of the management or supervisory bodies of another legal person (subsidiary undertaking) and is a shareholder or partner in that person, or

(c) has the right to exercise dominant influence over a legal person (subsidiary undertaking) by virtue of contract or its constituent act or articles of association, if this is admissible by the legislation applicable to the subsidiary undertaking, or

(d) is a shareholder or a partner in an undertaking and:

(aa) more than half of the members of the management or supervisory bodies of that legal person (subsidiary undertaking) performing such functions in the previous and current financial years and until the preparation of the consolidated accounts have been determined only as a result of the exercise of its voting right, or

(bb) controls on a stand-alone basis by virtue of contract with other shareholders or partners in this legal person (subsidiary undertaking) more than half of the votes in the general meeting of that legal person, or

(e) may otherwise, in the opinion of the competent authorities, exercise a dominant influence over the decision-making on the activity of another legal person (subsidiary undertaking).

In the cases referred to in (a), (b) and (d) the votes of the controlling entity shall be increased by the votes of the subsidiary undertakings over which it exercises control, as well as by the votes of the entities acting on their own behalf but for its account or for the account of its subsidiary undertaking.

In the cases referred to in letters (a), (b) and (d) the votes of the controlling entity shall be reduced by the votes attaching to the shares held for the account which is an entity other than the controlling entity or its subsidiary undertaking, as well as by the votes attaching to the shares subject to pledge if the rights therein are exercised on the order and in the interest of the pledgor.

In the cases referred to in letters (a) and (d) the votes of the controlling entity shall be reduced by the votes attaching to the shares held by the subsidiary undertaking itself through an entity controlled thereby or through an entity acting on its own behalf but for the account of the controlling entity and the subsidiary undertaking.

10. (Amended, SG No. 59/2006) "Participation" shall exist where a person holds directly or indirectly 20 or more than 20 per cent of the capital or the votes in the general meeting of an undertaking as well as where a person holds rights in the capital of another undertaking which by way of creating permanent relationship with that undertaking are aimed to contribute to the activity of the undertaking.

11. "Participating company" is:

- a) (amended, SG No. 59/2006) a parent undertaking; or
- b) a company that holds interest within the meaning of item 10, or
- c) a company related to another company through joint management in accordance with a contract between them or in accordance with their acts of incorporation, or
- d) a company where more than half of the members of its management or control bodies also are more than half of the members of the management or control bodies of another company for a period including one financial year until the preparation of consolidated financial statements of the companies for that same year.

12. (Amended, SG No. 59/2006) "Connected persons" shall mean a situation in which two or more natural or legal persons are linked in one of the following ways:

- (a) by control relationships;
- (b) permanently with one and the same person by a control relationship;
- (c) one of them holds, directly or through a person controlled thereby, 20 or more than 20

per cent of the votes in the general meeting or the capital of the other person;

(d) holding, directly or by way of control, 20 or more than 20 per cent of the votes in the general meeting or the capital of these persons.

(e) a third person holding directly or by way of control 20 or more than 20 per cent of the votes in the general meeting or the capital of these persons.

Connected persons shall furthermore be spouses, lineal relatives up to any degree, collateral relatives up to the third degree of consanguinity inclusive, and relatives by marriage up to the third degree of affinity inclusive.

13. (Amended, SG No. 59/2006) A "related company" is a subsidiary undertaking, a company in which interest is held within the meaning of item 10, or a company related to another, pursuant to item 11, letters "c" and "d".

14. "General terms" shall be typical clauses applicable to an unlimited number of insurance contracts irrespective of their name.

15. (Supplemented, SG No. 97/2007, amended, SG No. 86/2010, effective 1.01.2011) "Establishment in a Member State" is the seat, representative office, or branch office of a legal entity, including any case of permanent presence of the legal entity in the territory of a Member State even if such presence does not include a representative or branch office, but a permanent office managed by personnel of the legal entity or by a person that is independent but has permanent powers to act on behalf of the legal entity.

16. "Household" are the persons, irrespective of their family relation, who live together in separate residential premises and have a common budget.

17. "Administrative expenses" are the expenses for the service of insurance and re-insurance contracts and the management of the insurance portfolio.

18. (Supplemented, SG No. 97/2007) "Member State of the branch office" is the Member State where the branch office of the insurer that has concluded the agreement covering the risk, respectively where the Member State in which the branch of the reinsurer is located.

19. "Member State of provision of services" is the Member State where the risk is located should the risk be covered by an insurer or a branch office established in another Member State.

20. "Member State of origin" is the Member State:

a) (supplemented, SG No. 97/2007) where the insurer covering the risk is seated, respectively the Member State where the seat of the reinsurer is located;

b) where the permanent residence and where the insurance broker or insurance agent who is a natural person carries out operations; the Member State where the insurance broker or the insurance agent who is a legal person is seated;

c) where the insurer has received a license upon transformation under chapter eleven.

21. "National Insurance Bureau" shall be a professional organisation established pursuant to Recommendation No 5 adopted on 25th of January 1949 by the Subcommittee of the Committee on Inland Transport of the Economic Commission of the Organisation of the United Nations for Europe, and bringing together the insurers licensed for insurance operations on the territory of a country where they are entitled to carry out insurance under Section II, letter "A", item 10 of Annex No 1, except for the "Liability of the carrier" insurance under Section II, letter "A", item 10.2. of Annex No 1.

22. "Member State where the risk is located" shall be:

a) a Member State where the real estate is located, should the insurance contract cover risks related to real estates including buildings and chattels inside them, provided they are insured under the same contract;

b) a Member State where a motor vehicle is registered, should the insurance refer to risks related to a motor vehicle of any kind; in case the motor vehicle is delivered from one Member State to another it is considered that the risk is located in the country of destination from the moment of acceptance of the delivery by the transferee for a period of 30 days, even if the motor vehicle has not been formally registered;

c) a Member State where the insurer has concluded an insurance contract for travelling or tourism risks, provided that the maximum duration of the contract does not exceed four months;

d) (amended, SG No. 86/2010, effective 1.01.2011) in all other cases the risk shall be located in:

aa) the Member State where the insured person is a permanent resident, when the insured person is a natural person; or

bb) the Member State where the legal person is established, to which the insurance contract is related, if the insured person is a legal entity.

23. "Co-insurance within the European Union" shall be joint insurance where high risks within the meaning of item 29 are covered under the following additional conditions:

a) the size of the risk subject to insurance calls for the participation of more than one insurer for the coverage thereof;

b) the risk subject to insurance is covered in a single contract at a single premium and during the same period by two or more insurers, referred to as co-insurers, each assuming its own part of the obligation to pay compensation to the insured;

c) one of the co-insurers qualifies as leading co-insurer and determines the terms of validity and the conditions of the insurance contract, as well as the amount of premium rates;

d) the risk subject to coverage is located within the European Union;

e) for the purposes of risk coverage, the leading insurer is treated as if it were covering the whole risk, and

f) at least one of the co-insurers, party to the coinsurance contract, has a seat in a Member State of the European Union other than the State at the seat of the leading co-insurer, or is party to the contract through a branch office seated in such Member State.

24. (Supplemented, SG No. 97/2007) "Assignor" is an insurer or re-insurer that transfers all or part of the risks under concluded insurance contracts and pays re-insurance premiums to a re-insurer or to an insurer carrying out inward insurance.

25. "Deferred acquisition costs" shall be acquisition expenses referring to the remaining period of insurance coverage under insurance contracts valid as at the end of a reporting period and which have entered into force during the same period, which are carried forward to subsequent reporting periods.

26. "Acquisition costs" are expenses resulting from the conclusion or renewal of insurance contracts which may be:

a) direct - acquisition commissions (encashment commission upon payment of regular premiums under long-term insurances under Section I of Annex No 1 shall not be included), costs for the preparation of insurance contracts and their inclusion in the insurance portfolio;

b) indirect costs - for advertisement and overheads related to the preparation of offers, the conclusion of contracts and the renewal of existent contracts.

27. "Redemption value" is the stipulated amount under insurances pursuant to Section I, item 1, 2, 3 and 5 of Annex No 1, which the insurer pays to the insured person or to a third beneficiary party upon early termination of the contract.

28. "Family members" shall be the husband, wife, children up to 18 years of age, and should they pursue their education - up to 26 years of years, and if they are disabled or permanently unable to work - irrespective of age.

29. "High risk" shall be the risks under the type of insurances within the meaning of Section II of Annex No 1, as follows:

a) under items 4, 5, 6, 7, 11 и 12 - in all cases;

b) under item 14 and 15 - in case the insurer carries out commercial operations or practices a liberal profession and the risks are associated with this operations or profession;

c) under items 3, 8, 9, 10, 13 and 16 - provided that the insurer meets at least two of the following three criteria:

- aa) balance-sheet amount - more than BGN 12,4 million;
- bb) net turn-over - more than BGN 25,6 million;
- cc) average number of insurer's employees during the financial year - 250.

In case the insurer belongs to a group for which consolidated financial statements in accordance with Article 37, Paragraph 2 of the Accountancy Act are prepared, the criteria under letter "c" shall apply on the basis of the consolidated financial statement.

30. "Solid carrier" is a hard copy, diskette, CD, and any other carrier that allows the user to preserve information addressed personally in a way ensuring future access to this information about a period corresponding to the purposes for which it is provided, and which allows this information to be reproduced unchanged.

31. "Host Member State" is a Member State:

- a) which is not the Member State of origin and where the insurer has a branch office;
- b) (supplemented, SG No. 97/2007) where the reinsurer, insurance broker or insurance agent has a branch office or provides services.

32. "Third beneficiary party" is another person specified by the insurer in the insurance contract who is entitled to receive the complete amount or part of the insurance indemnity or the insurance amount.

33. "Period of insurance cover" is the period during which the insurer covers the insurance risk

34. "Insurance interest" is the lawfully recognised necessity for protection against the consequences of an insurance event.

35. "Motorist" is the owner, user, holder or driver of a motor vehicle who can cause damages to third parts by holding or using it.

36. "Green Card Certificate" shall be an international certificate of insurance issued on behalf of a national bureau under item 21 in accordance with Recommendation No 5 adopted on 25 January 1949 by the Road Transport Sub-committee of the Inland Transport Commission of the United Nations Economic Commission for Europe.

37. "Repeated violation" shall be a violation committed within one year of the effective date of a penalty decree, whereby penalty for the same violation has been imposed

38. "Systematic violations" shall be three or more administrative violations under this Code or under the acts concerning its implementation committed within one year or three and more administrative violations committed within three consecutive years.

39. (New, SG No. 59/2006) "Parent undertaking" shall mean a legal person which exercises control over one or more undertakings (subsidiary undertakings).

40. (New, SG No. 59/2006) "Subsidiary undertaking" shall mean a legal person controlled by another legal person (parent undertaking). The legal persons which are subsidiary undertakings of the subsidiary undertaking shall also be regarded as subsidiary undertakings of the parent undertaking.

41. (New, SG No. 59/2006) "Mixed financial holding company" shall mean a financial holding company within the meaning of § 1, subparagraph 14 of the additional provisions of the Supplementary Supervision of Financial Conglomerates Act.

42. (New, SG No. 97/2007) "Retrocession" shall mean transfer of risks assumed under a reinsurance contract to another reinsurer or insurer who performs inward insurance.

43. (New, SG No. 97/2007) "Financial undertaking" shall be one or more of the following persons performing operations in a Member State or in a third country:

a) a credit institution, financial institution under Article 3, Paragraph 1 of the Credit Institutions Act or an ancillary company under Article 2, Paragraph 4 of the same Act;

b) an insurer, reinsurer under Article 8, Paragraph 2, insurance holding under Article 27, Paragraph 1 or a health insurance company;

c) an investment intermediary;

d) a mixed financial holding company.

44. (New, SG No. 97/2007) "Special purpose vehicle for alternative insurance risk transfer" shall be a legal entity or an unincorporated person other than an insurer or reinsurer, which assumes risks from an insurer or reinsurer under a contract and which finances in full its risk exposure through debt issue or another financing arrangement, provided that the rights of the creditors or of the participants in the financing arrangement are subordinated to the reinsurance obligations of the vehicle.

45. (New, SG No. 97/2007) "Reinsurance with limited risk assumption" is reinsurance where the maximum possible loss expressed as a maximum assumed economic risk which arises both from assumption of substantial insurance risk and due to assumption of time risk, exceeds the amount of the premium for the entire term of the contract with a limited but substantial amount whereby at least one of the following characteristics shall be in place as well:

a) express and actual consideration of the value of money over time;

b) contractual covenants which equalize economic results between the countries for the entire term of the contract, in order to achieve the intended transfer of risk.

46. (New, SG No. 97/2007) "Duration" shall mean the average weighted maturity of payments under insurance or reinsurance claims.

47. (New, SG No. 97/2007) "Substantial investment" shall mean an investment whereby an adverse development in its inherent risks may jeopardise with its volume the solvency of the person who made it.

48. (New, SG No. 97/2007) "Significant risk exposure" shall mean assumption of a specific credit, investment, insurance, market or another risk whereby an adverse development in this risk may result in a probable loss sufficiently big to jeopardise the solvency of the person who assumed it.

49. (New, SG No. 97/2007) "Significant risk concentration" is a combination of several significant exposures to a single risk which are insignificant per se but together and on existing connection between developments of risks are sufficiently big to jeopardise the solvency or the stability of the person who assumed them.

50. (New, SG No. 97/2007) "Prudence" is an objective criterion of careful behaviour, applied by a conscientious, cautious and competent person in a critical and comprehensive assessment of available information about the circumstances relating to decision-making.

51. (New, SG No. 97/2007) "Catastrophic event" shall be the occurrence of a covered risk to which a great number of insured persons are exposed simultaneously and significant damages are suffered as a result of its effect.

52. (New, SG No. 24/2009, effective 31.03.2009) "Persons acting in agreement" shall be two or more persons, where, in view of the nature of the relations among them or between any of them and a third party, according to their market behaviour or the trade transactions executed thereby, it could reasonably be assumed that they exercise or would exercise the rights associated with the shares held by them in the insurer in accordance with an explicit or tacit agreement with another shareholder. This shall apply to two or more persons related in one or more of the following ways:

a) spouses, relatives in direct line of ascent or descent without limitation as to degree, collateral relatives up to the fourth degree, inclusive of relatives by marriage up to and including the third degree;

b) partners;

c) persons where one participates in the management of the other or of a subsidiary thereof;

d) persons in whose management or control body the same legal entity or natural person participates, including in case the physical person represents a legal entity;

e) a company and a person holding more than 10 percent of the emitted voting stocks and shares in the company;

- f) persons where one exerts control over the other;
- g) persons whose activities are controlled by a third party or a subsidiary thereof;
- h) persons jointly controlling a third party or a subsidiary thereof;
- i) persons where one is a trade representative of the other.

53. (New, SG No. 21/2012) "Multilateral Agreement" shall be the Agreement between the national insurers' bureaux of the Members States of the European

Economic Area and other Associate States, concluded in Rethymno, Crete, on 30 May 2002, as amended and supplemented, as well as any other agreement concluded between the national insurers' bureaux of member states between themselves and/or with the national insurers' bureaux of other states in compliance with Article 2, littera "a" and/or Article 8, indent 1, paragraph 2 of Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to third party liability insurance in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (OJ, L 263/11 of 7 October 2009).

54. (New, SG No. 60/2012, effective 7.08.2012) "Specialised care" is medical care provided by a nurse, physical therapist or another qualified person for the purpose of facilitating the recuperation process.

55. (New, SG No. 60/2012, effective 7.08.2012) "Palliative care" is medical care aimed at relieving the condition of terminally ill patients which is not intended to, or cannot heal them.

§ 2. Advertisement materials and other signs indicating the presence of relations between an insurer and an insured person cannot be placed on insured movable or immovable property, unless otherwise provided for in a law.

§ 3. The documents required under this Code and issued in a language other than Bulgarian should be accompanied by a translation into the Bulgarian language and legalized in compliance with the requirements of the effective legislation. In case of discrepancy between the versions, the Bulgarian one shall be deemed accurate.

§ 4. (1) (Amended, SG No. 97/2007) The minimum amounts under Article 82, Paragraph 1 shall be updated every year and their amount in EUR shall be increased with the percentage increase of the European index of consumer prices published by Eurostat provided that this percentage exceeds by 5 per cent the last re-calculation. The result shall be rounded up to any complete EUR 100,000.

(2) The minimum reserves of the insurance amount for compulsory insurance and of the own funds of the insurance agent shall be updated every 5 years with their value in EUR increase with the percentage increase of the European index of the consumers' prices published by Eurostat over the period from the last update. The first update should be completed as of 15th of January 2008. The result shall be rounded up to an entire EUR.

(3) The minimum insurance amounts under Article 266, respectively under

§ 27, Paragraph 2 shall be updated every 5 years as from 11 July 2005 with the European index of consumer prices increased with the percentage specified therein and the result shall be rounded up to any complete EUR 10,000.

(4) The Commission shall in due course make proposals for amendment to the provisions of this Code in accordance with Paragraph 1-3.

§ 4a. (New, SG No. 48/2007) (1) According to Council Directive 91/371/EEC, when opening a branch office and carrying out insurance operations of the type as laid down in section II of Appendix No. 1 by an insurer having its seat in the Republic of Bulgaria in the Swiss Confederation, respectively by an insurer having its seat in the Swiss Confederation in the Republic of Bulgaria, as well as regarding the supervision of such activity the Agreement between the European Economic Community and the Swiss Confederation concerning direct insurance other than life assurance shall apply.

(2) The Financial Supervision Commission shall disclose the practice for the application of the Agreement under the terms of Article 9, Paragraph 1 of the Financial Supervision Commission Act.

§ 4b. (New, SG No. 97/2007) This Act transposes the provisions of:

1. Council Directive 64/225/EEC on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession.

2. Council Directive 72/166/EEC on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and to the enforcement of the obligation to insure against such liability.

3. Council Directive 72/430/EEC amending Council Directive 72/166/EEC on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and to the enforcement of the obligation to insure against such liability.

4. First Council Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance.

5. Council Directive 73/240/EEC abolishing restrictions on freedom of establishment in the business of direct insurance other than life assurance.

6. Council Directive 76/580/EEC amending Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance.

7. Council Directive 78/473/EEC on the coordination of laws, regulations and

administrative provisions relating to Community co-insurance.

8. Council Directive 84/5/EEC on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles.

9. Council Directive 84/641/EEC amending, particularly as regards tourist assistance, the First Directive (73/239/EEC) on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance.

10. Council Directive 87/343/EEC amending, as regards credit insurance and suretyship insurance, First Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance.

11. Council Directive 87/344/EEC on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance.

12. Second Council Directive 88/357/EEC on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC.

13. Third Council Directive 90/232/EEC on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles.

14. Council Directive 90/618/EEC amending, particularly as regards motor vehicle liability insurance, Directive 73/239/EEC and Directive 88/357/EEC which concern the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance.

15. Council Directive 91/371/EEC on the Implementation of the Agreement between the European Economic Community and the Swiss Confederation on direct insurance other than life assurance.

16. Council Directive 91/675/EEC setting up an insurance committee.

17. Directive 92/49/EEC on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life insurance and amending Directives 73/239/EEC and 88/357/EEC (Third non-life insurance Directive).

18. European Parliament and Council Directive 95/26/EC amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239/EEC and 92/49/EEC in the field of non-life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurance, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities (Ucits), with a view to reinforcing prudential supervision.

19. Directive 98/78/EC of the European Parliament and of the Council on the supplementary supervision of insurance undertakings in an insurance group.

20. Directive 2000/26/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (Fourth motor insurance Directive).

21. Directive 2000/64/EC of the European Parliament and of the Council amending Council Directives 85/611/EEC, 92/49/EEC, 92/96/EEC and 93/22/EEC as regards exchange of information with third countries.

22. Directive 2001/17/EC of the European Parliament and of the Council on the reorganisation and winding-up of insurance undertakings.

23. Directive 2002/13/EC of the European Parliament and of the Council amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings.

24. Directive 2002/83/EC of the European Parliament and of the Council concerning life assurance.

25. European Parliament and Council Directive 2002/87/EC 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, 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council.

26. Directive 2002/92/EC of the European Parliament and of the Council on insurance mediation.

27. Directive 2005/1/EC of the European Parliament and of the Council amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees.

28. Directive 2005/14/EC of the European Parliament and of the Council amending Council Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC of the European Parliament and of the Council relating to insurance against civil liability in respect of the use of motor vehicles.

29. Directive 2005/68/EC of the European Parliament and of the Council on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC.

30. (New, SG No. 24/2009, effective 31.03.2009) Directive 2007/44/EC of the European

Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC 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.

TRANSITIONAL AND FINAL PROVISIONS

§ 5. The Insurance Act (publ., SG, No. 86 of 1996; amend. No. 1 from 1997, No. 21 of 1997 - Judgement No 6 of the Constitutional Court from 1997; amend. No. 58 of 1997, No. 21, 52, 93 and 132 of 1998, No. 88 of 1999, No. 83 and 97 of 2000, No. 1, 102 and 110 of 2001, No. 96 and 107 of 2002, No. 8 of 2003, No. 85 from 2004, No. 88 of 2005) shall be abrogated.

§ 6. (1) Licenses for insurance and re-insurance operations and additional licenses for new types of insurance issued under the abrogated Insurance Act shall remain in force and after the Code has entered into force shall have the validity of a license or additional license within the meaning of Article 29, except in cases coming under Paragraph 2 of this paragraph. Licenses and additional licenses issued under items 10-13 of Section II, Letter "A" of Annex No 1 to Article 6, Paragraph 2 of the abrogated Insurance Act shall correspond to the license under items 10 - 13 of Section II, letter "A" of Annex No 1, except in cases coming under Paragraph 2 of this paragraph.

(2) (Amended and supplemented, SG No. 54/2006) The existing insurance companies, which have received licenses and additional licenses under item 10, Section II, letter "A" of Annex No 1 to Article 6, Paragraph 2 of the abrogated Insurance Act shall by 1 September 2006 submit to the Commission the necessary documents for the issuance of a new license under item 10.1. of Section II, Letter "A" of Annex No 1. A program for the operations for the respective type of insurance for three years ahead shall be attached to the application, along with the tariff in accordance with Article 65, a bank guarantee pursuant to the requirements of the statutes of the National Bureau of Bulgarian Motor Insurers and a reinsurance contract in compliance with criteria determined with a resolution of the Commission and an actuarial rationale for it. The licenses and additional licenses under item 10, Section II, letter "A" of Annex No 1 to Article 6, Paragraph 2 of the abrogated Insurance Act shall be valid until pronouncement of the Commission, or until expiry of the term for submission of the application under sentence one, in case no application was submitted. Upon refusal to issue a license under item 10.1. of Section II, Letter "A" of Annex No 1, the Commission shall in its resolution confirm the license under item 10.2. of Section II, Letter "A" of Annex No 1.

(3) The existing insurance companies and re-insurers shall bring their capital in compliance with the requirements of this Code no later than 1st of January 2007.

(4) The existing insurance companies and re-insurers shall bring their shares in compliance with the requirements of Article 12, Paragraph 4 within 6 months from the Code's entering into force.

(5) The existing insurers and re-insurers shall adopt and submit to the Commission the acts and documents under Article 57, Paragraph 1, Article 62, Paragraph 8, Article 90, Paragraph 7, Article 98, Paragraph 2, the rules for the organisation and management of the IT system; they

shall set up a specialised internal control service (department), elect its head and bring the rest of their operations in compliance with the provisions of this Code within a year of its entry into force. The rules under Article 104, Paragraph 2 shall be adopted and submitted to the Commission within up to 6 months of the entry into force of this Code.

(6) The insurers licensed under item 10.1. of Section II, Letter "A" of Annex No 1 shall submit to the Commission and to the Guarantee Fund the lists of representatives for settlement of claims appointed to the Member States, until the effective date of the Treaty Concerning the Accession of the Republic of Bulgaria to the European Union.

(7) (Supplemented, SG No. 54/2006) The National Bureau of the Bulgarian Motor Insurers cannot refuse admitting as member an insurer that complies with the requirements of this Code and of the Articles of Incorporation under Article 282, Paragraph 6. As of the date of entry into force of the Treaty on Bulgaria's accession to the European Union the National Bureau of Bulgarian Motor Insurers shall perform its duties in compliance with the Internal Regulations of the Council of Bureaus adopted in the town of Retimno, the island of Crete on 30 May 2002 in relation to insurance contracts for the obligatory third party insurance of motorists concluded validly by any insurer in the Republic of Bulgaria regardless whether the insurer has obtained, under the procedure of paragraph 2 a licence under item 10.1 of Section II, letter A of Annex No. 1.

(8) (New, SG No. 21/2012) Control over any concluded insurance contracts for the obligatory third party liability insurance of motorists in respect of motor vehicles habitually located on the territory of the Republic of Serbia shall be discontinued after publication of the decision of the European Commission in the Official Journal of the European Union and from the date set forth therein.

§ 6a. (New, SG No. 48/2007) The existing insurers and reinsurers shall bring their capital in accordance with Article 82, Paragraphs 1 and 3 by 31 August 2007.

§ 7. (1) The Ordinance under Article 95, Paragraph 2, item 5 and Paragraph 3 and Article 97, Paragraph 6 shall be adopted within one year of the effective date of this Code. The first exam for actuarial competency shall be held within 6 months of the effective date of the Ordinance under sentence one.

(2) Insurers and re-insurers should conclude agreements for actuarial services with persons having competency as responsible actuary within three years of the effective date of this Code.

(3) Until expiry of the term under Paragraph 2, the persons who have been involved in the proceedings under Article 10, Paragraph 6 and Article 25 of the abrogated Insurance Act shall be approved as insurer actuaries, and can discharge the duties of a responsible actuary and render actuarial services to an insurer or re-insurer, and be nominated as responsible actuaries with insurers or re-insurers. Until expiry of the term under Paragraph 2 persons approved as actuaries of health insurance companies or licensed as actuaries of pension insurance companies and the funds managed by them for additional pension insurance can be elected as responsible actuaries of insurers and re-insurers.

§ 8. (1) The existing insurance agents shall bring their operations in compliance with the requirements of this Code within three months of its effective date.

(2) The existing insurance brokers carrying out insurance agency for more than 5 years shall submit an application for registration in the Commission's register under Article 30, Paragraph 1, item 9 of the Financial Supervision Commission Act within three months of the effective date of this Code.

(3) The Commission shall adopt the Ordinance under Article 157, Paragraph 7 and organise an examination within 6 months of the effective date of this Code for existing brokers, other than those under Paragraph 2.

(4) (Amended, SG No. 54/2006) The insurers shall within 10 months from the effective date of the Code renew the contracts for insurance agency with the agents who have chosen to work for them who have successfully undergone the training and examination under Article 168, Paragraph 2.

(5) Within the term under Paragraph 4 the insurers shall submit an application for registration under Article 30, Paragraph 1, item 9 of the Financial Supervision Commission Act, of the insurers' agents contracted for insurance agency and who comply with the requirements of this Code. A copy of the executed insurance policy under Article 167, Paragraph 2 or a declaration under Article 167, Paragraph 4 for each insurance agent shall be enclosed to the application.

§ 9. (1) Existing proceedings for the issuances of licenses, authorizations or approvals before the Commission or before the Deputy Chairperson, upon entry into force of the Code shall be processed in accordance with the abrogated Insurance Act.

(2) The existing proceedings for coercive administrative measures and revocation of authorizations of insurers or insurance brokers shall be processed under the Code.

§ 10. (1) The existing insurers within the meaning of § 1, item 11 of the additional provisions of the abrogated Insurance Act shall complete the liquidation or bankruptcy proceedings under the abrogated act.

(2) Upon request of the Deputy Chairperson the court shall, by means of the bankruptcy judgement, decree the deletion of company, in the case of persons under Paragraph 1, without sufficient funds to cover the liquidation or bankruptcy expenses. No trustee shall be assigned.

(3) The court, upon request of the Deputy Chairperson, shall decree deletion of the company in the case of persons under Paragraph 1 which in accordance with the evidence collected have no funds or liabilities.

(4) The Deputy Chairperson shall issue a resolution for termination of liquidation in the case of persons under Paragraph 1 whose liquidation or bankruptcy have ended with a settlement of the liabilities to third parties. Relations between the shareholders shall be regulated in accordance with the Commerce Act.

§ 11. (1) Until the effective date of the Treaty Concerning the Accession of the Republic of Bulgaria to the European Union, the "Member States" within the meaning of the Code shall be considered as third countries and the provisions for third countries shall apply to these countries and the persons coming from them.

(2) As of the effective date of the Treaty Concerning the Accession of the Republic of Bulgaria to the European Union, the operations of a branch office of an insurer seated in a Member State authorized under Article 36 of the abrogated Insurance Act or licensed under Article 41 of the Code shall be carried out in accordance with the conditions of right of establishment.

(3) Until the effective date of the Treaty Concerning the Accession of the Republic of Bulgaria to the European Union the technical reserves under insurance contracts covering risks in the Republic of Bulgaria shall be covered by assets located on the territory of the Republic of Bulgaria.

(4) Until the effective date of the Treaty Concerning the Accession of the Republic of Bulgaria to the European Union the insurer may cover the technical reserves by assets located abroad after receiving permission by the Deputy Chairperson.

(5) Until the effective date of the Treaty Concerning the Accession of the Republic of Bulgaria to the European Union the own funds of an insurer's branch office from a third country shall be invested in the Republic of Bulgaria.

(6) Until the effective date of the Treaty Concerning the Accession of the Republic of Bulgaria to the European Union the minimal insurance amount under Article 156, Paragraph 1, sentence two and Article 167, Paragraph 2 sentence two shall amount to BGN 200,000 for each insurance event and to BGN 300,000 for all insurance events within one year. Until the effective date of the Treaty Concerning the Accession of the Republic of Bulgaria to the European Union the insurance under sentence one shall cover damages which have occurred on the territory of the Republic of Bulgaria.

(7) Until the effective date of the Treaty Concerning the Accession of the Republic of Bulgaria to the European Union the Commission for Financial Supervision shall notify the European Commission of Bulgaria's desire to be notified in accordance with Article 6, Paragraph 1 of Directive 2002/92/EC of the intention of insurance agencies from Member State to carry out operations in the Republic of Bulgaria under the conditions of the right of establishment or the freedom to provide services.

(8) Until the effective date of the Treaty Concerning the Accession of the Republic of Bulgaria to the European Union, the compulsory third party liability insurance of motorists shall provide coverage on the territory of Republic of Bulgaria. Motorist shall conclude a separate Green Card insurance certificate for third party liability abroad.

(9) The National bureau of Bulgarian Motor Insurers established in accordance with Article 82 of the abrogated Insurance Act, and the Guarantee Fund established in accordance with Article

87 of the abrogated Insurance Act shall bring their operations in compliance with the requirements of this Code within 6 months of its effective date.

§ 11a. (New, SG No. 100/2007) (1) By 30 September 2012 the Financial Supervision Commission shall adopt a report on the application of Article 65a, Paragraph 1, containing conclusions on taking sex into account as actuarial factor in determining insurance premiums based on most recent actuarial data and statistical information, as well as the report of the European Commission on the application of Article 5 of Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

(2) The report under Paragraph 1 shall be submitted to the Minister of Labour and Social Policy for the purposes of notifying the European Commission.

§ 12. (1) The secondary legislation concerning the implementation of the abrogated Insurance Act shall remain in force to the extent it does not contradict the Code.

(2) The Commission shall adopt secondary legal instruments concerning the implementation of the Code and the amendments to and supplementations of the acts under Paragraph 1, in case their explicit abrogation is not needed, within one year of the effective date of the Code, unless another term has been specified.

(3) The administrative acts issued on grounds of the abrogated Insurance Act shall remain effective, unless they contradict the Code.

§ 13. The Financial Supervision Commission Act (publ. SG, No. 8 of 2003; amend., No. 31, 67 and 112 of 2003, No. 85 of 2004 and No. 39 of 2005) shall be amended and supplemented, as follows:

1. In Article 10:

a) a new Paragraph 4 shall be added:

"(4) Upon early termination of the term of office of the Deputy Chairperson, the Commission, upon proposal of the Chairperson, shall designate another member as his/her substitute, to exercise his/her powers until the new Deputy Chairperson steps in office".

b) the current Paragraph 4 shall become Paragraph 5.

2. In Article 13:

a) in Paragraph 1:

aa) items 12, 13, 14, 15 and 16 shall be abrogated;

bb) a new Item 21 shall be added:

"21. also exercise other powers expressly provided for by law"

b) Paragraph 3 shall be amended as follows:

"(3) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) The Commission's individual administrative acts shall be reasoned and make the object of appeal before the Supreme Administrative Court. The appeal shall not stay the implementation of the individual administrative act."

3. Article 15, Paragraph 4 shall be amended as follows:

"(4) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) The individual administrative acts of the Deputy Chairperson heading the Investment Operations Supervision Directorate may be appealed before the Supreme Administrative Court.

4. In Article 16:

a) in Paragraph 1:

aa) item 2 shall be abrogated

bb) in item 3 the words "Article 9 of the Insurance Act" shall be replaced by "Article 16 of the Insurance Code";

cc) in item 4 the words "merger of insurers and sale of the going concern of an insurer in liquidation" shall be deleted;

dd) item 5 shall be amended as follows:

"5. record, refuse recordation and delete an insurer broker and insurance agent from the Commission's registry;"

ee) item 6 shall be amended as follows:

"6. approve the persons under Article 13, 22 and 26 of the Insurance Code;"

ff) items 7 and 8 shall be abrogated;

gg) item 13 shall be amended as follows:

"13. approve or prescribe the establishment of other technical reserves within the meaning of Article 68 of the Insurance Code";

hh) in item 17, after the word "the insurers" the conjunction "and" shall be deleted and a coma shall be placed, and after the words "insurance brokers" the words "and the insurance agents" shall be added;

ii) item 20 shall be abrogated;

b) Paragraph 2 shall be amended as follows:

"(2) The proposal under Article 13, Paragraph 1, item 5 - for issuance of a license, and under item 6 - for transformation, shall be made not later than one month before the expiry of the term for pronouncement of the Commission and upon voluntary dissolution of an insurer - no later than 14 days before the expiry of the term for pronouncement of the Commission, all documents being enclosed to the proposal."

c) Paragraph 4 shall be amended as follows:

"(4) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) The individual administrative acts of the Deputy Chairperson, heading the Insurance Supervision Directorate, can be appealed before the Supreme Administrative Court"

5. Article 17, Paragraph 4 shall be amended as follows:

"(4) (Effective from the date of entry into force of the Treaty for the Accession of the Republic of Bulgaria to the European Union) The individual administrative acts of the Deputy Chairperson heading the Social Security Supervision Directorate, can be appealed before the Supreme Administrative Court."

6. Article 18, Paragraph 3 shall be amended as follows:

"(3) Upon written request of the Chairperson of the Commission, for the purposes of supervision thereby exercised, the banks shall be bound to provide information about the assets and operations under the accounts and deposits of the persons subject to supervision and of any other persons for which there are indications of an existent violation of the Insurance Code, the Social Security Code, the Public Offering of Securities Act, the Health Insurance Act or the Special Purpose Investment Companies Act. The provision of information under sentence one cannot be refused or limited based on considerations of bank or commercial secrecy".

7. Article 24 shall be amended as follows:

"Professional secrecy

Article 24

(1) The information created and received by the Commission with regard to its functions and which represents commercial, banking or any other secret protected by the law or whose disclosure will damage the commercial interests of the persons subject to supervision shall be considered professional secrecy. Professional secrecy shall not represent an official secret within the meaning of the Protection of Classified Information Act.

(2) The information subject to public disclosure in accordance with this or other laws shall not be professional secrecy.

(3) The Commission members and the employees of its administration shall be bound to preserve the professional secrecy, including after their relief from office or termination of their employment legal relationships.

(4) Paragraph 3 shall also apply to the auditors and to all other persons carrying out functions assigned by the Commission.

(5) The information representing professional secrecy can be used by the Commission and its bodies only with regard to the performance of its functions:

1. for inspection of compliance with the requirements to the issuance of authorisations (licenses) provided for in the Public Offering of Securities Act, the Insurance Code and the Health Insurance Act for operations regulated by these laws, and for the supervision thereof;

2. for the implementation of coercive administrative measures and the imposition of disciplinary sanctions;

3. upon judicial appeal of the acts of the Commission and its bodies."

8. Article 25 shall be amended as follows:

"Disclosure of professional secrecy"

Article 25

(1) Information representing professional secrecy may only be disclosed:

1. before the judicial authorities, the public prosecution, the investigating authorities and the police authorities in pursuance of the procedure provided for in a law;

2. before the bank supervision authorities and the Financial Intelligence Agency under the terms and conditions specified in joint instructions, to the extent this is necessary for the performance of their functions;

3. before auditors, carrying out the audit of persons subject to supervision, the Fund for the Compensation of Investors in Securities and the National Guarantee Bureau, to the extent this is necessary for the performance of their functions;

4. upon express written consent of the persons to which such information refers;

5. as summary data, in a way that does not allow identification of the persons to which it refers.

(2) Information referring to the health condition of natural persons obtained with regard to

the performance of financial supervision may only be disclosed with their express written consent or upon decree of the court when there are data indicative of the commitment of a criminal offence.

(3) The persons and authorities under Paragraph 1 shall preserve the confidentiality of the information received.

(4) Information representing professional secrecy can be submitted to the authorities of a Member State carrying out financial supervision provided that they will preserve the confidentiality of the received information and use it only with regard to the performance of their functions:

1. for verification of compliance with the requirements for issuance of permits for operations on the financial markets, and for exercising supervision over such operations;
2. with regard to sanctioning;
3. upon administrative or judicial appeal of their acts.

(5) The information representing professional secrecy can be provided to a foreign authority from a third country which carries out financial supervision on the basis of an agreement for cooperation and exchange of information and provided that the authority to which the information is presented:

1. provides at least the same level of confidentiality in respect to the information provided;
2. is empowered to and agrees to provide information of the same kind upon request of the Commission;
3. needs the requested information with regard to its supervision functions.

(6) The Commission may provide in accordance with Paragraph 5 information representing a professional secret received by the authorities of a Member State carrying out financial supervision only with their explicit consent and for the purposes for which this consent was given."

9. In Article 30, Paragraph 1:

a) item 7 shall be amended as follows:

"7. insurers and re-insurers;"

b) in item 9, at the end, the words "and insurance agents" shall be added;

c) A new item 12 shall be created:

"12. the persons having the competency of responsible actuary."

10. In § 1 of the additional provision items 7 and 8 shall be created.

"7. A "Member State" shall be a country member of the European Union or another country that belongs to the European Economic Area.

8. A "third country" shall be a country that is not a Member State within the meaning of item 7."

11. In the Annex to Article 27, Paragraph 2 the following amendments and supplementations shall be made:

a) item 2.1. shall be amended as follows:

"2.1. For the issuance of a license to a joint stock company or a branch office of an insurer seated in a third country:

a) for concluding life and accident insurances - BGN 30,000 and BGN 2,000 for any type of insurance;

b) for property insurance - BGN 90,000 and BGN 3,000 for every type of insurance."

c) for insurance or for insurance and re-insurance - BGN 120,000 and BGN 4,000 for each type of insurance

b) in item 2.2. the words "authorization for insurance operations" shall be replaced by "license for the performance of insurance operations"

c) item 2.3. shall be amended as follows:

"2.3. For registration of an insurance broker in the register - BGN 5,000";

d) item 2.3.a shall be created:

"2.3.a For extension of the license with an additional license for"

a) life and accident insurance - BGN 30,000 and BGN 2,000 for each type of insurance;

b) property insurances - BGN 90,000 and BGN 3,000 for each type of insurance;

c) re-insurance - BGN 120,000 and BGN 4,000 for each type of insurance."

d) in item 2.6. the text before Letter "A" shall be amended as follows:

"For extension of the license, with additional license for a new type of insurance, of an insurance joint stock company or branch office of an insurer seated in a third country:"

e) item 2.7 shall be amended as follows:

"2.7. For extension of the license with an additional license for a new type of insurance, of a mutual insurance cooperative - BGN 1,000 for each type of insurance";

f) item 2.9 shall be amended as follows:

"2.9. For review of documentation:

a) for issuance of licenses and authorizations for insurance operations, for extension of a license with an additional license, for merger, acquisition, separation and spin-off of insurers (re-insurers - BGN 500).

b) for applications for the registration of an insurance broker - BGN 50.

c) for extension of a license with an additional license for a new type of insurance - BGN 100.

d) for approval of a registered auditor - BGN 20."

g) item 4.7. shall be abrogated;

i) in item 4.8. Letter "B" shall be abrogated;

j) item 5 shall be created:

"5. For acknowledgment of legal competency to a responsible actuary:

a) examination fee: BGN 300;

b) certificate fee: BGN 200"

12. Everywhere in the laws the words "Insurance Act" shall be replaced by "Insurance Code".

§ 14. The Health Insurance Act (publ., SG, No. 70 of 1998; amend., No. 93 and 153 of 1998, No. 62, 65, 67, 69, 110 and 113 of 1999, No. 1, 31 and 64 of 2000, No. 41 of 2001, No. 1, 54, 74, 107, 112, 119 and 120 of 2002, No. 8, 50, 107 and 114 of 2003, No. 28, 38, 49, 70, 85 and 111 of 2004, No. 39, 45 and 76 of 2005) shall be amended and supplemented as follows:

1. In Article 82, Paragraph 4, item 1 the words "Annex No 1 to Article 6, Paragraph 2 of the Insurance Act" shall be replaced by "Annex No 1 to the Insurance Code."

2. In Article 84, Paragraph 5 the words "The Insurance Act" shall be replaced by the "Insurance Code".

3. Article 94, Paragraph 2 shall be amended as follows:

"(2) A person for whom the conclusion can be reasonably reached that he/she may use the operations of voluntary health insurance for the achievement of purposes non compatible with the purposes and principles proclaimed in Article 82, Paragraph 3 of this law and in Article 11 of the Commission for Financial Supervision Act cannot be, directly or through related parties, a shareholder in a health insurance company.

4. In Article 95, Paragraph 2, item 6, the words "§ 1, item 10 of the Insurance Act " shall be replaced by "§ 1, item 12 of the Insurance Code".

5. In Article 97:

a) in Paragraph 2:

aa) item 9 is amended as follows:

"9. comply with the requirements of Article 94, Paragraph 2;"

bb) item 10 shall be amended as follows:

"10. is not member or shareholder or member of a management or control body of a commercial company for which the hypothesis of Article 94, Paragraph 2 is present";

b) Paragraph 5 shall be abrogated.

6. Articles 97a, 97b and 97c shall be created:

"Article 97a

(1) Article 97a

(1) Actuarial services to a health insurance company shall be provided by a responsible actuary. A responsible actuary shall be a natural person who has recognised legal competency, and who shall organise, manage and be responsible for the actuarial services provided to the health insurance company.

(2) The responsible actuary must:

1. not be convicted of a publicly actionable intentional criminal offence;

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

3. not be declared bankrupt and not be in bankruptcy proceeding;

4. not be deprived of the right to hold a position accountable for assets;

5. have higher education with a qualification degree not lower than "Master", covering a horarium in higher mathematics in accordance with the requirements in an Ordinance of the Financial Supervision Commission;

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

7. his/her legal competency as responsible actuary is recognised by the Financial Supervision Commission after successful examination.

(3) The procedure and the terms and conditions for said examination and for recognizing legal competency under Paragraph 2, item 7 shall be specified in an Ordinance issued by the Financial Supervision Commission. For the purposes of the present Act, the legal competency of the responsible actuary shall be recognised in pursuance of the procedure in the Insurance Code or the Social Security Code, the examination for recognition of legal competency including an assessment of knowledge in the field of health insurance.

(4) The Commission for Financial Supervision shall, upon proposal of the Deputy Chairperson heading the Insurance Supervision Directorate, deprive a responsible actuary from his/her legal competency in case it has been established that the responsible actuary:

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

2. in course of actuarial services provided to a health insurance company has committed gross or systematic violations of the this law or of the secondary legislation concerning its implementation;

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

(5) In case of deprivation of legal competency under Paragraph 4, the person may apply for legal competency as responsible actuary not earlier than three years after the effective date of the resolution. By withdrawing the legal competency on any of the grounds listed under Paragraph 4, the person's legal competency as responsible actuary that has been recognised in pursuance of the procedure established in the Insurance Code or the Social Security Code shall also be considered withdrawn.

Article 97b

(1) A responsible actuary may not be a spouse or a relative in direct or collateral line of descent up to the fourth degree inclusive or connected by marriage up to the third degree to a member of a management or control body of an health insurance company, as well as he/she shall not be a member of a management or control body of another health insurance company.

(2) A responsible actuary shall be elected by the general meeting of a health insurance company, before which he/she shall attest to the non-existence of the circumstances under Paragraph 1 by a statement. The health insurance company shall advise the Deputy Chairperson of the resolution on electing a responsible actuary passed within up to seven days of the date of passing the resolution, and shall also submit an authenticated copy of the statement.

(3) In the case of change into the circumstances under Paragraph 1, or upon withdrawal of the legal competency of a responsible actuary under Article 97a, Paragraph 4, the general meeting of the health insurance company shall be obligated to dismiss the responsible actuary and to elect a new one within a three-month period of gaining knowledge of such circumstances.

Article 97c

(1) A responsible actuary shall set a sufficient amount of premiums and a sufficient amount of technical reserves; for the proper calculation of the solvency margin; as well as for the correct utilisation of the actuarial methods in the health insurance company's practice;

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

1. Draw up and certify the information submitted by the health insurance company with regard to actuarial operations;

2. Draw up an annual actuarial report - by 31st March of the year, following the year under report.

(3) In the performance of his/her obligations, a responsible actuary shall have access to all necessary information, and the managing bodies and employees of a health insurance company shall be obligated to provide assistance.

(4) The actuary shall immediately notify the Commission of each circumstance of which he/she has become aware in discharging his/her functions, which concerns the health insurance company and constitutes a significant violation of the present law or the regulations concerning its implementation, or may unfavourably affect the performance of the health insurance company's operations.

(5) In cases under Paragraph 4, no restrictions shall apply on information disclosure, as have been provided for in a law, the secondary legislation or a contract. The responsible actuary shall not be liable for the bona fide disclosure of information under Paragraph 4 to the Financial Supervision Commission and the Deputy Chairperson of the Financial Supervision Commission in charge of the Insurance Supervision Directorate".

6) The form of actuarial authentication and the form and content of the actuarial report and of the information certified by a responsible actuary, shall be specified in an Ordinance issued by the Financial Supervision Commission.

7. In Article 99g:

a) in Paragraph 1 after the words "merger", "acquisition" shall be added;

b) Paragraph 2 shall be abrogated;

c) Paragraph 3 shall be amended as follows:

"(3) Transformation of health insurance companies shall be carried out under the terms and conditions and in pursuance of the procedure of Chapter Eleven of the Insurance Code and of the Financial Supervision Commission Act.

8. In Article 99h, Paragraph 4, the words "Chapter Nine of the Insurance Act" shall be replaced by "Chapter Twelve, Section One of the Insurance Code".

9. In Article 99i, Sentence Two, the words "Chapter Eleven of the Insurance Act" shall be replaced by "Chapter Twelve, Section II of the Insurance Code".

10. In Article 99j the following amendments shall be made:

a) Paragraph 3 shall be amended as follows:

"(3) Health insurance companies shall be under the obligation to notify the Financial Supervision Commission in writing of:

1. All newly arisen facts and circumstances subject to entry into the Registries of the Financial Supervision Commission;

2. Changes in circumstances having been entered in the Commercial Registry".

b) A new Paragraph 4 shall be created:

"(4) The obligation under Paragraph 3 shall be discharged within a period of seven days of occurrence of the facts and circumstances, as the documents proving the change made being enclosed to the notification. In case the relevant fact or circumstance is subject to entry into the commercial registry, the term for notification shall be seven days of ordering entry.

11. § 19f shall be created in the Transitional and Final Provisions:

§ 19f (1) The Ordinance under Article 97a, Paragraph 2, item 5, Paragraph 3 and Article 97c, Paragraph 6 shall be adopted within one year of the Insurance Code's entry into force. The first exam for actuarial competency shall be held within a six-month period of its entry into force.

(2) Within a three-year period of the Insurance Code's entry into force, health insurance companies shall be obligated to conclude contracts for actuarial services with persons of recognised competency as responsible actuaries.

(3) Until expiry of the period under Paragraph 2, the persons who have been approved as

actuaries of a health insurance company undergoing a procedure for issuance of an approval under Article 97, or in pursuance of the procedure established by Article 99, may perform the obligations of a responsible actuary in providing actuarial services to a health insurance company, as well as be appointed as responsible actuaries at health insurance companies. Until expiry of the period under Paragraph 2, persons who have been approved as actuaries of health insurance companies or have been licensed as actuaries of insurers and reinsurers assurance companies or have obtained a licence for actuaries of pension insurance companies and of additional pension insurance funds managed by these may be appointed as responsible actuaries of health insurance companies.

§ 15. In the Commerce Act (Published, State Gazette, No. 48 of 1991; amended, No. 25 of 1992, No. 61 and No. 103 of 1993; No. 63 of 1994; No. 63 of 1995; No. 42, 59, 83, 86 and 104 of 1996; No. 58 of 1997; No. 100 and No. 124 of 1997; No. 52 and No. 70 of 1998; No. 33, No. 42, No. 64, No. 81, No. 90, No. 103, No. 114 of 1999; No. 84 of 2000, No. 28, No. 61, No. 96 of 2002; No. 19, No. 31, 39, 42, 43 and No. 66 of 2005) Chapter Twenty-Seven: "Contract for Insurance" shall be abrogated.

§ 16. In the Local Taxes and Fees Act (Pub., SG No. 117 of 1997, amended, No. 71, Issue 83, Issue 105 and No. 153 of 1998, No. 103 of 1999, No. 34 and Issue 102 of 2000, No. 109 of 2001, No. 28, No. 45, No. 56 and No. 119 of 2002, No. 84 and No. 112 of 2003, No. 6, No. 18, Issue 36, No. 70 and No. 106 of 2004, Issue 87 and Issue 94 of 2005) In § 1, item 19 of the Additional Provisions the following amendments and supplements shall be made:

"19. "Insurance value" of a motor vehicle is the market price, for which instead of the insured, another property of the same type and quality can be bought at the moment of issue of a certificate of the property's insurance value".

§ 17. In the Export Insurance Act (published - SG, No. 61 in 1998; amended and supplemented, No. 112 in 2001; No. 92 in 2004) Article 10a shall be amended as follows:

"Article 10a

(1) BAEZ - AD shall be an insurer within the meaning of the Insurance Code. The Insurance Code shall apply to BAEZ - AD, insofar as the present law does not provide otherwise.

(2) The Insurance Code shall not apply to the operations of BAEZ - AD under the present law, with the exception of the provision of Part Four, which shall apply to insurance legal relations that have arisen under the present law."

§ 18. In the Value Added Tax Act (Publ. SG, No. 153 of 1998; amended, No. 1 of 1999; amended, No. 44; No. 62; No. 64, No. 103 and No. 111 of 1999; No. 63 and No. 78, No. 102 of 2000; No. 109 of 2001; No. 28; No. 45 and 117 of 2002; No. 37, No. 42, No. 86 and No. 109 of 2003; No. 53, No. 70 and No. 108 of 2004, No. 28, 43 and 76, 94 and 95 of 2005) in Article 37 after the word "insurer" the words shall be added "and reinsurer"; the words "Insurance Act" shall be replaced by "Insurance Code", and the words "insurance assistants (agents)" shall be replaced by "insurance agents".

§ 19. In the Corporate Income Tax Act (Publ., SG, No. 115 of 1997, amended No. 19 of 1998; supplemented No. 21 and No. 153 of 1998; No. 12, No. 50, No. 51, No. 64 and No. 81, No. 103, No. 110 and No. 111 of 1999; No. 105 and No. 108 of 2000; No. 34 and No. 110 of 2001; No. 45 and No. 61 and 62 and No. 119 of 2002, No. 42 and No. 109 of 2003; No. 18 and No. 53 and 107 and No. 107 of 2004, No. 39, No. 88 and No. 91 of 2005) in § 1, item 47 of the Additional Provisions, the words "insurance companies, mutual insurance co-operative societies" shall be replaced by "insurers and reinsurers"; and the words "Insurance Act" shall be replaced by "Insurance Code".

§ 20. In the Personal Income Tax Act (Publ. SG, No. 118 of 1997; No. 35 of 1998 - Judgement No. 6 of the Constitutional Court of the Republic of Bulgaria of 1998; amended No. 71 and 153 of 1998; No. 50; No. 103 and No. 111 of 1999; No. 105 of 2000; No. 110 of 2001; No. 40, No. 45; No. 61 and No. 118 of 2002; No. 42, No. 67; No. 95 and No. 112 of 2003; No. 36 and No. 37 and No. 53; No. 70 and No. 108 of 2004, and No. 43 of 2005) the following amendments shall be made:

1. In Article 12, Paragraph 1, item 3, the words "insurance reserves" shall be replaced by "technical reserves";

2. In § 1 of the Additional Provisions:

a) In item 48, the words "insurance reserves" shall be replaced by "technical reserve";

b) In item 49, the words "Commercial Act" shall be replaced by "Insurance Code";

c) In item 50, the words "under Section I, Letter "A", Items 1, 2 and 3 of Annex No. 1 to Article 6, Paragraph 2 of the Insurance Act" shall be replaced by "under Section I, Items 1, 2 and 3 of Annex No. 1 to Article 9, Paragraph 1 of the Insurance Code".

§ 21. In the Measures Against Money Laundering Act (Publ. SG, No. 85 of 1998, amended, No. 1 and No. 102 of 2001; No. 31 of 2003), the following amendments shall be made:

1. In Article 3, Paragraph 2, item 2 shall be amended as follows:

"2. Insurers and re-insurers having their seat in the Republic of Bulgaria; insurers from an EU Member State or a country that is a party to the European Economic Area Agreement which perform operations within the territory of the Republic of Bulgaria; insurers having their legal seat in countries other than the aforesaid, which have obtained a license from the Financial Supervision Commission to perform operations in the Republic of Bulgaria through a branch office."

2. In Article 4, Paragraph 12, the words "to Article 6, Paragraph 2 of the Insurance Act" shall be replaced by "the Insurance Code".

§ 22. In the Road Traffic Act (Publ., SG, No. 20 of 1999, amended, No. 1 of 2000, No. 43; No. 45 and No. 76 of 2002, No. 16 and No. 22 of 2003, No. 6, No. 70, No. 85 and No. 115, No. 79 and No. 92 of 2005), the following amendments shall be made:

1. In Article 100, Paragraph 1, item 3, the words "Third party liability Insurance" shall be replaced by "motorists' compulsory "Third party liability" insurance".

2. In Article 123, Paragraph 2, after the words "Third party liability" shall be added "of the Motorists".

3. In Article 125, a new item 8 shall be created:

"8. In case where the accident involves one participants and the motor vehicle is not in a condition for self-propelled motion as a result of the damages caused to it by the accident."

4. In Article 125a:

a) a new Paragraph 1 shall be created:

"1. The controlling services of the Ministry of Interior shall issue a record of ascertainment for the visit under Article 125 of the scene of the road accident. A copy of the above record shall be forwarded ex officio within a ten-day period of its issuance to the insurer of the driver guilty of the accident, specified therein."

b) the former Paragraph 1 shall become Paragraph 2, and shall be amended as follows:

"2. The Minister of Interior and the Financial Supervision Commission shall specify in an Ordinance the documentation, the procedure for their preparation in case of traffic accidents in the cases under Article 125, as well as the procedure for providing information, in compliance with the preceding Paragraph."

c) the former Paragraph 2 shall become Paragraph 3.

5. In Article 171, item 2, Letter "C", after the words "compulsory Third Party Liability Insurance" "of Motorists." shall be added.

6. In Article 183, Paragraph 1, item 1, after the words "Third party liability" "of Motorists." shall be added.

§ 23. In the Public Offering of Securities Act (Published, SG, No. 114 of 1999, amended, No. 63 and No. 92 of 2000, No. 28, No. 61, No. 93 and No. 101 of 2002, No. 8, No. 31, No. 67 and No. 71 of 2003, No. 37 of 2004, No. 19 No. 31, No. 39 of 2005), in Article 77d, Paragraph 2, item 12, the words "Article 87 of the Insurance Act" shall be substituted for "Article 287 of the Insurance Code".

§ 24. In the Social Insurance Code (Published, SG, No. 110 of 1999, No. 55 - Resolution No. 5 of the Constitutional Court of the Republic of Bulgaria of 2000; amended, No. 64 of 2000, No. 1, No. 35 and No. 41 of 2001, No. 1, 10, 45, 74, 112, 119 and 120 of 2002, No. 8, 42, 67, 95, 112 and 114 of 2003, No. 12, 38, 52, 53, 69, 70, 112 and 115 of 2004, No. 38, 39 and 76 of 2005), the following amendments and supplements shall be made:

1. Article 121e, Paragraph 6 shall be amended as follows:

"(6) The Chairperson of the Management Board, the Chairperson of the Board of Directors, the executive director and the procurator shall meet the requirements of Paragraphs 2, 4 and 5, and have a permanent address or authorisation for continuous stay in the country."

2. Arts. 122i and Article 122j shall hereby be created:

"Responsible actuary

Article 122i. The provision of actuarial services to a pension insurance company and the funds for additional pension insurance managed by it shall be only carried out by a person who has recognised legal competency as responsible actuary. A responsible actuary shall be a natural person having legal competency recognised by the Commission, who organises, manages and is responsible for the provision of actuarial services to the Company and the Funds managed by it.

(2) A responsible actuary shall:

1. not have been convicted of publicly actionable intentional criminal offence;
2. not have been within the last three years, preceding the initial date of insolvency set by the court, a member of a managing or a control body or a general partner of a company, with regard to which bankruptcy proceedings have been initiated or which has been dissolved due to bankruptcy, in case unsatisfied creditors have remained;
3. not have been declared bankrupt and is not undergoing bankruptcy proceedings;
4. not have been divested of the right to hold a property accountable office;
5. have completed higher education with a qualification degree not lower than "Master" and with a horarium in higher mathematics, in compliance with the requirements specified in an Ordinance issued by the Commission;
6. Have at least a three-year experience as actuary in national social security institutions, actuary of an insurer, re-insurer, health insurance company, pension insurance company, with agencies carrying out supervision over the operations of the above persons, or as a lecturer with academic rank in insurance or actuarial science;
7. have obtained recognised legal competency as responsible actuary from the Commission following successful examination.

(3) The procedure and the terms and conditions for recognizing legal competency and for said examination, for recognizing legal competency under Paragraph 2, item 7, as well as for recognising competency obtained in a Member State, shall be specified in an Ordinance issued by the Commission. For the purposes of the present Code, legal competency as responsible actuary shall be recognised that and has been granted in pursuance of the procedure in the Insurance

Code or the Health Insurance Act where the examination for recognition of legal competency includes an assessment of knowledge in the field of pension insurance.

(4) Upon a proposal of the Deputy Chairperson, the Commission shall divest a responsible actuary of his/her legal competency in case it has been established that the person:

1. No longer meets the requirements under Paragraph 2, Items 1 - 4;

2. In the provision of actuarial services to a pension insurance company and to the funds for additional pension insurance managed by it, he/she has committed gross or systematic violations against the provisions of this Code or the secondary legislation concerning its implementation, or against the Rules for the organisation and operations of the funds for additional pension insurance managed by the respective pension insurance company;

3. Has provided untrue data or documents with untrue content, on the basis of which his/her legal competency has been recognised;

(5) In case an actuary has been divested of legal competency under Paragraph 4, he/she may request recognition of legal competency as responsible actuary no earlier than three years of the entry into force of the resolution to this effect. By withdrawing the legal competency on any of the grounds listed in Paragraph 4, the person's legal competency as responsible actuary that has been recognised in pursuance of the procedure in the Insurance Code or the Health Insurance Act shall also be considered withdrawn.

Additional requirements to the responsible actuary of a pension insurance company

Article 122j

(1) A responsible actuary of a pension insurance company should:

1. not be the spouse or relative in direct or collateral line of descent or connected by marriage up to the fourth degree inclusive to a member of a management or control body of a pension insurance company.

2. not be member of a management or control body of another company with identical operations;

3. not be a partner or shareholder, member of a management or control body of a person under Article 123c, Paragraph 1, with whom the pension insurance company has contractual relations, or of a person related to them, of a custodian bank, or a person related to it;

4. not be party to transactions concluded with a pension insurance company and the additional pension insurance funds managed by it, except in cases where he/she acts in the capacity of company shareholder or a person insured in any of these funds;

5. have a permanent address or permit for continuous residence in the country.

(2) A responsible actuary shall be elected by the general meeting of the Shareholders of the pension insurance company, before which Meeting he/she shall attest in advance in a declaration that he/she meets the requirements under Paragraph 1. The pension insurance company shall advise the Deputy Chairperson of the Commission of the resolution for electing a responsible actuary taken within a timeframe of up to seven days following the date of passing the resolution, also submitting an authenticated copy of the Declaration.

(3) The responsible actuary shall notify the pension insurance company of any change in the circumstances under Paragraph 1 within a seven-day period of gaining knowledge of said change.

(4) In the case of change in the circumstances under Paragraph 1, or upon withdrawal of a responsible actuary's legal competency under Article 122i, Paragraph 4, the general meeting of the Shareholders of the pension insurance company shall be obligated to dismiss the responsible actuary and to elect a new one within a three-month period of gaining knowledge of the circumstances."

3. Article 123 shall be amended as follows:

Actuarial services

Article 123

(1) A responsible actuary shall:

1. Produce biometrical tables under Article 169, Paragraph 1, item 2 and Article 246, Paragraph 1, item 2 and the actuarial estimates of the pension programmes offered, which shall be approved by the management body of the pension insurance company;

2. Be responsible for the accurate application of actuarial methods in the pension insurance company's operations;

3. Be responsible for the truthful and accurate assessment of the amount of pension reserves for the payment of life pensions by the respective fund, and of all amounts due to insured persons, pensioners or their heirs;

4. by March 31 of each year draw up and present to the pension insurance company and to the Deputy Chairperson of the Commission an actuarial report for the preceding year.

(2) The Deputy Chairperson of the Commission shall specify the form and the compulsory content of the annual actuarial report under Paragraph 1, item 3.

(3) In the performance of his/her duties, the responsible actuary shall have access to all necessary information, and the managing bodies and employees of the pension insurance company shall be obligated to provide assistance."

4. § 11b shall be created in the Transitional and Final Provisions:

§ 11b (1) The Ordinance under Article 122i, Paragraph 2, item 5, Paragraph 3 shall be adopted within a one-year period of the Insurance Code's entry into force. The first exam for acquisition of actuarial competency shall be held within a six-month period of its entry into force.

(2) Within a three-year period of the Insurance Code's entry into force, pension insurance companies shall be obligated to conclude contracts for actuarial services with persons having recognised competency as responsible actuaries.

(3) Until expiry of the period under Paragraph 2, the persons who have been granted an actuarial license in pursuance of the procedure established in Ordinance No. 14 of 2004 for the procedure of licensing actuaries of pension insurance companies and of the funds for additional pension insurance managed by these (SG, No. 46 of 2004), may discharge the obligations of a responsible actuary in the provisions of actuarial services to pension insurance companies and to the funds for additional pension insurance managed by these, as well as be appointed as responsible actuaries of pension insurance companies and of the funds for additional pension insurance managed by these."

§ 25. In the Ministry of Interior Act (Published, SG, No. 122 of 1997, No. 29 of 1998, - Resolution No. 3 of the Constitutional Court of 1998, amended, No. 70, 73 and 153 of 1998, No. 30 and 110 of 1999, No. 1 and 29 of 2000, No. 28 of 2001, No. 45 and 119 of 2002, No. 17, 26, 95, 103, 112 and 114 of 2003, No. 15, 70 and 89 of 2004, No. 11, 19, 27 and 86 of 2005), in Article 60, Paragraph 1, item 20 shall be created:

"20. submit to the National Bureau of Bulgarian Motor Insurers and to the Information Centre at the Guarantee Fund the information, specified in the Insurance Code and the secondary legislation concerning its implementation, and exercise the control over the conclusion and renewal of the motorists' compulsory "third party liability" insurance, implementing the coercive measures provided for and imposing administrative sanctions."

§ 26. In the Carriage by Road Act (Published, SG, No. 82 of 1999, amended, No. 11 and 45 of 2002, No. 99 of 2003, No. 70 of 2004, No. 88, 92 and 95 of 2005), in Article 2, Paragraph 5, the following amendments are introduced:

1. A new item 6 shall be created:

"6. submit to the Information Centre at the Guarantee Fund the information specified in the Insurance Code and the secondary legislation concerning its implementation in relation to the compulsory Accident Insurance of passengers in public transport vehicles, and exercise control over the conclusion and renewal of insurances.

2. The existent item 6 shall become item 7.

§ 27. (1) Starting on January 1, 2010, the minimum insurance amounts under the compulsory third party liability of motorists insurance shall be set as follows:

1. For non-material and material damages as a result of bodily injury or death:

- a) for each event in case of one injured person - BGN 1,000,000;
- b) for each event in the case of two or more injured persons - BGN 5,000,000;
- 2. for damages to property - BGN 1,000,000 for any event.

(2) Until January 1, 2010, the minimum insurance amounts under the motorists' compulsory "Third party liability" insurance shall be set as follows:

- 1. For non-material and material damages as a result of physical injury or death:
 - a) for each event in the case of one injured person - BGN 700,000;
 - b) for each event in the case of two or more injured persons - BGN 1,000,000;
- 2. for damages to property - BGN 200,000 for each event.

(3) The Financial Supervision Commission shall notify the Commission of the European Union of the deferment periods under Arts. 1 and 2, and of their duration.

§ 28. The present Code shall enter into force on January 1, 2006, save for:

1. Article 45, Paragraph 3, Article 47, Chapter Four; Article 71, Paragraph 4, Article 77, Paragraph 5, Article 80, Paragraph 5, Article 88, Paragraph 3, Article 89, Article 99, Paragraph 4, Article 112-116 inclusive, Article 127, 137, 139 - 149, Chapter Seventeen, Chapter Twenty-Two, Article 254, Paragraph 1, item 2, Article 256, Article 258, Paragraph 1, Items 2 and 3, Paragraphs 2, 3 and 5 and Article 282, Paragraph 2, and § 13, item 2, letter 'b', item 3, 4, letter 'c' and item 5 of the Transitional and Final Provisions, which shall become effective as of the date of entry into force of the Contract for Republic of Bulgaria's Accession to the European Union.

2. Article 254, Paragraph 2 which shall become effective on the date of the Decision of the Commission of the European Union, upon submission of information about the conclusion of an agreement between the National Bureau of Bulgarian Motor Insurers and the bureaux of motor insurers of the Member States in compliance with Article 2, Paragraph 2 of Directive 72/166/EEC on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability.

3. Article 266, which shall become effective on June 11, 2012;

4. Article 282, Paragraph 4 and Article 284-286, which shall become effective on the date of the Decision of the Commission of the European Union, upon submission of information about the conclusion of an agreement between the National Bureau of Bulgarian Motor Insurers and the compensation authorities of the Member States in compliance with Article 6, Paragraph 3 of Directive 2000/26/EC on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC. Until the entry into force of the Treaty for Accession of

the Republic of Bulgaria to the European Union, the National Bureau of Bulgarian Motor Insurers shall make the necessary arrangements to exercise the functions of a compensation body.

5. Article 288, Paragraph 2, which shall enter into force on June 11, 2007, and shall apply to all registered claims for indemnity, on which, as of that date, the managing board of the Guarantee Fund has not rules. Until the entry into force of the Treaty for Accession of the Republic of Bulgaria to the European Union, the Guarantee Fund shall only pay indemnities where a road accident has occurred within the territory of the Republic of Bulgaria. The Guarantee Fund shall make arrangements for the implementation of the functions of an Information Centre within six months of the present Code's entry into force.

This Code was adopted by the 40th National Assembly on the 8th of December 2005 and the official seal of the National Assembly was affixed thereunder.

(*) Act to Amend the Commercial Register Act

(SG No. 80/2006, effective 3.10.2006)

§ 1. In § 56 of the Transitional and Final Provisions the words "1 October 2006" shall be replaced by "1 July 2007"

.....

TRANSITIONAL AND FINAL PROVISIONS

to the Act Amending and Supplementing the Insurance Code

(SG No. 97/2007)

§ 141. (1) Insurance joint-stock companies shall delete the word "reinsurance" or its derivatives in Bulgarian or foreign languages from their company names within one year from entry into force of this Act.

(2) Insurance joint-stock companies shall bring their operations in conformity with the provisions of Article 13a within one year from entry into force of this Act.

§ 142. (1) The provisions of Article 199a, Paragraphs 1, 3 and 6 shall enter into force on the date of promulgation of this Act in the State Gazette and shall apply to existing insurance contracts concluded in favour of a creditor.

(2) For existing insurance contracts under Article 199a the creditors shall provide the information under Article 199a, Paragraph 4 and the certificate under Paragraph 5 within 6 months from entry into force of this Act.

§ 143. The provision of Article 213, Paragraph 1, sentence four shall apply to all cases of subrogation on which no payment is made at the date of promulgation of this Act in the State Gazette.

§ 144. The provision of Article 288b shall apply as of 1 January 2008.

§ 145. The provision of Article 317a, Paragraph 4 shall apply as of 1 April 2008.

§ 146. (1) The provisions of Part Six "A" shall apply also to ongoing bankruptcy proceedings except for bankruptcy proceedings under § 10, Paragraph 1.

(2) By 31 December 2007 the Minister of Finance shall make an initial contribution in favour of the Security Fund in the amount of BGN 2,000,000 at the expense of the republican budget.

.....

TRANSITIONAL AND FINAL PROVISIONS to the Act Amending and Supplementing the Credit Institutions Act

(SG No. 24/2009, effective 31.03.2009)

.....

§ 42. The funds under Article 288b(1) of the Insurance Code intended for projects adopted for 2008 which were not spent in the same year may be tapped into for projects adopted for 2009.

§ 43. Any proceedings under Articles 16 and 16a of the Insurance Code which were pending at the time of this Act's entry into force shall be completed as per the current procedure.

.....

TRANSITIONAL AND FINAL PROVISIONS to the Act Amending and Supplementing the Health Act

(SG No. 41/2009, effective 2.06.2009)

.....

§ 96. The Act shall enter into force on the date of its promulgation in the State Gazette, excluding:

.....

2. paragraphs 26, 36, 38, 39, 40, 41, 42, 43, 44, 65, 66, 69, 70, 73, 77, 78, 79, 80, 81, 82, 83, 88, 89 and 90 which shall enter into force as of 1 July 2009;

.....

FINAL PROVISION to the Act Amending and Supplementing the Insurance Code

(SG No. 41/2010)

§ 5. Within three months upon entry into force of this Act, insurance companies and reinsurers shall bring their capital into compliance with the requirements laid down in Article 82(1).

TRANSITIONAL AND FINAL PROVISIONS to the Act

Supplementing the Insurance Code

(SG No. 51/2011)

§ 5. The insurers shall align their general terms and conditions governing insurance policies or any existing motor vehicle insurance agreements with the provisions of this Act within three months after its entry into force.

§ 6. Paragraphs 2 and 4 shall enter into force 15 months after the promulgation of the Act in the State Gazette.

Annex No. 1

54/2006, (Amended, SG No.
SG No.
97/2007,
supplemented, SG No. 41/2009, effective
1.07.2009
amended, SG No. 77/2011, SG No.
60/2012,
effective
7.08.2012)

TYPES OF INSURANCES

Section I

Types of Insurances, Risks

1. Life Insurance and annuities:

a) life insurance covering the risks of death only, or survival to a stipulated age, or survival to a stipulated age, or an earlier death;
b) (amended, SG No. 97/2007) retirement or annuity insurance, including

a savings element and an obligation to make lump-sum or regular payments.

In these contracts, the insurer shall pay fixed amounts

2. Marriage and birth insurance

Insurance for the payment of a fixed amount upon marriage or birth or upon expiry of the insurance term, contingent on the attainment of a stipulated age by a child.

3. (Amended, SG No. 77/2011) Life insurance linked to an investment fund.

Insurances under Items 1 and 2, in which the insurance payments are contingent,

in whole or in part, on the value of stocks and shares issued by

investment

companies and contractual funds carrying out operations in accordance with,

the Collective Investment Schemes and Other Undertakings for Collective Investments Act and stocks and shares of collective investment programmes,

or

of the value of assets included in internal funds of the insurer.

4. Permanent health insurance:

(a) (repealed, SG No. 60/2012, effective 7.08.2012);

(b) an insurance which pays a lump sum or regular benefits for a set period or for life, upon incapacitation for employment resulting from accident or sickness, or from specific types of accident or sickness.

5. Capital redemption.

A fixed term insurance whereby the insurer, in return for a premium, pays a stipulated sum upon expiry of said term.

6. Supplementary insurance.

any An insurance providing supplementary insurance coverage, including

or a combination of:

a) death resulting from an accident;

lost b) (supplemented, SG No. 41/2009, effective 1.07.2009) permanently

or reduced competency for employment, or a certain type and level of injury,

as a result of an accident;

lost c) (supplemented, SG No. 41/2009, effective 1.07.2009) permanently

or reduced competency for employment, or a certain type and level of injury,

as a result of sickness;

d) temporary incapacitation for employment resulting from accident;

e) temporary incapacitation for employment resulting from sickness;

or a f) (amended, SG No. 54/2006) impossibility to exercise a profession

trade as a result of bodily harm;

g) (repealed, SG No. 60/2012, effective 7.08.2012);

h) grave sickness;

i) (repealed, SG No. 60/2012, effective 7.08.2012).

Section II

A. Types of insurances. Risks

1. Accident (including industrial injury and occupational diseases):

- fixed pecuniary benefits;

- indemnities;

- a combination of the two above;

- indemnification of passengers.

2. Sickness:

- fixed pecuniary benefits;

- indemnities;

- a combination of the two above.

3. Land vehicles (other than railway rolling stock).

All damage to or loss caused to:

- land motor vehicles;

- land vehicles other than motor vehicles.

4. Railway rolling stock.

All damage to or loss of railway rolling stock.

5. Aircraft.

All damage to or loss of aircraft.

6. Vessels (sea, river, and lake and canal vessels).
All damage to or loss of:
- river and canal vessels;
- lake vessels;
- sea vessels.
7. Cargo in transit (including merchandise, baggage, and others).
All damage to or loss of cargo in transit, irrespective of the form
of
transport.
8. Fire and natural calamities.
All damage to or loss of property (other than those referred to in
Items
3, 4, 5, 6 and 7) due to:
- fire;
- explosion;
- implosion;
- storm;
- other natural forces;
- nuclear power;
- landslides.
9. Other damage to property.
All damage to or loss of property (other than those referred to in
Items
3, 4, 5, 6 and 7) due to hail or frost, and any other event such as theft,
other than those mentioned under item 8.
10. Third party liability for the possession and use of a motor
vehicle.
10.1. Any liability for damages caused in the use of land motor
vehicles
10.2. Third party liability of the motorist
11. Third party liability for the possession and use of aircraft.
11.1. Any liability for damages arising in the use of aircrafts
11.2. Third party liability of the aircraft carrier.
12. Third party liability for the possession and use of vessels.
12.1. Any liability for damages arising in the use of vessels.
12.2. Third party liability of the ships carrier.
13. General third party liability.
All liability for damages other than those mentioned under Items 10,
11
and 12.
14. Credits:
- general insolvency;
- export credit;
- installment credit sales;
- mortgages;
- agricultural credit.
15. Guarantees:
- direct;
- indirect.
16. Miscellaneous financial loss:
- employment risks;
- general income insufficiency;
- poor weather conditions;
- loss income;
- current general expenses;
- unforeseen trade costs;
- loss of market value;

- loss of annuities or income;
- indirect trade losses other than those mentioned above;
- other financial losses (non-commercial);
- other financial losses.

17. Legal expenses (legal defence)
Insurance for coverage of trial costs and other expenses related to litigation.

18. Tourist assistance (assistance).
Assistance provided for persons in a difficult situation while travelling, away from home or away from their permanent residence.

B. Description of the license for more than one type of insurance
Where the license covers simultaneously:

- a) the types under items 1 and 2, shall be named "Accident and Health Insurance";
- b) the types under items 1 (passenger indemnification), 3, 7 and 10, shall be named "Motor Insurance;"
- c) the types under items 1 (passenger indemnification), 4, 6, 7 and 12, shall be named "Marine and Transport Insurance;"
- d) the types under items 1 (passenger indemnification), 5, 7 and 11, shall be named "Aviation Insurance;"
- e) the types under items 8 and 9, shall be named "Property Insurance";
- f) the types under items 10, 11, 12 and 13, shall be named "Liability Insurance";
- g) the types under items 14 and 15, it shall be named "Credit and Warranties";
- h) all types, it shall be named "General Insurance".

B. Ancillary Risks

1. An insurer licensed for a principal risk under one type or a group of types of insurance under Section II of the Annex, may likewise cover the risks included in other types without license being necessary for the said risks if:

- these are connected with the principal risk;
- these concern the object covered by the principal risk;
- these are covered by the contract covering the principal risk.

2.1. The risks covered in Section II, Letter "A", items 14, 15 and 17 cannot be considered ancillary to other types of insurance.

2.2. The risk under Section II, Letter "A", item 17 (Legal expenses) can be ancillary to insurances of the type "Road assistance" under Section II, case "A, item 18 provided the circumstances under item 1 are present and the principal risk is only related to the provision of assistance to persons in a difficult situation while travelling, away from home or from their permanent residence.

2.3. Legal expenses may also be an ancillary risk under the conditions of item 1, should they refer to disputes or risks arising from or with regard to sea vessels.

Annex No 2

to Article 82, Paragraph 4

Minimum amount of the guarantee capital of the mutual insurance
cooperative society under Article 80, Paragraph 3

No	Level of attained income from annual premium (BGN '000)	Amount of minimum guarantee capital (BGN '000)
1.	Up to 500 inclusive	100
2.	From 500 to 1000 inclusive	200
3.	From 1000 to 1500 inclusive	300
4.	Over 1500	400