

## **Act LX of 2003**

### **on Insurance Institutions and the Insurance Business**

In the interest of protecting the interests of policyholders, stimulating self-government, increasing confidence in insurance and insurance companies, strengthening the role of the insurance industry in general and of the insurance companies in the nation's economy, enhancing the feasibility and reliability of the insurance industry, as well as the guarantees for insurance services, facilitating the effective exercise of freedom to provide insurance services under uniform rules in order to guarantee the competitiveness of market actors on equal grounds, improving the supervisory system of the insurance industry created for the reliable operation of the insurance system, promoting the role of insurance companies in preventing damage, furthermore, with a view to approximation to the legislation of the European Union, and that insurance industry is to achieve a level in terms of governing principles, quality and security it provides to market players as it is required from all national laws of Member States of the European Union, Parliament has adopted the following Act:

#### ***PART ONE***

#### ***GENERAL PROVISIONS***

##### Scope

##### *Section 1.*

(1) Unless otherwise provided by international agreement, this Act shall apply to:

- a) insurance activities pursued in the territory of Hungary and the activities involved in or closely related to insurance, and the insurance activities and the activities involved in or closely related to insurance carried on by an insurer established in the territory of Hungary by authorization conferred under this Act;
- b) insurance mediation and insurance consulting performed in the territory of Hungary, and the activities involved in or closely related to insurance or insurance mediation carried on by an independent insurance intermediary established in the territory of Hungary;
- c) activities pursued by the Hungarian branches of foreign insurance companies, insurance intermediaries and consultants;
- d) outsourcing service providers solely with respect to the outsourced activities;
- e) the activities of the body designated to administer the Claims Security Account and the Claims Guarantee Fund, in respect of the activities concerning the administration of the Account;
- f) the supervisory activities of the State Financial Institutions Commission (hereinafter referred to as the "Commission") conferred under this Act; and
- g) the obligations of companies - specified in this Act - that are subject to supervision on a consolidated basis or supplementary supervision.

(2) The provisions of this Act shall apply to the insurance, insurance mediation and insurance consulting and/or insurance, insurance mediation and insurance consulting representation activities of resident insurance companies, insurance intermediaries and insurance consultants that are performed abroad only if the law of the country in which the services in question are provided does not provide otherwise.

*Section 2.*

(1) This Act shall not apply to:

- a) insurance forming part of a statutory system of social security,
- b) operations of provident, mutual benefit and mutual assistance institutions whose benefits vary according to the resources available and in which the contributions of the members are determined on a flat-rate basis,
- c) the procedure of insurance constituting an agreement to divide any losses that might occur regarding specific perils equally among two or more people in a risk group (pooling arrangement),
- d) export credit insurance operations by order of or under guarantee by the State,
- e) voluntary mutual insurance funds and private pension funds,
- f) services provided under the international third-party motor insurance system (Green Card Agreement),
- g) the activities of associations where the articles of association of members contain provisions for calling up additional contributions or reducing their claims, and their business does not cover liability risks other than what is contained in Schedule No. 1, Part A), class 19, and the total of premium income and revenues from membership fees does not exceed 50 million forints in a year, and at least half of all income originates from persons who are members of the association,
- h) activities of organizations that undertake to provide benefits solely in the event of death, where the amount of such benefits does not exceed the average funeral costs for a single death or where the benefits are provided in kind,
- i) operations carried out by organizations that do not have a legal personality with the purpose of providing mutual cover for their members without payment of premiums or creation of technical provisions,
- j) the Miklós Wesselényi Flood Control Emergency Relief Fund.

(2) The provisions laid down in Paragraphs a) and e) of Subsection (1) shall not affect the right of insurance companies to provide services under specific other legislation to the social security system and to voluntary mutual insurance funds and private pension funds.

(3) This Act shall not apply to the services indicated under class 18 of Part A) of Schedule No. 1, which are otherwise included in the insurance business, if the organization providing the services fulfills the following conditions:

- a) it does not pursue any insurance activity falling within the scope of this Act,
- b) the assistance activity is carried out exclusively on a local basis and consists only of benefits in kind, and
- c) the total annual income collected in respect of its assistance activity does not exceed 50 million forints.

(4) The provisions of this Act shall not apply to any emergency assistance services normally provided in the domestic territory in the event of an accident or breakdown involving a road vehicle by an organization other than an insurer, such as:

- a) on-the-spot breakdown service for which the organization providing cover uses, in most circumstances, its own staff and equipment,
- b) conveyance of the vehicle to the nearest or the most appropriate location at which repairs may be carried out,
- c) accompaniment, normally by the same means of assistance, of the driver and passengers to the nearest location from where they may continue their journey by other means, or
- d) conveyance of the vehicle, possibly accompanied by the driver and passengers, to their home or to the corporate headquarters of the operator of the vehicle, or to the point of departure or original destination.

(5) This Act shall not apply to the activities defined under Paragraphs a)-c) of Subsection (4) if the accident or breakdown involving a road vehicle occurs in a foreign country, provided the person to whom the service is provided holds a membership in an assistance organization and if the assistance is provided:

- a) on the basis of a reciprocal agreement,
- b) without any additional charges,
- c) only if the membership card is produced, and
- d) by an assistance organization of the kind operating in the country in which the accident or breakdown has occurred.

## Definitions

### *Section 3.*

(1) For the purposes of this Act

1) parent company, subsidiary, dominant influence:

a) "parent company" means any company that effectively exercises a dominant influence over another company;

b) "subsidiary" means any company over which a parent company effectively exercises a dominant influence. All subsidiaries of subsidiary companies shall also be considered subsidiaries of the parent company;

c) "dominant influence" shall have the same meaning as defined in Act CXII of 1996 on Credit Institutions and Financial Enterprises;

2) "subordinated loan capital" means all loans effectively provided to the insurance company if the loan contract contains a clause to permit use of the loan amount to settle the liabilities of the insurance company and the lender's claim ranks after the claims of all other creditors but before the shareholders and if the original maturity of the loan is for more than five years;

3) identification data:

a) "personal identification data and address of natural persons" means the natural identification data, citizenship, residence address, mailing address,

b) "company identification data" means the name, abbreviated name, registered address, place of business and branch, tax number, name and position of authorized representatives;

4) "unit-linked life assurance" means a type of life assurance policy where the insurer places the amount of the technical provisions relating to the insurance contract into individual reserve funds created by the insurer comprising theoretical settlement components of identical value (investment units) having its own investment policy or into other investment funds operated by a company authorized to manage investment funds, whichever is selected by the insured party, for the purpose of investment, according to the rules and regulations laid down in the contract;

5) "qualifying interest" means a direct or indirect relationship between a person and a company by virtue of which the holder of the qualifying interest:

a) controls ten per cent or more of the company's capital or exercises ten per cent or more of the voting rights, or

b) has powers to appoint or remove twenty per cent or more of the members of the company's decision-making, management, supervisory and other bodies, or

c) has powers to exercise significant influence over the management of the company as laid down in the charter document or in contract.

In determining the extent of qualifying interest all direct and indirect interest shall be included and it shall be calculated in accordance with Subsections (2)-(6) of Section 37/A of the IRA;

6) "resident" shall have the same meaning as defined in Point 1 of Section 2 of Act XCIII of 2001 Abolishing Foreign Exchange Restrictions and on the Amendment of Certain Related Acts;

7) "branch of insurance" means the two main groups of insurance distinguished on the basis of risk criteria: non-life insurance (Schedule No. 1) and life assurance (Schedule No. 2);

8) "class of insurance" means a subgroup within a branch of insurance consisting of services covering the same or similar perils;

9) "insurance product" means a specific policy designed to provide coverage for specific perils or a number of separate perils under predetermined terms and conditions;

10) "insurance company" means an organization authorized to engage in insurance activities and activities involved in or closely related to insurance under Hungarian law or the laws of a Member State;

11) "insurance holding company" means a parent company, other than a mixed financial holding company, the main business of which is to acquire and hold participations in subsidiary companies, where those subsidiary companies are exclusively or mainly insurance companies, reinsurance companies or non-member country insurance companies or non-member country reinsurance companies, at least one of such subsidiary companies being an insurance company, or a reinsurance company;

12) "gross technical provisions" means the total amount of technical provisions, calculated net of reinsurance, that is the total amount of the technical provisions set aside by the insurer and the amount of technical provisions on risks covered by reinsurance;

13) "medical data" means medical data within the meaning of Act XLVII of 1997 on the Protection of Personal Data in the Field of Medicine;

14) "co-insurance" means a service provided by several insurers for a global premium by means of a single contract for coverage of damage incurred in connection with risks specified in a contract or providing benefits under contractual conditions in the proportions laid down in writing in advance as well as the creation and management of reserves by each insurer as consistent with their respective share of the commitment;

15) "regulated market" means the regulated market within the meaning of Act CXX of 2001 on the Capital Market (hereinafter referred to as "CMA");

16) "inflationary escalation" means the annual adjustment of the insurance premium and the sum insured, irrespective of the number of claims, consistent with the level of inflation;

17) "securities lending and securities borrowing" means securities lending and securities borrowing within the meaning of the CMA;

18) "managed fund" means the assets set aside from the premium income of unit-linked life assurance policies - less the deductions stipulated in the insurance contract - for investment purposes;

19) "supervisory authority" means the authority empowered by law or regulation to supervise the activities of insurance companies, insurance intermediaries, and insurance consultants abroad;

20) "Member State of the branch" shall mean the Member State in which the branch making the commitment is situated;

21) "head office" means the place where the company conducts its principal activity and where central decision-making occurs in connection with business matters and accountancy, if done at a place other than its headquarters;

22) "third country" shall mean any country that is not a member of the European Union;

23) "third-country insurance company" means any third-country organization authorized to engage in insurance activities under the laws of the country where it is established and the requirements for authorization are compatible with the provisions of this Act;

24) "cross-border services" means where the Member State of the commitment relating to the activities of an insurance company, insurance intermediary or insurance consultant is not the same as the Member State where the headquarters, place of business or head office of the insurance company, insurance intermediary or insurance consultant is situated;

25)

26) "initial capital" means the capital of an insurance association subscribed at the time of foundation;

27) "Information Center" shall have the meaning defined in Act LXII of 2009 on Insurance Against Civil Liability in Respect of the Use of Motor Vehicles (hereinafter referred to as "MVI");

28) "subscribed capital, equity" means the subscribed capital and equity within the meaning of Act C of 2000 on Accounting (hereinafter referred to as "Accounting Act");

29) "mortgage loan" means a legal agreement fixed in a public document under which the insurance company agrees to lend money to a life assurance policyholder, where the loan is secured - in addition to the sum to be paid under a life assurance contract concluded by the policyholder - by real property (other than arable land) that is located in Hungary;

30) "affiliated company" means a subsidiary company or a company in which another company (participating company) has a participating interest;

31) "claims representative" shall have the meaning defined in the MVI;

32) "Claims Security Account" shall have the meaning defined in the MVI;

33) "Claims Organization" shall have the meaning defined in the MVI;

34) "agent for service of process" means an attorney or law office registered in the territory of Hungary, or the applicant's insurer, insurance intermediary or insurance consultant registered in the territory of Hungary, or representative office under this Act;

35) "capital at risk" means the amount payable on death less the mathematical provision for the main risk, or the reserve for unit-linked life assurance policies where applicable;

36) "Member State of the commitment" shall mean the Member State:

*a)* for risks covered under the life assurance branch:

*aa)* where the policy holder has his/her normal place of residence, if a natural person, or

*ab)* where the policy holder's registered office, to which the contract relates, is situated, if a legal person;

*b)* for risks covered under the non-life insurance branch the place where the risk is situated, meaning:

*ba)* the Member State in which the property is situated if the insurance relates either to buildings or to buildings and their contents, in so far as the contents are covered by the same insurance policy,

*bb)* the Member State that is considered the State of the commitment by definition of the MVI for risks covering any type of motor vehicle,

*bc)* the Member State where the policy-holder took out the policy in the case of policies of a duration of four months or less covering travel or holiday risks, whatever the class concerned,

*bd)* the Member State where the policy-holder has his normal place of residence or, if the policy-holder is a legal person, the Member State where the latter's establishment, to which the contract relates, is situated, in all cases not explicitly covered by the foregoing Subparagraphs *ba)*, *bb)* and *bc)*;

37) "policy loan" means a loan - not treated as a financial service - that may be provided by the insurer to the holder of a life assurance policy up to its cash surrender value and which is settled by the parties upon or before the occurrence of the insurance event or the termination of the contract;

38) "indirect holding" means control of shares in the capital or exercise of voting rights in a company (hereinafter referred to as "original company") through the shares or voting rights held by another company in the original company (hereinafter referred to as "intermediary company"), as taken into account in accordance with Schedule No. 3;

39) "nonresident" shall have the same meaning as defined in Point 2 of Section 2 of Act XCIII of 2001 Abolishing Foreign Exchange Restrictions and on the Amendment of Certain Related Acts;

40) "nonresident insurance intermediary" means a foreign company authorized to engage in insurance mediation under the laws of the country where it is established;

41) "nonresident insurance company" means a foreign company authorized to engage in insurance activities under the laws of the country where it is established;

42) "nonresident insurance consultant" means a foreign company authorized to engage in insurance consulting under the laws of the country where it is established;

43) "major error" means when the combined total of all errors and the impacts thereof substantially alters the amount of equity or the amount of technical provisions in the manner and to the extent set forth in the accounting policy, rendering - in consequence - any financial, income and earnings figures already disclosed misleading. It shall be treated as a major error, without exception, if the error results in a variation of at least 20 per cent (whether negative or positive) in the amount of equity shown in the balance sheet for the financial year preceding the year in which the error was discovered, or if it alters the amount of any particular type of technical provision by 3 per cent or more of the balance sheet total of the financial year preceding the year in which the error was discovered;

44) "residual rights" means the rights defined in the terms and conditions of a life assurance contract that remain in the case of non-payment of premium and/or the termination of the contract without payment of the sum insured;

45) "matching assets" means the representation of underwriting liabilities that can be required to be met in a particular currency by assets expressed or realizable in the same currency;

46) "minimum security capital" means the assets consistent with the size of the risk in the classes undertaken by insurance companies when they are set up and in the subsequent course of business;

47) "National Bureau" shall have the meaning defined in the MVI;

48) "net claims reserve" means pending reserves net of reinsurance cessions;

49) "participation" means a relationship between a person (organization) and a company that constitutes the direct or indirect ownership of a minimum of 20 per cent or a maximum of 50 per cent of the voting rights or capital of the company. With respect to voting rights, the relevant provisions of the Accounting Act shall apply, regardless of whether or not the person (organization) in question falls within the scope of the Accounting Act;

50) "participating company" means the parent company or a company holding a participation in another company (affiliated company);

51) "assistance operation" means an insurance activity in which assistance is provided by the service operator for persons who get into difficulties while traveling due to an accidental, unforeseen event. It shall consist in undertaking, against the prior payment of a premium, to make aid immediately available to the beneficiary under an assistance contract when that person is in difficulties following the occurrence of a chance event, in the cases and under the conditions set out in the contract. The aid may consist of the provision of benefits in cash or in kind. The provision of benefits in kind may also be effected by means of the staff and equipment of the person providing them. The assistance activity does not cover servicing, maintenance, after-sales service or the mere indication or provision of aid as an intermediary;

52) "professional aptitude and a good business reputation" means all of the requisites to be possessed by the executives and owners for the prudent and sound management of the insurance company;

53) "solvency margin" means a supplementary reserve at the disposal of insurance companies and calculated according to the provisions of this Act, represented by free assets, which can be mobilized

to meet their underwriting liabilities without having to obtain the consent of any third party if such liabilities are not covered by the premiums collected or by the technical provisions;

54) "derivative instrument" means the instrument within the meaning of the CMA;

55) "Member State of the head office (Member State of the establishment)" means the Member State where the insurance company, insurance intermediary or insurance consultant of the commitment is established;

56) "Member State of the provision of services" mean the Member State of the commitment, if the commitment is covered by an assurance company or a branch situated in another Member State;

57) "Member State" means a country that is a member of the European Union;

58) "technical interest rate" means the rate of interest used by the insurance company when calculating the premiums and premium reserve for life and medical insurance policies, and benefit payment reserve for accident and liability insurance policies, where the ceiling rate is specified in specific other legislation;

59) "product plan" means a plan designed for a specific class of insurance concerning the feasibility of a network of services intended to be distributed by the insurance company, the formal requirements for which are laid down in Schedule No. 4;

60) "surplus yield" means the difference between the return on investment of mathematical provisions and the yield calculated by the technical interest rate;

61) "client" means the contracting party, the policyholder, the beneficiary, the injured party, any other person entitled to receive services from the insurer; for the purposes of data protection regulations, "client" also means any person who makes a contractual offer to the insurer;

62) "safeguarding the interests of clients" means protection of the financial security of insurance services and preservation of the legal security of policyholders;

63) "outsourcing" means when any part of specific insurance activities is performed by others;

64) "managing director" means the executive officer in the employ of the assurance company appointed to operate the company, and his deputies. The chief executive officer of the assurance company is placed in charge of the company's work organization;

65) "business secret" shall have the meaning defined in Act IV of 1959 on the Civil Code of the Republic of Hungary (hereinafter referred to as "Civil Code");

66) "gainful (for-profit) business activity" means economic activities performed on a regular basis for compensation for the purpose of profit or enrichment;

67) "financial reserves" means liquid assets tied up in a credit institution (cash deposits or debt securities issued or guaranteed by a credit institution or the government with a remaining maturity of more than 180 days that can be redeemed or liquidated on demand) or a bank guarantee;

68) "localization of assets" means the existence of assets, whether movable or immovable, within a Member State, but it shall not be construed as involving a requirement that movable assets be deposited or that immovable assets be subjected to restrictive measures such as the registration of mortgages; assets represented by claims against debtors shall be regarded as situated in the Member State where they are realizable;

69) "enterprise" means any economic organization engaged in for-profit business activities and branch offices of third-country assurance companies;

70) "products in competition" means insurance products which are interchangeable for the client's purposes in terms of the perils they cover and the related insurance services, and they fall within the same class or the same branch of the same class of insurance under Schedules Nos. 1 and 2. The following products shall be considered to be of the same class or same branch of insurance:

a) products which cover the same perils within the same class of insurance or within the same branch of the same class of insurance;

b) products which cover perils within the framework of a single policy which are classified in several classes of insurance or in several branches of the same class of insurance, if their classification by class or branch of insurance is the same according to the perils they cover;

c) products classified under the same class of insurance or under the same branch of the same class of insurance, and products which cover perils within the framework of a single policy which are classified in several classes of insurance or in several branches of the same class of insurance, provided that classification of the latter product by class or branch of insurance is the same according to the perils they cover as that of the prior product.

71) "executive employee" means

a) in the case of insurance companies operating in the form of a public limited company, cooperative or association averaging more than one hundred members throughout a single calendar year, the members of the executive board and the supervisory board, and the managing director,

b) in the case of insurance associations not mentioned in Paragraph *a)*, the chairman of the executive board, the chairman of the supervisory board, the managing director, or the persons holding the equivalent positions regardless of the title denoted in the charter;

c) in the case of branch offices of third-country assurance companies, the general representative and the managing director;

72) "reinsurance" means the activity consisting in accepting risks ceded by an insurance company, another reinsurance company, an institution for occupational retirement provision, a non-member country reinsurance company, an institution for occupational retirement, or the activity consisting in accepting risks in whole or in part by any member of the association of underwriters known as Lloyd's, for a fee under contract;

73) "reinsurance company" means an company which has received official authorization to engage in reinsurance activities and activities involved in or closely related to reinsurance under the laws of the Member State in which the reinsurance company has its head office;

74) "mixed-activity insurance holding company" means a parent company, other than an insurance company, a non-member country insurance company, a reinsurance company, a non-member country reinsurance company, an insurance holding company or a mixed financial holding company, which includes at least one insurance company or a reinsurance company among its subsidiary companies;

75) "regulated entity" means a credit institution, an investment firm, an insurance company or a reinsurance company;

76) "financial sector" shall mean the banking sector, the investment services sector, the insurance services sector, and mixed financial holding companies;

77) "banking sector" shall mean a sector composed of credit institutions, financial institutions, and associated companies;

78) "investment services sector" shall mean a sector composed of investment firms;

79) "insurance services sector" shall mean a sector composed of insurance companies, reinsurance companies, and insurance holding companies;

80) "mixed financial holding company" shall mean a parent company, other than a regulated entity, which together with its subsidiaries, at least one of which is a regulated entity which has its head office in the European Union, and other entities, constitutes a financial conglomerate.

81) "group" shall mean a group of companies which consists of a parent company, its subsidiaries and the entities in which the parent company or its subsidiaries exercise dominant influence or hold a participating share.

82) "competent authorities concerned" shall mean:

a) the national authorities of the Member States which are empowered to supervise regulated entities in a financial conglomerate; or



*b)* the coordinator appointed in accordance with Section 189/H; or  
*c)* other competent authorities concerned designated by the authorities referred to in Paragraph *a)* and *b)*, if the market share of the regulated entities of the conglomerate in the Member State of the authority concerned reaches five per cent, and the importance in the conglomerate of any regulated entity authorized by this authority is significant.

83) "close link" shall have the same meaning as defined in the CIFE.

84) "risk profile" means the risk underlying the classification of the products covering the risks classified under several classes of insurance or under several branches of the same class of insurance within the framework of a single policy. The products covering the risks classified under several classes of insurance or under several branches of the same class of insurance within the framework of a single policy shall be classified under a single class of insurance, or branch of insurance, that corresponds with the class or branch of insurance to which the largest part of the premium pertains according to the premium calculation of the product in question.

85) "branch of insurance" means a group of specific perils within a class of insurance.

86)

87) "correspondent" shall have the meaning defined in the MVI;

88) "claims adjustment representative" shall have the meaning defined in the MVI;

89)

90) "special purpose vehicle" shall have the meaning defined in Act CLIX of 2007 on Reinsurance (hereinafter referred to as "Reinsurance Act");

91) "special purpose instrument" shall have the meaning defined in the Reinsurance Act.

92) "UCITS" shall have the meaning defined in Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities (hereinafter referred to as "IRA");

93) "close relative" shall mean the persons defined in the Civil Code, including domestic partners;

94) "affiliated company" shall have the meaning defined in the CMA.

95) 'Claims Guarantee Fund' shall have the meaning defined in the MVI.

96) 'persons with no prior criminal record' shall mean where a clean criminal record is required for the pursuit of certain activities or for filling any management position specified in this Act, it shall be verified with respect to the criminal offenses specified in Title III of Chapter XV of Act IV of 1978 on the Criminal Code (hereinafter referred to as "Criminal Code"), false accusation (Criminal Code, Section 233), misleading of authority (Criminal Code, Section 237), perjury (Criminal Code, Section 238), subornation of perjury (Criminal Code, Section 242), suppressing extenuating circumstances (Criminal Code, Section 243), harboring a criminal (Criminal Code, Section 244), the criminal offenses specified in Titles VII and VIII of Chapter XV of the Criminal Code, acts of terrorism (Criminal Code, Section 261), violation of international economic restrictions (Criminal Code, Section 261/A), seizure of an aircraft, of any means of railway, water or road transport or of any means of freight transport (Criminal Code, Section 262), illegal possession of explosives and destructive devices (Criminal Code, Section 263), criminal misuse of firearms and ammunition (Criminal Code, Section 263/A), criminal misuse of military items and services, and dual-use items and technology (Criminal Code, Section 263/B), affiliation with organized crime (Criminal Code, Section 263/C), crimes in connection with nuclear energy (Criminal Code, Section 264/B), criminal misuse of weapons prohibited by international convention (Criminal Code, Section 264/C), taking the law into one's own hands (Criminal Code, Section 273), the criminal offenses specified in Title III of Chapter XVI of the Criminal Code, and the criminal offenses specified in Chapters XVII and XVIII of the Criminal Code by means of an official certificate made out according to Act XLVII of 2009 on the Penal Register, on the Register of Judgments Delivered by the Courts of Member States

of the European Union Against Hungarian Nationals, and on the Register of Biometric Data Related to Criminal Prosecution and Law Enforcement.

97) 'Public-interest insurance company' means any insurance company that operates in the form of a public limited company, and any insurance company whose annual gross premium revenue for the preceding financial year reached 1 billion and 500 million forints.

(2) The terms European Union and Member States of the European Union shall be understood as the European Economic Area and the States who are parties to the Agreement on the European Economic Area (hereinafter referred to as "EEA Member State"), with the exception of Subsection (1) of Section 227. In connection with the non-life insurance sector, the provisions governing EEA Member States shall also apply to the Swiss Confederation.

#### Basic Requirements for Insurance Activities, Insurance Mediation and Insurance Consultancy

##### *Section 4.*

Insurance underwriting is a commitment that is based on an insurance contract, legal regulation, or membership relation whereby the insurer undertakes to designate a group of persons deemed to be exposed to the same risk or similar perils (risk group) in order to assess the risks that can be measured by mathematical and statistical means, establish a consideration (premium) for the commitment, create specific reserves, assume the risks stipulated and provide services as contracted.

##### *Section 5.*

(1) With the exceptions set out in Subsection (2), insurance activities, independent insurance mediation and activities involved in or closely related to insurance may be performed in the territory of Hungary only in possession of the Commission's authorization.

(2) An insurance company, insurance intermediary or insurance consultant established in a Member State may perform cross-border services in the territory of Hungary or through its Hungarian branch if so authorized in the Member State in which it is established.

(3) Subject to the exception set out in Subsection (7), third-country insurance companies, insurance intermediaries and insurance consultants may only provide services in the territory of Hungary through branch offices registered in Hungary.

(4) Insurance activities may only be carried out by insurance companies.

(5) Apart from the insurance activities described in Section 4 and the activities involved in or closely related to insurance, insurance companies are not allowed to pursue any other business activities.

(6) The following in particular shall be treated as activities involved in or closely related to insurance:

*a)* management and investment of the insurance company's own assets, including derivative transactions for hedging purposes as regards technical provisions, for the purpose of efficient portfolio management or for the purpose of arbitrage;

*b)* intermediation of financial services under Paragraph *b)* of Subsection (1) of Section 3 of the CIFE;

*c)* taking and forwarding orders as defined in Paragraph *a)* of Subsection (1) of Section 5 of the IRA;

*d)* mortgage lending;

*e)* securities lending and securities borrowing under the conditions laid down in the CMA;

f) services provided by an insurance company to its subsidiary or parent, or a company in which it has any participation relating to insurance operations;

g) the activities referred to in Subsection (4) of Section 9 of Act LVIII of 2003 on the Miklós Wesselényi Flood Control Emergency Relief Fund.

b) recruitment services provided under the Act on Voluntary Mutual Insurance Funds.

(7) Under international agreement, third-country insurance companies may, without having to set up a branch office,

a) engage in re-insurance operations;

b) provide liability insurance coverage for damage to goods and means of transport and vehicles in international trade.

#### *Section 6.*

In the course of soliciting clients for any insurance product, it is forbidden to employ any method

a) whereby any advantage is promised to the deficit of other persons in exchange for having the insured or the contracting party pursue others to conclude the same or a similar insurance contract, or

b) that involves an investment on the part of the insured or the contracting party that is to be recovered in part or in full from other persons targeted to conclude the same or a similar insurance contract.

#### *Section 7.*

#### *Sections 8-9.*

### Translation of Euro Sums into Forints

#### *Section 9/A.*

(1) Any provision of this Act concerning sums denominated in euro shall be understood as translated to forints for the period of the year beginning on 1 January and ending on 31 December (hereinafter referred to as “application period”).

(2) The aforesaid sums shall be translated into forints for an application period based on the average of the official daily exchange rates quoted by the Magyar Nemzeti Bank (hereinafter referred to as “MNB”) for the first ten months of the calendar year preceding the application period, rounded up to million forints.

## ***PART TWO***

### ***SYSTEM OF INSURANCE***

#### Chapter I

#### PRINCIPAL INSTITUTIONS OF THE INSURANCE SYSTEM

#### **Insurance Companies**

#### *Section 10.*

(1) In the territory of Hungary, insurance underwriters must operate in the form of joint-stock companies, cooperatives, associations or as branch offices of third-country insurance companies.

(2) As regards the various forms of companies, the provisions of the following statutes shall be applied with the exceptions set forth in this Act:

a) Act IV of 2006 on Business Associations (hereinafter referred to as “Companies Act”) if the insurer is a public limited company,

b) Act X of 2006 on Cooperatives (hereinafter referred to as “Cooperatives Act”) if the insurer is a cooperative,

c) the Civil Code and the Act on the Freedom of Association, on Public-Benefit Status, and on the Activities of and Support for Civil Society Organizations (hereinafter referred to as “Civil Societies Act”) if the insurer is a mutual association,

d) Act CXXXII of 1997 on Hungarian Branch Offices and Commercial Representative Offices of Foreign-Registered Companies (hereinafter referred to as "FCA") if the insurer is a branch office.

### **Joint-stock Insurance Companies**

#### *Section 11.*

(1) Joint-stock insurance companies shall be allowed to provide the full spectrum of insurance services within the branch of insurance for which they are licensed.

(2) Joint-stock insurance companies

a)

b) the lowest rate of cash contributions in their subscribed capital (Section 66) shall be seventy per cent,

c) in their subscribed capital (Section 66), the non-cash contributions must not include intangible assets as specified in the Accounting Act,

d) shall be registered in the register of companies only if cash contributions are paid up in full.

(3)

### **Insurance Cooperatives**

#### *Section 12.*

(1) An insurance cooperative may be founded by no less than ten members.

(2)

#### *Section 13.*

(1) The lowest rate of cash contributions forming part of the minimum amount of share capital (Section 66) subscribed by the members of the insurance cooperative shall be seventy per cent.

(2) In the share capital (Section 66), the non-cash contributions must not include any intangible assets as specified in the Accounting Act.

#### *Section 14.*

(1) The face value of each share certificate shall be at least ten thousand forints.

(2) Insurance cooperatives shall be registered in the register of companies only if the cash part of the share capital is paid up in full.

*Section 15.*

(1) Above and beyond the provisions of Section 17 of the Cooperatives Act, the following shall be defined in the charter:

a) the insurance cooperative's scope of activities broken down by branches and classes of insurance,

b) the principles governing the use of the insurance cooperative's after-tax profit.

(2) The charter may prescribe that any member of the cooperative may be compelled by a general meeting resolution to provide additional funding in the cases, manner and extent specified in the charter.

*Section 16.*

Persons who are not members of the insurance cooperative and/or are not employed by it may also be elected to the board of directors.

*Section 17.*

Members of the supervisory board may not be employed by the insurance cooperative. Persons who are not members of the insurance cooperative may be members of the supervisory board.

*Section 18.*

(1) No payment may be made to a former member (or his heir) on the basis of settlement if it would reduce the cooperative's solvency margin below the prescribed minimum (Sections 121 and 122) or if it would result in an emergency situation as defined in Subsection (1) of Section 216.

(2) Payment may be postponed on the basis of Subsection (1) for up to four years.

(3) Former members (or their heirs) shall receive a share from the profit of the cooperative until the final settlement of accounts.

**Mutual Associations**

*Section 19.*

(1) Mutual associations are mutual-type associations established to provide predetermined services for a premium exclusively to its members under contract, upon the occurrence of insured events. The perils covered and the technical principles are defined in the terms and conditions of insurance.

(2) An insurance contract shall be concluded as a precondition for admission into a mutual association.

(3) Unless the statutes of the association provides otherwise, upon termination of the insurance contract membership shall not cease to exist if the member:

a) continues to pay the membership fee;

b) who is not required to pay membership fees, satisfies other obligations stemming from his membership, and obtains another insurance policy within one year.

*Section 20.*

(1) The cash contribution forming part of the initial capital (Section 66) shall be at least 70 per cent for mutual associations.

(2) A mutual association shall receive authorization for the taking up of operations only if all of the cash contributions of the initial capital are paid up in full.

(3) Mutual associations must clearly indicate in their corporate name the fact that they are set up as mutual associations.

*Section 21.*

Mutual associations may not provide credit insurance and suretyship insurance; and may not accept reinsurance arrangements.

*Section 22.*

(1) In addition to what is contained in the Civil Code, the statutes of the mutual association shall specify:

- a)* the mutual association's scope of activities;
- b)* the amount of the initial capital and the manner in which it is to be paid up;
- c)* the criteria for determining the amount of the membership fee, and the terms and conditions of payment;
- d)* the principles on the appropriation of any profit;
- e)* the procedure for covering any losses;
- f)* additional contributions members are required to provide, and - with the exception set out in Subsection (2) - instructions relating to the possibility of any reduction in payments for the eventuality where other resources are insufficient to cover the association's liabilities for the year;
- g)* the appropriation of the association's assets in case of dissolution and the ways of settling existing liabilities, including underwriting obligations apart from other liabilities;
- h)* the rules for presenting a motion for the mutual association's transformation, including the case defined in Subsection (1) of Section 27, and dissolution, submitted to the supreme body.

(2) No reduction in payments as defined in Paragraph *f)* of Subsection (1) hereof is allowed in respect of liability insurance policies concluded by a mutual association.

(3) The supreme body of any mutual association averaging over one hundred members over a period of one calendar year shall elect at its next annual meeting:

- a)* the board of directors composed of an uneven number of at least three and not more than eleven members;
- b)* the supervisory board composed of an uneven number of at least three and not more than fifteen members.

(4) Within the meaning of Subsection (3), regardless of the title denoted in the statutes,

- a)* 'board of directors' shall mean the association's management and representative body;
- b)* 'supervisory board' shall mean the body overseeing the activities of the management and representative body.

(5) Unless otherwise provided for by the statutes, the supreme body shall elect the members of the board of directors and the supervisory board by secret ballot, for the term specified in the statutes. The mandate of members of the board of directors and the supervisory board shall take effect upon the declaration of acceptance made by the person affected.

(6) The meeting of the supreme body shall be called according to the procedure set out in the statutes, by means of an invitation sent to the members. The statutes may contain provisions for

sending the invitation to the meeting of the supreme body by way of electronic means to the members who specifically requested it.

(7) The college of delegates composed of up to fifty members shall function as the supreme body of a mutual association averaging over one thousand members throughout a calendar year. The delegates shall be elected by, and from among, the members proportionately, for a period of five years. The rules of the election and removal of delegates shall be laid down in the statutes of the mutual association. The statutes shall provide for the representation of new members.

(8) The general meeting for electing delegates shall be called by way of the means set out in the statutes, in any case by means of a public notice posted on the mutual association's website and published in two daily newspapers of nation-wide circulation. The statutes may require that the notice shall be sent by way of electronic means to the members who specifically requested it, in addition to being posted on the website or published in the press. In the event of any deviation between the public notice and the notice sent to the members by way of electronic means, the public notice shall prevail.

#### *Section 23.*

A share of the profits for the year, in the percentage specified in the statutes, shall be distributed among the members in the manner defined in the statutes, if following the payment of such share the solvency margin remains to exceed double of the minimum solvency margin requirement, or - if this is higher - double of the minimum guarantee fund.

#### *Section 24.*

(1) The board of directors of the mutual association shall have powers to order payment of additional contributions or to reduce payments according to Paragraph *f*) of Subsection (1) of Section 22, and to determine the extent thereof.

(2) Where a situation develops at a mutual association that is treated as an emergency under this Act, the Authority shall have powers to order - in addition to what is contained in Subsection (2) of Section 216 - additional contributions, if the board of directors of the mutual association failed to comply with the Authority's prior request therefor.

(3) When additional payment of contribution is required, the payment to be paid by any member of the mutual association may not exceed one hundred per cent of the annual payments required to be made by the member of the mutual association on any grounds to the mutual association, exclusive of additional contributions.

(4) The mutual association's board of directors may order former members of the association to make additional contributions, provided that membership of the member concerned was terminated inside a period of one year before the call for additional contributions was made.

(5) The mutual association's board of directors shall have powers to order payment of additional contributions or to reduce claims affecting all members of the mutual association, or certain groups of members of different branches and classes of insurance.

#### *Section 25.*

Membership fees, and the possibility of calling up additional contributions and for reducing payments, and the relevant circumstances shall, under the same conditions, be defined in the statutes by the same principles.

*Section 26.*

(1) In order to improve the stability of a mutual association, the Authority may order the mutual association to cede up to 90 per cent of its underwriting obligations to a reinsurance operator.

(2) Mutual associations shall not be allowed to cede all of their underwriting liabilities to reinsurance operators.

*Section 27.*

(1) In addition to what is contained in the Civil Code, the mutual association shall be considered terminated by way of succession if transformed into a limited insurance company.

(2) The transformation, including the case under Subsection (1) hereof, and dissolution of a mutual association shall be subject to the consent of at least three quarters of all members of the supreme body.

(3) In the event of dissolution of a mutual association, or if dissolved by court order, the decision on dissolution shall provide for the termination of the members' insurance coverage.

*Section 28.*

The membership fees of or additional contributions by members joining or leaving the association during the year shall be prescribed as commensurate. Additional contributions must be ordered consistent with any increase in membership contributions or any cutback in services during the year.

*Section 28/A.*

(1) A mutual association may be transformed into a limited insurance company. Transformation shall be governed by the relevant provisions of the Act on Business Associations (hereinafter referred to as "Companies Act") and the Accounting Act subject to the exceptions set out in this Section and in Sections 28/B-28/C, with the proviso that any reference in the Companies Act to predecessor business association shall be understood as predecessor mutual association.

(2) A limited company established upon the transformation of a mutual association may only be established privately.

(3) As regards those members of the mutual association that is in the process of being terminated who declare - at least thirty days before the first session held in preparation of the transformation - their intention not to participate in the new limited company, their membership shall cease to exist simultaneously upon the dissolution of the association, and shall not receive a share from the equity. Termination of membership shall have no bearing on the contractual relationship of such members stemming from the insurance contract.

(4) The provisions of Subsections (3)-(6) of Section 70 and Subsections (2)-(3) and (5) of Section 71 of the Companies Act shall not apply.

*Section 28/B.*

(1) The board of directors shall present a proposition to the preliminary meeting of the supreme body containing:

a) information as to the economic objectives desired to be achieved by the transformation, the means required to achieve them, and the future situation of the association's members and employees;



*b)* the arguments of the proponents and the board of directors.

(2) The board of directors shall - before the first meeting of the supreme body held in preparation of the transformation - inform the members concerning Paragraphs *a)* and *b)* of Subsection (2) by way of the means set out in the statutes, in any case by means of a public notice posted on the mutual association's website and published in two daily newspapers of nation-wide circulation. The statutes may require that the notice shall be sent by way of electronic means to the members who specifically requested it, in addition to being posted on the website or published in the press. In the event of any deviation between the public notice and the information sent to the members by way of electronic means, the public notice shall prevail. The board of directors shall satisfy the obligation to provide information so as to allow at least fifteen days for members of the mutual association for making the statement specified in Subsection (3) of Section 28/A.

(3) The decision adopted on transformation during the preliminary session shall contain:

*a)* the intent to go into transformation;

*b)* the name and address of the mutual association going into transformation and of the successor limited company;

*c)* the particulars of the members wishing to join the successor limited company;

*d)* the date of the draft statements of assets and liabilities of the mutual association going into transformation and of the successor limited company;

*e)* the particulars of the auditor of the transformation process.

(4) The second decision on transformation shall contain:

*a)* the draft statements of assets and liabilities of the mutual association going into transformation and of the successor limited company;

*b)* the draft of the articles of association of the successor limited company;

*c)* the date of transformation;

*d)* the names and addresses of the successor limited company's executive officers and supervisory board members;

*e)* the amount of equity share due to shareholders of the limited company based on their capital contribution, according to the draft statements of assets and liabilities of the mutual association going into termination, and the corresponding value of their shares;

*f)* the amount and face value of shares, and the description of the categories or classes of shares.

(5) Upon registration of the successor organization (organizations) the predecessor mutual association shall be cancelled from the register, with the name of the successor indicated.

(6) Before the last day of the third month following the date of registration of the organization (organizations) established by way of transformation, a final statement of assets and liabilities shall be prepared as on the date of registration, both for the predecessor and the successor organization. A positive difference between the equity capital shown in this statement of assets and liabilities and in the draft statement of assets and liabilities drawn up for the transformation shall be accounted as assets over the subscribed capital, whereas in the case of a negative difference, unless the assets over the subscribed capital provide cover for such and the members failed to provide cover as specified in the Companies Act, the subscribed capital shall be reduced.

#### *Section 28/C.*

(1) In the course of transformation, the amount of equity share due to members according to their capital contribution shall be determined based on the data contained in the successor's final statement of assets and liabilities. In determining the said amount the technical provisions relating to the insurance portfolio and their cover shall not be taken into account.

(2) The share to be allocated to members of the association from the successor limited company's capital shall be determined by the supreme body.

(3) The share referred to in Subsection (2) of the members may be determined as per the following:

*a)* each member is given an equal share from the assets of the mutual association; or

*b)* each member is given an equal share from the assets of the mutual association, except for those members who made contributions to the association's equity capital directly, in addition to the membership fee. The share due the latter members shall be determined in the manner fixed in the statutes, in proportion to the capital contribution they provided.

(4) As regards the insurance associations referred to in Subsection (2) of Section 228, if the share of premiums paid by the members for life assurance policies with residual rights attached can be shown in the return on investment of the technical provisions of life assurance policies, and hence in the capital structure as well, such contributions shall be taken into account together with the yield earned during that time and with any settlement payments.

(5) Where the share of members is determined according to Paragraph *b)* of Subsection (3) and Subsection (4) hereof, the supreme body of the association may not choose to use any method that may result in considerable harm to the legitimate interests of members who remained in minority.

### **Hungarian Branch Offices of Third-country Insurance Companies**

#### *Section 29.*

(1) Hungarian branch offices of third-country insurance companies engaged in insurance activities shall be allowed to provide the full spectrum of services within the branch of insurance for which they are licensed.

(2) Branch offices of third-country insurance companies must be able to produce - within thirty days of the date of authorization - the annual report and the scheme of operations of the founding third-country insurance company published in the country of domicile in the language of the country of domicile and also the official Hungarian translation. Branch offices of third-country insurance companies shall provide such annual reports to their clients to review upon request.

#### *Section 30.*

(1) Branch offices of third-country insurance companies shall complete the documents that prove the conclusion and existence of insurance contracts - including the contract terms and conditions - in the Hungarian language.

(2) Branch offices of third-country insurance companies may apply for authorization to engage in the branch of insurance for which the parent third-country insurance company is licensed in the country of domicile, taking into account the provisions of Subsection (2) of Section 64.

### **Hungarian Branch Offices of Insurance Companies Established in Other Member States**

#### *Section 31.*

Branch offices of insurance companies established in other Member States shall complete the documents that prove the conclusion and existence of insurance contracts - including the contract terms and conditions - in the Hungarian language.

*Section 32.*

(1) Upon the Commission's receipt of notification from the supervisory authority of another Member State that an insurance company registered in that Member State wishes to establish a branch office in the territory of Hungary, the Commission shall supply information to the supervisory authority within two months concerning the conditions for engaging in insurance activities in Hungary.

(2) The Hungarian branch office of an insurance company established in another Member State may commence operations after the information from the Commission has been received or the two-month disclosure period has passed.

(3) The Hungarian branch office of an insurance company registered in another Member State shall be required to notify the Commission one month in advance in writing of any changes in its particulars while engaged in operations in Hungary such as the scope of activities, scheme of operations, name of the persons appointed to management positions, address of the branch office, structural organization, control and supervision.

(4) The Commission may periodically request information from the branch offices of insurance companies established in other Member States concerning the contract conditions for the insurance policies they provide and documents related to them in order to verify their compliance with Hungarian laws.

Chapter II

OTHER PARTICIPANTS IN THE INSURANCE SYSTEM

**Insurance Intermediaries**

*Section 33.*

(1) Activities for the mediation of insurance and re-insurance (hereinafter referred to as “insurance mediation”) shall be construed as regular for-profit activities directed at arranging insurance contracts and re-insurance contracts (hereinafter referred to as “insurance contracts”). These activities cover the preliminaries before the conclusion of insurance contracts, the presentation and offering of insurance products, disclosure of related information and the conclusion of insurance contracts, the organization of sales arrangements for insurance contracts and participation in the administration and performance of insurance contracts.

(2) The following shall not be treated as insurance mediation activities:

a) the supply of information for other professional reasons, if it is not intended to provide assistance for the client in the administration and performance of the insurance contract,

b) participation in the collection of claims,

c) damage assessment and appraisal activities.

d) participation in the preparation and performance of insurance contracts if carried out by a person who does not partake in any market search in terms of demand or in mediating the needs of clients seeking insurance protection for contracting purposes.

(3) Dependent and independent insurance intermediaries may engage in insurance mediation activities.

(4) A tied insurance intermediary (hereinafter referred to as “agent”) is engaged in the mediation of insurance products on behalf of one insurance company, or on behalf of more insurance companies in the case of insurance products which are not in competition. All other insurance intermediaries

shall be construed as independent insurance intermediaries with the exceptions laid down in Subsection (5) of this Section and Subsection (1) of Section 35.

(5) Any person who carries on the activity of insurance mediation in addition to his principal professional activity is also considered as a tied insurance intermediary if the insurance is complementary to the goods or services supplied in the framework of this principal professional activity and the person does not collect premiums or amounts intended for the client.

(6) Dependent insurance intermediaries are engaged in mediating insurance products as paid employees of insurance companies or in a self-employed capacity.

(7) Any person employed by an insurance intermediary - in an employment, agency or other work-related legal relation - for mediating insurance products may not enter into any other employment, agency or other legal relation with another insurance company or insurance intermediary for mediating insurance products. Any person employed by an insurance intermediary - in an employment, agency or other work-related legal relation - for mediating insurance products may not enter into any form of work-related legal relation - which is not treated as employment - with another person for mediating insurance products.

(8) An agent or multiple-insurance agent engaged in insurance mediation on behalf of an insurance company shall be entitled to indemnity under Act CXVII of 2000 on the Commercial Representation Contracts of Self-employed Commercial Agents if his work-related legal relation with the insurance company for the mediating of insurance products is fixed in writing.

#### *Section 34.*

Barring the exceptions specified in this Act, only persons registered by the Commission may engage in insurance mediation activities.

#### *Section 35.*

(1) The provisions of this Act pertaining to insurance intermediaries shall not apply to persons engaged solely in insurance mediation activities pertaining to insurance contracts that satisfy all of the conditions specified below:

- a) the insurance contract only requires knowledge of the insurance cover that is provided;
- b) the insurance contract is not a life assurance contract;
- c) the insurance contract does not cover any liability risks;
- d) the principal professional activity of the person is other than insurance mediation;
- e) the insurance contract is complementary to the product or service supplied by any provider, where such insurance covers:
  - ea) the risk of breakdown, loss of or damage to goods supplied by that provider, or
  - eb) damage to or loss of baggage and other risks linked to the travel booked with that provider, or to other travel and vacation services, even if the insurance covers life assurance or liability risks, provided that the cover is ancillary to the main cover for the risks linked to that travel;
- f) the amount of the annual premium does not exceed 125,000 forints, and the total duration of the insurance contract, including any renewals, does not exceed five years.

(2) The provisions for the register of insurance intermediaries shall not apply where the mediation of the insurance is performed by:

- a) the insurance company itself;
- b) an employee of the insurance company in an official capacity; or

c) a natural person on behalf of an economic operator as a paid employee, provided that such person does not hold a management position with the economic operator and is engaged exclusively in activities auxiliary to insurance mediation;

d) a natural person employed by a credit institution specified in Subsection (1) of Section 5 of the CIFE or a universal postal service provider specified in Act CI of 2003 on Postal Services in accordance with the employer's instructions, in the customer area of the employer's premises or by way of a mobile postal service establishment;

e) a natural person who is in a service relationship or other work-related relationship with the Customs and Finance Guard or the customs authority, solely for the sale of a compulsory motor vehicle liability insurance policy, as specified in specific other legislation, to the operator (driver) of a vehicle that is registered in another country.

(3) Registration by the Commission is not required for insurance intermediaries registered in other Member States of the European Union to take up and pursue insurance intermediation activities.

(4) Natural persons who are authorized to engage in insurance mediation activities but are not listed in the Commission's register of insurance intermediaries are not obliged to satisfy the requirements set out in Subsection (3) of Section 48.

(5) Natural persons who are employed by credit institutions or postal service providers that are engaged in insurance mediation activities in accordance with Paragraph *d*) of Subsection (2) may engage in insurance mediation activities only if they have been properly trained with regard to the products they mediate. Compliance with professional requirements shall be enforced by the employer and by the insurance company whose product the natural person mediates.

(6) The employers of natural persons engaged in insurance mediation activities in accordance with Paragraph *d*) of Subsection (2) employed by credit institutions or postal service providers shall maintain a register to contain all natural persons they employ for mediating insurance who satisfies the requirement set out in Subsection (5) with regard to training.

### *Section 36.*

(1) The Commission shall keep a register for insurance intermediaries authorized and registered under this Act (central register). The contents of the central register are indicated in Schedule No. 5 of this Act.

(2) In the course of the registration procedure, the Commission shall assign a registration number to each insurance intermediary, whether a natural person or an economic organization.

(3) Each natural person and economic organization shall have only one registration number assigned, and the same registration number shall not be assigned to another natural person or economic organization.

(4) The Commission shall publish the names of natural persons and the names and addresses of economic operators engaged in insurance mediation on its official web site on a regular basis together with the data indicated under Paragraphs 1. *A) b)-g)* and 1. *B) b)-f)* of Schedule No. 5.

(5) Natural persons who are engaged in insurance mediation activities shall be registered upon notification by their employer insurance company or independent insurance intermediary according to the procedure prescribed by the Commission. The intermediary seeking entry into the register for the insurance mediation activity in question must have at the time of registration a diploma of higher education or must comply with professional requirements set out in Schedule No. 13, or shall have an official certificate issued according to specific other legislation.

(6)-(8)

*Section 37.*

(1) Before concluding the insurance contract and upon the amendment or renewal of the contract relating to any change in the data contained in the information as provided, insurance intermediaries - unless otherwise provided by law - shall disclose the following information in the official language of the Member State of the commitment or in the language stipulated in the agreement concluded with the given client:

- a) the name of the insurance intermediary if a natural person, or the corporate name and registered office if an economic operator on whose behalf the insurance intermediary is acting, and the designation of the competent supervisory authority;
- b) the register of insurance intermediaries in which registered, including an indication as to where the register may be inspected;
- c) any qualifying interest the insurance intermediary may have in the insurance company in question;
- d) any qualifying interest the insurance company in question or the parent company of this insurer may have in the insurance intermediary;
- e) the procedure for lodging complaints and the body vested with powers to hear such complaints;
- f) the person to be held liable for any damage caused in his capacity as an insurance intermediary;
- g) whether the insurance intermediary is acting as an independent or a tied insurance intermediary;
- h) if a tied insurance intermediary or a multiple-insurance agent, the name of the insurance companies on whose behalf he is acting or authorized to act.

(2) The information shall be supplied to persons who will be potential policyholders, beneficiaries of insurance (re-insurance) coverage or parties to the insurance (re-insurance) contract if concluded.

**Independent Insurance Intermediaries**

*Section 38.*

(1) Independent insurance intermediaries shall be in possession of the Commission's authorization for insurance brokering or multiple insurance agency and shall operate in the form of a

- a) public limited company;
- b) private limited-liability company with at least five million forints in equity capital;
- c) a cooperative with at least five million forints in share capital;
- d) Hungarian branch of a third-country independent insurance intermediary with at least five million forints in capital.

Independent insurance intermediaries may engage in insurance consulting. The provisions of the FCA shall apply to independent insurance intermediary branches with the exceptions set out in this Act.

(2)

(3) The Commission's authorization is not required for the activities of a branch office of an independent insurance intermediary that is established in another Member State of the European Union or if provided as cross-border services.

(4) In the event the own funds of an independent insurance intermediary fall below the mandatory minimum referred to in Subsection (1), the independent insurance intermediary must provide additional funds to comply with the mandatory minimum capital requirement.

(5) The following requirements shall be satisfied by independent insurance intermediaries above and beyond the stipulations of Subsection (1):

- a) ownership title or the right to use or lease premises that are appropriate for the activities,

- b) systems of files and records permitting individual identification of the activities performed.
- c) infrastructure required for compliance with the obligation of disclosure.

(6) The director of independent insurance intermediation activities shall be a natural person who shall:

a) have no prior criminal record; nor shall he be the executive officer of a business association that has been the subject of bankruptcy or liquidation proceedings during the three-year period preceding the date on which the application is submitted;

b) meet either of the professional requirements below:

ba) have a college or university degree and at least three years of experience as an insurance executive or as an insurance consultant at an insurance company, a business association engaged in insurance mediation activities, in financial or economic management in the public sector, or at relevant trade group; or have a total of at least five years of experience in the field of insurance in the employment of an insurance company, a business association engaged in insurance mediation activities, an insurance consultant, or in financial or economic management in the public sector, or at relevant trade group, whether under contract of employment, civil service relationship or any other form of gainful employment,

bb) graduated from a secondary education institution and have at least seven years of experience as an insurance executive at an insurance company or a business entity engaged in insurance mediation activities,

c) be engaged in mediating exclusively at the given insurance intermediary,

d) not be employed by or perform work for any insurance company.

e) not have been found at fault not more than five years earlier by the Authority for any serious or repeated violation of the provisions of the acts covering the functions of the Authority, and other legislation adopted by authorization of those acts and has not received the maximum fine for such offense, and has not been found responsible by a final court decision adopted not more than five years earlier for any infringement of such regulations.

(7) The end of the period of professional experience in management specified under Paragraph *b)* of Subsection (6) shall be within ten years of the date of filing the application for authorization.

#### *Section 39.*

(1) Independent insurance intermediaries shall - at all times - carry professional indemnity insurance covering liability in connection with their activities, representing at least 1,120,200 euro applying to each claim and in aggregate 1,680,300 euro per year for all claims covering the entire territory of the European Union or 1,680,300 euro of secured financial reserves. Before authorization, the applicant independent insurance intermediary shall provide the Commission with proof of having contracted the aforesaid professional indemnity insurance or the existence of the secured financial reserves.

(2) The minimum content requirements for the liability insurance of independent insurance intermediaries shall be decreed by the Government.

#### *Section 40.*

(1) The Commission may withdraw the authorization and may simultaneously remove from the register the independent insurance intermediary

a) that no longer satisfies either of the requirements prescribed in this Act for registration and operation,

b) whose system of records or annual report contain false information,

- c) whose conduct seriously or repeatedly violates the interests of the policyholders,
- d) that has repeatedly or seriously violated the provisions of relevant legal regulations, as revealed by inspection,
- e) that fails to commence independent insurance mediation within one year from the date of authorization or suspends its independent insurance mediation without authorization for more than six months,
- f) if the measures imposed by the Commission during the suspension of the activities of the independent insurance intermediary did not eliminate the infringement for which they were issued.

(2) Above and beyond the reasons contained in Subsection (1), the Commission may withdraw the authorization for a branch office of a third-country independent insurance intermediary if the parent independent insurance intermediary is no longer authorized to engage in independent insurance mediation activities according to the laws of the country in which it is established.

#### *Section 41.*

(1) The independent insurance intermediary must ascertain as to whether the natural person engaged in mediating insurance on his behalf in employment or under contract, or the natural person engaged in mediation in the employment of or under contract with a business association engaged in mediation on his behalf is registered in the central register.

(2) All natural persons engaged in independent insurance mediation in the employ of a business association providing independent insurance mediation services or in the employ of another business association that is contracted with that business association shall have no prior criminal record, and shall have a college or university degree or professional qualifications as specified in Schedule No. 13 to this Act, or an official certificate issued according to specific other legislation.

(3) Independent insurance intermediaries shall register all of the natural persons engaged in mediating insurance who are employed or commissioned by them or who operate in another work-related legal relationship, or, if an independent insurance intermediary contracts an economic operator for the purpose of mediation, it shall register the economic operator and the natural persons engaged in mediation who are employed by the economic operator. The data and information these registers are to contain are indicated in Point 2 of Schedule No. 5. Independent insurance intermediaries are required to notify the Authority of any changes in the data specified under Point 2 of Schedule No. 5 [with the exception of Paragraphs *A) b)* and *f)* and Paragraph *B) b)*] within thirty days.

(4) The name of an insurance intermediary shall be entered in the central register on the basis of the report made by the insurance company or independent insurance intermediary for whom he mediates insurance. Any changes in the particulars of the insurance intermediary, recorded in accordance with Subsection (3), shall be reported to the Commission by the insurance company or the independent insurance intermediary in question.

(5) Insurance companies and independent insurance intermediaries shall notify their insurance intermediaries, including changes in their particulars, in the manner prescribed by the Commission.

(6) Natural persons engaged in insurance mediation activities, whether on their own behalf or on behalf of business associations, shall be required to supply proof of the conditions for registration to the insurance company or independent insurance intermediary in whose register he has been entered.

#### *Section 42.*

(1) Independent insurance intermediaries shall act at all times in observation of the rules of professional conduct. Independent insurance intermediaries shall be held liable for any failure to



fulfill the above-specified obligation (independent insurance intermediary misconduct), particularly for wrong or misleading advice, irregular handling of premiums and any delay in forwarding declarations. This liability shall apply to all persons acting in the name of the independent insurance intermediary.

(2) Independent insurance intermediaries shall maintain separate client accounts for handling moneys paid in by the client on behalf of the insurance company or by the insurance company on behalf of the client. Money deposited in a client account may under no circumstances be used to satisfy other creditors, nor in the event of bankruptcy or liquidation proceedings.

(3) For the purposes of Subsection (2), any safe custody account used by an independent insurance intermediary solely for keeping deposits made by clients to the benefit of insurance companies or by insurance companies to the benefit of clients shall be treated as a client account.

#### *Section 43.*

The Commission's authorization is required for independent insurance intermediaries to establish another business association to engage in independent insurance mediation activities and for acquiring a qualifying interest in companies pursuing such activities.

#### *Section 44.*

(1) Independent insurance intermediaries shall maintain a records system with sufficient facilities to permit individual identification of concluded insurance transactions in due observation of the rules contained in Sections 153-165.

(2) An annual report containing material information from the above-specified records that is not suitable for individual identification shall be sent to the Commission by 31 May following the year to which it pertains.

(3) Rules for the reports to be filed by independent insurance intermediaries shall be decreed by the President of the Authority.

#### *Section 45.*

An independent insurance intermediary shall provide services either

- a) according to the instructions of a client (broker), or
- b) as instructed under one or more contracts or empowered to act in the name and on behalf of one or more insurance companies offering their competitive products (multiple-insurance agent).

### **Insurance Brokers**

#### *Section 46.*

(1) Insurance brokers are engaged in activities preparatory to the conclusion of contracts of insurance. Their activities may include concluding the contract on behalf of the client and participating in enforcing the client's claims. If so authorized by the insurer, the broker is entitled to act on the client's orders to accept payments of insurance premiums and, if agreed upon by the insurance company or instructed by the client, to participate in the assessment of risk and in the performance and fulfillment of the contract according to the rights and obligations stipulated therein.

(2) Economic operators engaged in insurance brokering may not engage in agency or multiple insurance agency.

(3) The activities of insurance brokers preparatory to the conclusion of insurance contracts shall include the analysis of other insurance contracts available on the market to the extent necessary.

(4) Prior to conclusion of the insurance contract, the insurance broker shall interview the client so as to ascertain the needs and requirements of the client, as well as the reasons underlying the advice given by the intermediary in connection with the insurance product in question.

### **Multiple-Insurance Agents**

#### *Section 47.*

(1) Multiple-insurance agents are engaged in activities preparatory to the conclusion of contracts of insurance. Their activities may include - in addition to concluding the contract - accepting payments of insurance premium if so authorized by the insurance company and participating in the performance of contractual rights and obligations and in the administration of the contract.

(2) Multiple-insurance agents may not engage in insurance brokering.

### **Insurance Agents**

#### *Section 48.*

(1) Insurance agents are engaged in activities preparatory to the conclusion of contracts of insurance. Their activities may include - in addition to concluding the contract - to accept payments of insurance premiums if so authorized by the insurance company and to participate in the performance of the insurance company's contractual rights and obligations and in the administration of the contract. Insurance agents must have a thorough knowledge of the products they mediate.

(2) Any damage caused by an insurance agent or any other person in the employ of the insurance agent for mediating insurance by contract or otherwise while engaged in mediating insurance shall be the liability of the insurance company. If the insurance agent is involved with more than one insurance company, liability for damages caused by the agent while engaged in mediating insurance shall fall upon the insurance company on whose behalf the mediation took place.

(3) The natural persons engaged in insurance agency (including any economic operator engaged in insurance mediation and the persons engaged in insurance mediation on behalf of an economic operator that is engaged in insurance mediation in an agency or other legal relation) shall have no prior criminal record, and shall have a college or university degree or professional qualifications as specified in Schedule No. 13 to this Act, or an official certificate issued according to specific other legislation.

(4) The requirement of professional qualifications prescribed in specific other legislation shall be considered satisfied with respect to an insurance agent or a natural person employed by the insurance agent to direct insurance mediation operations if attendance in basic training provided by an insurance company approved to provide such training by virtue of the specific other legislation referred to in the above Subsection and having passed the ensuing examination are properly verified by the insurance company.

(5) The natural persons engaged in insurance mediation activities subject to registration by the Commission must be supplied with picture identification documents by the insurance company or the independent insurance intermediary. The document must indicate the natural person's name and address and the registration number he was issued by the Commission upon registration. If a natural person is engaged in insurance mediation activities on behalf of an economic operator, the document shall also indicate the name, address and registration number of the economic operator.

- (6) The Commission shall remove from the register any insurance agent:
- a) no longer satisfies either of the requirements prescribed for registration and operation,
  - b) whose conduct seriously or repeatedly violates the interests of the policyholders.
- (7) When removed from the register by the Commission, the insurance agent shall return his picture identification document to the issuing insurance company.

*Section 49.*

(1) An insurance company must ascertain whether the natural persons it commissions to mediate insurance or, if it commissions an economic operator to mediate insurance, the natural persons who mediate insurance at such economic operator are registered in the central register.

(2) Insurance companies shall register all of the natural persons whom they have employed or commissioned to mediate insurance or, if an economic operator has been commissioned to mediate insurance, the economic operator and the natural persons who mediate insurance at the economic operator. The detailed regulations for these registers are contained in Point 2 of Schedule No. 5. Insurance companies must notify the Authority of any changes in the data specified under Point 2 of Schedule No. 5 [with the exception of Paragraphs A) b) and f) and Paragraph B) b)] within thirty days.

(3) Insurance companies shall retain the documents attached to the register of natural persons engaged directly in insurance mediation (such as an official certificate from the body operating the penal register, copy of diploma in proof of education) with respect to each natural person under contract for mediating insurance for 5 years following the termination of such relationship.

**Principal Agents**

*Section 50.*

(1) A principal agent is an agent of the insurance company who is fully authorized to perform functions within the insurance company's system of business management, in particular such as contracting, issuing policies and accepting payment of insurance premiums. A principal agent may be engaged in insurance mediation activities on behalf of one insurance company only.

(2) The insurance company shall notify the Commission prior to the employment of a principal agent.

(3) The principal agent and the director of principal agency activities shall

- a) have no prior criminal record,
- b) have a college or university degree and at least three years of experience as an insurance executive or insurance consultant at an insurance company, a business association engaged in insurance mediation activities, in the government sector in the field of finance, or at a trade organization, or shall have worked as an insurance intermediary for five years or have a total of at least five years experience in the field of insurance in the employment of the above-specified organizations whether under contract of employment, civil service relationship or any other form of gainful employment; or have graduated from a secondary education institution or have at least seven years of experience as an insurance executive at an insurance company or a business association engaged in insurance mediation activities.

(4) The end of the period of professional experience specified under Paragraph b) of Subsection (3) shall be within ten years of the date of filing the application for registration.

**Insurance Consultants**

#### *Section 51.*

(1) The insurance consultant (hereinafter referred to as "consultant") provides consulting services concerning insurance matters on the basis of a written agreement for professional services in return for a fee payable solely by the client and takes part in person in the implementation of the advice he has given. Insurance consultants may not intermediate insurance (reinsurance) contracts.

(2) Consulting services may be provided by natural persons or economic operators following registration by the Commission. The contents of the central register are indicated in Points 1. C) and 1. D) of Schedule No. 5 of this Act. The Commission shall publish on its official website the names of natural persons and the person who directs consulting operations at the economic operators that provide consulting services as well as the name and address of the economic operator, along with the information contained in Points 1. C) b)-d) and Points 1. D) b) and c) of Schedule No. 5.

(3) Insurance consultants - whether a natural person, a business association or the Hungarian branch office of a foreign consultant (hereinafter referred to as "consultant branch office") - must, at all times, have liability insurance coverage of a minimum of 50 million forints per claim and per year, or a minimum of 50 million forints of secured financial reserves. The minimum content requirements for the liability insurance of consultants shall be decreed by the Government. Before authorization, the applicant consultant shall provide the Commission with proof of having contracted the above liability insurance coverage or the existence of the secured financial reserves.

#### *Section 52.*

(1) In the case of business associations consulting services may be provided only if the business association has never been and is not adjudicated in bankruptcy or liquidation at the time when the application for registration is submitted.

(2) The consultant and the director of consulting activities at a business association engaged in insurance consulting or a consulting branch shall be a natural person who:

a) have no prior criminal record,

b) have a college or university degree and at least three years of experience as an insurance executive or as an insurance consultant at an insurance company, a business association engaged in insurance mediation activities, in the government sector in the field of finance, or at a trade organization or shall have worked as an insurance consultant or have a total of at least eight years experience in the field of insurance in the employment of the above-specified organizations whether under contract of employment, civil service relationship or any other form of gainful employment,

c) have the professional qualifications specified in Schedule No. 13 to this Act.

(3) The end of the period of professional experience specified under Paragraph b) of Subsection (2) shall be within ten years of the date of filing the application for registration.

(4) The Commission shall refuse to register any consultant who is unable to satisfy the requirements laid down in Section 51 and in this Section.

(5) The types of professional qualifications for insurance, the rules concerning the qualification requirements and the positions for which such qualifications are mandatory shall be decreed by the minister in charge of the money, capital and insurance markets (hereinafter referred to as "minister").

#### *Section 53.*

The Commission shall remove from the register any consultant

- a) who no longer satisfies either of the requirements prescribed in this Act for registration and operation, thus in particular lacking the liability insurance coverage or the financial security prescribed in this Act;
- b) who is engaged in insurance underwriting or insurance intermediating activities;
- c) whose conduct seriously or repeatedly violates the interests of the policyholders;
- d) who has repeatedly or seriously violated the provisions of relevant legal regulations, as revealed by inspection;
- e) if the measures imposed by the Commission during the suspension of the activities of the consultant did not eliminate the infringement for which they were issued.

### **Activities of an Independent Insurance Intermediary in other Member States through a Branch Office or in the Form of Cross-Border Services**

#### *Section 54.*

(1) Any independent insurance intermediary planning to open a branch office in another Member State or to engage in insurance mediation activities in the form of cross-border services for the first time shall notify the Commission in advance.

(2) Within one month of receiving the notification referred to in Subsection (1), the Commission shall inform the competent supervisory authority of the other Member State of the independent insurance intermediary's planned activities and shall inform the affected independent insurance intermediary accordingly.

(3) The Commission shall convey to the applicant the information received from the supervisory authority of the other Member State concerning the regulations pertaining to insurance mediation in that Member State.

(4) The independent insurance intermediary may commence operations in the other Member State after the notification referred to in Subsection (2) has been received from the Commission or the one-month disclosure period has passed.

(5) Upon receipt of notice from the competent supervisory authority of another Member State of the European Union in regard to an independent insurance intermediary that is registered under its jurisdiction and is planning to engage in insurance mediation activities for the first time in the territory of Hungary, the Commission shall communicate the Hungarian regulations pertaining to such activities to the independent insurance intermediary in question within one month.

### **Representation of Foreign Insurance Companies, Insurance Intermediaries and Consultants in Hungary**

#### *Section 55.*

(1) Foreign insurance companies (independent insurance intermediaries and consultants) may establish permanent representative offices (hereinafter referred to as "representative office") in Hungary.

(2) Representative offices are established to act in the name of the insurance company (independent insurance intermediary, consultant) to represent and promote its activities.

(3) Representative offices are not authorized to provide insurance, insurance mediation and insurance consulting services.

(4) The name of the representative office shall denote the name of the insurance company (independent insurance intermediary, consultant) represented and the fact that it is a representation.

- (5) A representative office shall be deemed permanent if
- a) the period spent in Hungary by the representative assigned to manage the office or by the representatives, if there is a replacement without any lapse in time, exceeds 180 days in a calendar year, or
  - b) the representative performs his activity, irrespective of its duration, under permanent circumstances (e.g., by leasing an office in which to conduct business).

*Section 56.*

- (1) When a new representative office is established, the Commission must be notified within 30 days. The notification shall contain:
- a) proof of the director of the representative office having no prior criminal record,
  - b) name, organizational structure, head office, place and date of registration, scope of activities and the specifics relating to the assets and management of the insurance company (independent insurance intermediary, consultant) represented,
  - c) description of the activities to be pursued by the representative office and the particulars of the officer(s) to be employed,
  - d) address of the representative office,
  - e) planned duration of operations.
- (2) The representative office shall notify the Commission within thirty days if
- a) it is terminated,
  - b) there are any changes in the data of record indicated under Subsection (1).

***PART THREE***

***AUTHORIZATION AND NOTIFICATION***

Chapter I

ACTIVITIES REQUIRING AUTHORIZATION

*Section 57.*

- (1) The Commission's authorization shall be required for
- a) the foundation of insurance companies (Sections 58-62);
  - b) commencement and termination of insurance activities, and for the commencement of activities involved in or closely related to insurance activities (Section 63);
  - c) the activities of independent insurance intermediaries and for the employment of principal insurance agents;
  - d) any changes in insurance activity (Section 92);
  - e) transferring the insurance portfolio (Sections 93-95);
  - f) transformation of insurance companies (merger, demerger, transformation into a limited insurance company);
  - g) investment of technical reserves of insurance companies in excess of the limits defined in this Act, and for any deviation from the categories of assets;
  - h) foundation of an insurance company or independent insurance intermediary in a third country by a resident insurance company as well as for the acquisition of any share in a third-country

insurance company or a business association engaged in independent insurance mediation activities and for establishing a branch in a third country;

i) foundation of a business association to engage in independent insurance mediation activities in a third country by a resident independent insurance intermediary as well as for the acquisition of a qualifying interest in such company or in an insurance company and for establishing a branch in a third country;

j) acquisition of an interest specified in Subsection (1) of Section 111;

k) foundation of a business association to engage in independent insurance mediation activities by an independent insurance intermediary as well as for the acquisition of a qualifying interest in such company;

l) in respect of an insurance company licensed to provide life assurance and non-life insurance, replenishing any deficiency in the solvency margin of one branch of insurance from another in accordance with Subsection (5) of Section 124;

m) employment (appointment, election) of the persons specified in Subsection (6) of Section 38, Paragraph *j*) of Subsection (2) of Section 70, Section 83 and Sections 86-90, whether as paid employees or in a self-employed capacity;

n) amendment of the charter in terms of payments to be made from the shares of association members, if the association's solvency margin is calculated in consideration of these shares;

o) the inclusion of reinsurance to the extent specified in Subsection (5) of Section 126;

p) the suspension of the activities of an independent insurance intermediary upon request.

(2) The applicant shall supply a statement in which it declares that it has provided the Commission with all of the data and information required for the authorization(s) of activities under this Act.

(3) The Commission shall resolve all matters of authorization on the basis of the provisions of this Act and other legal regulation on insurance and with due consideration to the interests of the policyholders and the fulfillment of the commitments of insurance companies.

(4) In the cases referred to in Paragraph *f*) of Subsection (1), a transformation strategy shall be prepared showing the transformation of the insurance company, and shall be submitted to the Authority. The transformation strategy, in addition to the conditions specified for the authorization for the taking up of the activities and to the provisions of the Companies Act pertaining to transformation, shall contain:

*a*) the proposed date of transformation;

*b*) accurate description of the insurance portfolio to be transferred to the successor insurance company (companies) and the contractual conditions thereof;

*c*) a description of the technical provisions connected to the portfolio to be transferred to the successor insurance company (companies) and the cover for these provisions;

*d*) proof that the successor insurance company has the solvency margin required for the insurance portfolio received in addition to the solvency margin required for its own insurance portfolio;

*e*) as regards the transformation of a mutual association into a limited company, the share to be allocated to members of the association from the successor limited company's capital, and the criteria based on which it was determined.

(5) The Authority shall refuse to grant authorization for the transformation of an insurance company if:

*a*) the conditions set out in Subsection (4) are not satisfied;

*b*) there is reason to believe that the transformation might be harmful to the policyholders affected, or to the members in connection with the transformation of a mutual association into a limited company.

(6) The authorization granted for the operations defined in Paragraphs *b*) and *i*) and - if the insurance portfolio is received from an insurance company that is registered in a third country or in a

Member State - Paragraph *e*) of Subsection (1) shall not exempt the applicant from the obligation of obtaining any other authorization that may be required by the regulations of the country where the activity is pursued.

### **Authorization of the Foundation of Insurance Companies**

#### *Section 58.*

Subject to the exception set out in Section 58/A, the application for a foundation permit of an insurance company shall include:

a) the deed of foundation (charter), which clearly defines the type and sphere of activities of the insurance company to be established;

b) estimates of the costs of setting up the administrative services and the organization for securing business; proof of the financial resources intended to meet those costs deposited in a credit institution;

c) description of the drafts for the organizational structure, system of management, decision making and control mechanisms as well as the bylaws, if such are not contained in detail in the deed of foundation;

d) in the case of applicants domiciled abroad, a statement concerning the applicant's agent for service of process;

e) the applicant's statement in which it declares that it has provided the Commission with all of the data and information required for the authorization(s) of activities under this Act;

f) in the case of limited insurance companies, information concerning the shareholders, whether they are natural or legal persons, on persons holding a qualifying interest and the extent of the qualifying interest;

g) in the case of insurance cooperatives, information on the members, whether they are natural or legal persons, and on the face value of the members' share certificates.

h) in the case of insurance companies that are subject to supervision on a consolidated basis or supplementary supervision, a description of the apparatus for the conveyance of information related to supervision on a consolidated basis or supplementary supervision and a statement from the persons with a close link to the insurance company guaranteeing to provide the Commission with the data, facts and information that are necessary for supervising the insurance company on a consolidated basis or for supplementary supervision;

i) a statement from each natural person closely affiliated with the insurance company containing his consent to have the personal data he has disclosed to the insurance company processed and released for the purposes of supervision on a consolidated basis or supplementary supervision in accordance with this Act.

#### *Section 58/A.*

#### *Section 59.*

With the exceptions laid down in Subsections (3) and (4) of Section 64, an insurance company - other than reinsurance companies - shall not be authorized to provide life assurance and non-life insurance concurrently.

#### *Section 60.*



(1) If there is a person among the founders of a limited insurance company who wishes to acquire a qualifying interest in the insurance company under foundation, the following must be attached - subject to the exception set out in Subsection (2) - to the application for authorization in addition to what is contained in Section 58:

- a) proof of the requirements set out in Paragraphs *b)-g)* and *i)-k)* of Subsection (3) of Section 111;
- b) proof of the requirements set out in Subsection (5) of Section 111; and
- c) proof of appropriate professional qualifications and a good business reputation (Section 91).

(2) If the applicant fails to verify the data specified in Paragraphs *b)*, *d)*, *e)* and *i)* of Subsection (3) of Section 111, the Authority shall launch a data disclosure request - in connection with the authorization of acquisition - to the authority or court that has the required information on record.

#### *Section 60/A.*

The Commission shall request the opinion of the competent supervisory authorities of other Member States of the European Union concerned prior to issuing a foundation permit to an insurance company, if the insurance company requesting the permit:

- a) is a subsidiary of an investment firm, credit institution, insurance company or reinsurance company established in another Member State of the European Union;
- b) is a subsidiary of the parent company of an investment firm, credit institution, insurance company or reinsurance company established in another Member State of the European Union;
- c) has an owner, whether a natural or legal person, with a dominant influence in an investment firm, credit institution, insurance company or reinsurance company that is established in another Member State of the European Union.

#### *Section 61.*

In possession of the foundation permit, the insurance company may begin to make preparations for its insurance activity and activities involved in or closely related to insurance.

#### *Section 62.*

(1) The Commission shall refuse to grant authorization for foundation if:

- a) any information provided by the applicant is false or misleading,
- b) the application fails to satisfy the requirements laid down in Section 58,
- c) the organizational structure of the proposed insurance company is not in compliance with the requirements set out in this Act.

(2) If there is a person among the founders of a limited insurance company who wishes to acquire a qualifying interest in the insurance company under foundation, the Authority - in addition to what is contained in Subsection (1) - shall refuse the application for authorization even if the applicant is able to satisfy the conditions contained in Subsection (1) of Section 112.

### **Authorization for the Commencement of Insurance Operations**

#### *Section 63.*

(1) Upon receipt of the Commission's authorization for foundation, the insurance company shall submit an application within 90 days for authorization for the commencement of insurance operations. The Commission shall revoke the foundation permit from any insurance company that

fails to submit the above-specified application in due time. The Commission shall have powers to conduct inspections to check compliance with the requirements for operations.

(2) The application for authorization for the commencement of insurance operations shall include:

- a) proof of possession of the minimum security capital;
- b) the scheme of operations;
- c) proof of compliance with personnel and material requirements;
- d) a statement to indicate the proposed date for the commencement of operations;
- e) a statement declaring the presence of sufficient facilities to comply with the data disclosure obligations prescribed in or on the basis of legal regulations, as well as the results of tests of the computer programs used for such disclosure of data;
- f) the scheme of accounting policy and a detailed accounting system;
- g) the procedure to be applied in the event of an emergency situation seriously jeopardizing the liquidity or solvency of the insurance company;
- h)
- i) if the application pertains to covering risks under motor vehicle liability, proof of appointment of claims representatives in all Member States where such risks are covered;
- j) money laundering regulations as governed under Act XV of 2003 on the Prevention of Money Laundering.

(3) The Authority shall refuse to grant authorization for an activity, if the applicant:

- a) does not have the minimum guarantee fund prescribed in Section 126 or the minimum solvency margin to engage in the operations described in the scheme of operations;
- b) the applicant is deemed unable to comply with the statutory provisions regarding its activities by virtue of its scheme of operations, other documents attached to the application for authorization, or of any document, data or information furnished to the Authority, or its conduct is likely to violate or jeopardize the interests of policyholders;
- c) fails to meet the personnel and infrastructure requirements prescribed.

(4) The Commission shall also reject the application for authorization if it learns about any facts, information or circumstance based on which it is liable to be prevented from effectively exercising its supervisory functions, in particular if

- a) the activities of any direct or indirect owner of the insurance company or his influence on the insurance company endangers its prudent management for effective, reliable and independent operations;
- b) the character of business activities and relations of any direct or indirect owner of the insurance company or his direct or indirect ownership in other companies is structured in a manner that obstructs supervisory activities;
- c) the regulations of a third country in which any direct or indirect owner of the insurance company is domiciled is likely to prevent the effective exercise of supervisory functions.

### **Conditions for the Commencement of Insurance Activities**

#### *Section 64.*

(1) The Commission shall authorize the commencement of operations separately for each branch of insurance requested and each class of insurance for which the insurance company in question is eligible. Authorization pertains to an entire class, unless the insurance company has indicated in its business plan that it only covers selected risks (risk groups) within a class. Authorization for the commencement of operations may also be granted according to the classification of risks under Part B) of Schedule No. 1.

(2) With the exceptions laid down in Subsections (3) and (4), an insurance company - other than reinsurance companies - shall not be authorized to provide life assurance and non-life insurance concurrently.

(3) The Commission may authorize an insurance company licensed to engage in the business of life assurance to engage in the classes set out under Points 1 and 2 of Part A) of Schedule No. 1 with an indication that the insurance company shall not be authorized to engage in other classes in the non-life insurance branch.

(4) The Commission may authorize an insurance company licensed to engage exclusively in the classes set out under Points 1 and 2 of Part A) of Schedule No. 1 to engage in the classes of insurance set out in Schedule No. 2.

(5) In the cases referred to in Subsections (3) and (4), the regulations pertaining to accountancy and liquidation in the life assurance branch shall apply to all activities of the insurance company.

(6) Authorization for non-life insurance services may include combining services in various classes of insurance in the manner defined in Part C) of Schedule No. 1.

(7) In terms of territory, the authorization shall apply to all Member States, including where services are provided by way of a branch office or in the form of cross-border services.

#### *Section 65.*

The following requirements shall be satisfied for authorization for the commencement and pursuit of insurance operations:

- a) ownership title or the right to use or lease of premises that are appropriate for providing the customer service and claim administration for the insurance operations defined in the scheme of operations and
- b) sufficient facilities for keeping records, data processing and data disclosure, an information and control system for reducing operating risks, and a plan for handling extraordinary situations,
- c) a filing system (manual or automated) with sufficient facilities for data protection.

#### *Section 66.*

(1) Upon commencement of insurance activities, the subscribed capital of joint-stock insurance companies, the share capital of cooperatives, the initial capital of associations and the endowment capital of the branch offices of third-country insurance companies must be sufficient to cover

- a) the personnel and material conditions required for the commencement of operations and
- b) the commitments undertaken upon the commencement of operations (minimum security capital).

(2) The minimum amount of the funds referred to in Paragraph b) of Section 58 is

- a) one hundred million forints for joint-stock insurance companies and for branch offices of third-country insurance companies ,
- b) fifty million forints for insurance cooperatives,
- c) one million forints for insurance associations.

(3) Until receipt of authorization for the commencement of operations, the funds of an insurance company referred to in Subsection (2) may only be used to satisfy the conditions of operations as prescribed in this Act.

(4) The amount of minimum security capital shall be determined separately for insurance branches and organizational types in accordance with the provisions of Sections 125-128.

(5)-(6)

## **Scheme of Operations**

### *Section 67.*

(1) The scheme of operations shall specify the scope of the insurance activities and the important facts and information from the perspective of performing the commitments undertaken in the insurance contract, particularly:

- a) descriptions of the branch and class of insurance and the risk categories in the various classes;
- b) definition of the field of operation;
- c) amount and composition of the capital required for commencing the activities;
- d) plans for setting up administration, sales and claim adjustment networks; the estimated costs involved and the resources that will finance them; if the insurance company plans to provide assistance services, a description of the financial resources and other assets at the insurance company's disposal for performing such assistance services.

(2) In addition to what is contained in Subsection (1), the scheme of operations shall contain estimated figures for the first three years of operation for

- a) operating costs, particularly the costs of acquisitions, administration and claim adjustment;
- b) the number of policies and the proceeds from premium payments for each product;
- c) the ratio between revenue and settlements for each product;
- d) the estimated liquidity position;
- e) financial resources required to cover underwriting obligations, the minimum solvency margin and the minimum security capital;
- f) a forecast balance sheet.

(3) In addition to what is contained in Subsection (2), the scheme of operations shall specify any plans pertaining to reinsurance, showing separately the estimated proceeds and expenses regarding reinsurance.

## **Conditions for Mortgage Loan Operations**

### *Section 68.*

(1) The Commission's authorization is required for an insurance company to commence mortgage loan operations. Subject to the exception set out in Subsection (6), the application for authorization shall contain:

- a) the amended articles of association,
- b) the scheme of operations,
- c) proof of having the personnel and material conditions for commencing the activities,
- d) adequate proof of having the requisite minimum solvency margin following commencement of the activities, and
- e) a statement on joining the central credit information system defined by specific other act.

(2) The Commission shall not grant authorization if it deems it possible that the insurance company will not be able honor those of its commitments arising from insurance contracts following the commencement of mortgage loan operations.

(3) The amount of principal in a mortgage loan must not exceed sixty per cent of the value of the real property being used as security, which provides the basis for determining the amount of the loan (hereinafter referred to as "credit insurance value"). In order to secure the loan, a clause shall be added to ban the alienation and encumbrance of the mortgaged property.

(4) The amount of the mortgage loan may not exceed the amount of coverage of the underlying life assurance policy.

(5) The methodological principles for establishing credit insurance value are laid down in specific other legislation. Based on these provisions, insurance companies shall prepare credit insurance value calculation regulations, which shall be submitted to the Commission for approval.

(6)

*Section 69.*

(1) Insurance companies shall rate and evaluate the individual risks, outstanding receivables and securities in connection with mortgage loan operations in the manner specified in Subsection (3).

(2) The aggregate amount of all mortgage loans placed by an insurance company shall not exceed five per cent of its life assurance premium reserve.

(3) The minister shall decree the regulations on exposures, on the determination, analysis, evaluation and definition of exposures relating to mortgage loan operations, on the management and reduction of exposures and on the control of risks.

(4) The personnel and material requirements for the commencement and pursuit of mortgage loan operations shall be decreed by the Government.

**Authorization for the Foundation of Branch Offices by Third-Country Insurance Companies, Insurance Intermediaries and Insurance Consultants**

*Section 70.*

(1) In addition to the requirements laid down in Sections 38, 50, 63 and 66, applications for authorization for the commencement of activities by branch offices of third-country insurance companies and independent insurance intermediaries shall contain:

a) the memorandum of association of the third-country insurance company, a copy of its authorization and its audited balance sheet for the previous three years;

b) a statement from the supervisory authority of the country of registration in which it states that foundation of a branch office in the territory of Hungary is not against the laws of that country and that it does not jeopardize the operation of the applicant insurance company, insurance intermediary or insurance consultant in question.

(2) Apart from the conditions laid down in Subsection (1), the Commission shall authorize the commencement of operations of branch offices of third-country insurance companies and independent insurance intermediaries if

a) there is a cooperation agreement in force between the Commission and the supervisory authorities of the country in which the applicant insurance company, insurance intermediary or insurance consultant is established and if such agreement is based on the mutual recognition of supervisory authorities and addresses issues pertaining to branch offices;

b) the country in which the applicant insurance company or insurance intermediary is established has legal regulations on money laundering that conform to the requirements prescribed by Hungarian law;

c) the country in which the applicant insurance company or insurance intermediary is established has legal regulations on data protection that conform to the requirements prescribed by Hungarian law;

d) the country in which the applicant insurance company or insurance intermediary is established has legal regulations on data processing that conform to the requirements prescribed by Hungarian law;

e) the applicant insurance company or insurance intermediary states that it guarantees the liabilities incurred by its branch office;

f) the applicant insurance company or insurance intermediary declares its commitment to open a current account with a resident payment service provider to handle all transactions involved in its activities in the territory of Hungary;

g) the applicant insurance company or insurance intermediary declares its commitment to keep the records and registers relating to its Hungarian operations in the territory of Hungary;

h) the applicant insurance company is in possession of liquid assets sufficient to cover the amount of the minimum security capital referred to in Subsection (6) of Section 126, and having deposited one-quarter of these assets as security;

i) the applicant insurance company submits the standard contract conditions it wishes to employ;

j) any variations in the register referred to in Subsection (2) of Section 49 regarding the data specified in Point 2 of Schedule No. 5 - with the exception of Paragraphs *A) b), f b)* and *f c)* and Paragraph *B) b)*;

k) the seat and the main office of the applicant insurance company or insurance intermediary is in the same country.

(3) The general representative of the branch office of a third-country insurance company or insurance intermediary shall

a) have no prior criminal record,

b) have the appropriate professional qualifications and a good business reputation,

c) have at least five years of experience in the field of insurance or as an insurance executive in the government sector in the field of finance,

d) have a college or university degree.

(4) Branch offices of third-country insurance companies shall be required to keep the liquid assets covering the minimum security capital in the territory of Hungary and may keep the assets covering the remainder of the minimum solvency margin in any Member State. The supervisory authority of the country selected under Subsection (5) shall have powers to monitor the branch offices' compliance with the solvency margin requirements in all of the Member States affected.

(5) If a third-country insurance company applied for or received authorization for the foundation of a branch office in more than one Member State, it may request authorization to keep the deposit referred to in Paragraph h) of Subsection (2) in only one of the Member States affected. Such authorization shall be subject to

a) adequate proof of deposit,

b) consent of all supervisory authorities of the Member States concerned,

c) indication of the competent supervisory authority selected, including an explanation.

(6) The Commission shall publish a bulletin on the conclusion of the agreements referred to in Paragraph a) of Subsection (2) in the Financial Gazette.

(7) The Commission may, periodically, request information from the branch offices of third-country insurance companies concerning the contract conditions for the insurance policies they provide with the related documents in order to verify their compliance with legal regulations.

## Chapter II

### ACTIVITIES REQUIRING NOTIFICATION

## **Notification Requirements of Insurance Companies, Insurance Intermediaries and Insurance Consultants**

### *Section 71.*

- (1) The insurance company shall notify the Commission within two working days
- a) if it is unable to meet its payment obligations due to insufficient funding;
  - b) if its technical reserves are below the requirement and the cover for the technical reserves is inadequate;
  - c) if its solvency margin is below the minimum solvency margin or the prescribed amount of security capital;
  - d) if it acquires a share in the capital of another company in excess of ten per cent of its own subscribed capital;
  - e) of the election and employment of executive employees and other directors and of any changes in such executive employees and other directors;
  - f) if it has relocated its headquarters;
  - g) if it has terminated its auditor;
  - h) if its credit liabilities have exceeded 5 per cent of its subscribed capital.
  - i) any changes in the register referred to in Subsection (2) of Section 49 regarding the data specified in Paragraph *A) fa)* of Point 2 of Schedule No. 5.
- (2) The insurance company shall notify the Commission within thirty days concerning
- a) any increase or reduction of its subscribed capital;
  - b) the acquisition of a 5 per cent or higher share in an insurance company that is not subject to authorization according to Subsection (1) of Section 111;
  - c) conclusion of an agreement concerning the internal controller referred to in Subsection (1) of Section 89;
  - d)-e)
  - f) the opening, relocation or closing of a permanent representation abroad or the replacement of the delegated representatives or changes in their particulars;
  - g) the amendment of its charter (deed of foundation);
  - h) its claims representatives appointed to operate in Member States, their particulars relating to their duties and any changes in such data and information;
  - i) the cancellation of professional indemnity insurance contracts with independent insurance intermediaries and consultants;
  - j) any changes in the register referred to in Subsection (2) of Section 49 regarding the data specified in Point 2 of Schedule No. 5 [with the exception of Paragraphs *A) b)* and *f)* and Paragraph *B) b)*];
  - k) any share acquired in the capital of another insurance company, reinsurance company, credit institution, financial enterprise, investment firm or investment fund management company that is below the threshold of qualifying interest;
  - l) the appointment of an auditor.
- (3) The minister shall decree the limits for large exposures and large risks.

### *Section 72.*

- (1) Joint-stock insurance companies shall notify the Commission concerning any changes in their ownership structure within 15 working days of gaining knowledge of such changes.
- (2) The insurance companies offering unit-linked life assurance policies shall notify the Commission of the managed funds it offers with such life assurance policies within fifteen working

days from the day they were introduced. The notification shall indicate the name of the managed fund and the underlying investment policy.

(3) The insurance company shall notify the Commission within fifteen working days from the date of termination of a managed fund. The notification shall indicate the name of the managed fund, the reason for which it was terminated, the procedure for the transfer of assets to other funds and the information sent to the clients.

(4)-(5)

#### *Section 73.*

(1) The insurance company and the independent insurance intermediary shall notify the Commission within fifteen working days if a natural person engaged in insurance mediation on its behalf did not provide proof of compliance with the professional qualifications prescribed in Subsection (2) of Section 41 and Subsection (4) of Section 48 within the time limit specified in Subsection (5) of Section 36 and Subsection (1) of Section 229.

(2) The insurance company must immediately report to the Commission if the performance of the outsourced activity violates the law or the outsourcing contract, thus jeopardizing the interests of policyholders.

(3) The chairman of the supervisory board of the insurance company shall, within ten working days of a board meeting, convey to the Commission the minutes, motions and reports that pertain to the agenda of the supervisory board and concern a serious violation of the insurance company's internal regulations or a serious offense or irregularity in management.

#### *Section 74.*

(1) Independent insurance intermediaries shall notify the Authority concerning any changes in the register referred to in Subsection (3) of Section 41 regarding the data specified in Point 2 of Schedule No. 5 [with the exception of Paragraphs *A) b)* and *f)* and Paragraph *B) b)*] within thirty days.

(2) Independent insurance intermediaries and consultants shall notify the Commission within two working days

a) if the person directing the activities of the independent insurance intermediary or the chief consultant is replaced and if the liability insurance contract is terminated;

b) if its headquarters is relocated.

(3) In addition to the requirements laid down in Subsection (1), the independent insurance intermediary shall notify the Commission within thirty days of any increase or reduction of its nominal capital (registered capital).

(4) Foreign insurance companies shall report to the Commission within thirty days with regard to the opening, relocation or termination of their permanent representative offices in Hungary and any variation in the particulars or in the persons delegated to operate such representative offices.

(5) Independent insurance intermediaries shall notify the Authority concerning any changes in the register referred to in Subsection (3) of Section 41 regarding the data specified in Point 2 of Schedule No. 5 [with the exception of Paragraph *A) fa)*] within two working days.

#### *Section 75.*

### **Regulations for Outsourcing**



*Section 76.*

(1) With due observation of the provisions on data protection, insurance companies may outsource any part of their administration processes except the ones listed under Point I of Schedule No. 6. The restriction contained in Point I of Schedule No. 6 shall not apply to the expert services necessary for the performance of tasks that cannot be outsourced. Sales of products by others shall not be treated as outsourcing.

(2) Outsourcing can take place on condition that the insurance company retains direction and control of the outsourced activities.

(3) Insurance companies shall be required to notify the Commission when outsourcing any of the activities listed under Point II of Schedule No. 6 in their quarterly reports. The notification shall contain a notice that the contract has been executed, the name and address of the outsourcing service provider and the duration of outsourcing.

*Section 77.*

(1) The Commission shall have powers to check the activities performed by an outsourcing service provider in the same manner and with the same means as if they were performed by the insurance company.

(2) The insurance company shall be held liable for any and all damages caused to third parties by the outsourced activities.

(3) The insurance company is responsible to ensure that the outsourcing service provider is performing the activity in compliance with the legal regulations and with due care and attention. If it comes to the insurance company's attention that performance of the outsourced activity violates the law or the underlying contract, it shall forthwith advise the outsourcing service provider to perform the activities in compliance with the law and with the contract. If, in spite of the warning, the outsourcing service provider continues to perform the activities in violation of the law or in repeated and serious breach of the contract, the insurance company must cancel the contract effective immediately.

(4) The Commission may prohibit the outsourcing of an activity if it comes to its attention that the insurance company has failed to discharge its obligation under Subsection (3).

(5) Any outsourcing service provider that performs - in due observation of the provisions on data protection - activities for several insurance companies, or to at least one insurance company and at least one reinsurance company at any given time must separately handle the facts, data and information of which it thereby gains knowledge in due observation of the provisions on data protection.

(6) An insurance company shall not be allowed to outsource any activities to a service provider

a) in which an executive officer of the insurance company or a close relative of such executive officer has an ownership interest, or

b) in which an executive officer of the insurance company or a close relative of such executive officer holds an executive office.

(7) The restriction contained in Subsection (6) shall not apply if the insurance company and the outsourcing service provider are owned by the same person, if the outsourcing service provider owns the insurance company, if the outsourcing service provider is owned by the insurance company or if they belong to the same ownership group.

*Section 78.*

- (1) The outsourcing contract shall contain the following:
- a) the obligations and responsibilities on the part of the outsourcing service provider concerning any and all confidential insurance information it obtains during its activities and the measures to be taken in order to protect such secrets;
  - b) the outsourcing contractor's consent for the control of the outsourced activities by the insurance company's internal control and its auditor, and by the Commission;
  - c) the outsourcing service provider's responsibility for performing the activity at an appropriate level;
  - d) the detailed requirements for the quality of performance of the activities that is expected of the outsourcing service provider;
  - e) the prospect of immediate cancellation of the contract by the insurance company in the event of the outsourcing service provider's repeated or serious violation of the contract.
- (2) The insurance company must insert a clause in the outsourcing contract to instruct its contractual partner to cooperate fully with officers conducting any form of regulatory inspection and to release any data, documents and information related to the outsourced activity. If outsourcing involves the insurance company conveying the personal data of its clients to the outsourcing service provider, the underlying contract shall contain provisions laying down the order of data processing and the rules of data protection.
- (3) If outsourcing involves the insurance company conveying the personal data of its clients to the outsourcing service provider, data processing performed by the outsourcing service provider shall be treated as carried out on behalf of the insurance company.

### **Rules for Establishing Insurance Branch Offices in Other Member States**

#### *Section 79.*

- (1) Insurance companies shall notify the Commission if they wish to open a branch office in another Member State.
- (2) The notification referred to in Subsection (1) shall contain:
- a) an indication of the Member State in which the insurance Company wishes to open the branch office;
  - b) documents pertaining to the branch office's organizational structure, management, and control procedures;
  - c) description of the activities it would like to pursue;
  - d) the business plan;
  - e) the name(s) of the person(s) responsible for managing the branch office and of the authorized representatives;
  - f) the branch office's name and address;
  - g)
- (3) If, according to the information provided to the Commission, the management structure of the reporting insurance company and its financial situation are in accord with the relevant statutory provision, the Commission shall inform, in writing, the competent supervisory authority of the Member State concerned within three months of the day on which it receives the notification and shall inform the affected insurance company accordingly.
- (4) In the information specified in Subsection (3), the Commission shall verify that the insurance company creating the branch office has the necessary solvency margin.

*Section 80.*

(1) The Commission shall refuse to provide the information under Subsection (3) of Section 79 if the insurance company fails to disclose the data referred to in Subsection (2) of Section 79 or if the management structure of the reporting insurance company and its financial situation are not in accord with the relevant statutory provisions. If the Commission refuses to communicate the information specified in Subsection (2), it shall issue a resolution informing the insurance company concerned within three months. The grounds for this decision must be presented.

(2) Within two months of receiving the information mentioned in Subsection (3) of Section 79, the competent supervisory authority of the other Member State shall inform the Commission, in writing, regarding the conditions attached to performing the activities the branch office would like to pursue. The Commission shall forward this information to the insurance company concerned.

(3) The branch office may be established and commence operations after the information specified in Subsection (2) has been received or the two-month disclosure period has passed.

(4) If in the course of operations there is any change in the information specified in Paragraphs *b)-f)* of Subsection (2) of Section 79, the insurance company must inform, in writing, the Commission and the competent Commission of the other Member State of such change at least one month in advance so as to enable the supervisory authorities to properly exercise the supervisory functions defined in Subsection (3) of Section 79.

**Rules Governing Cross-Border Activities**

*Section 81.*

(1) When an insurance company wishes to engage for the first time in the insurance business in another member state as a cross-border activity, it shall notify the Commission in advance of the types of risks it wishes to cover in the other Member State.

(2) Within one month of receiving the notification referred to in Subsection (1), the Commission shall inform the competent supervisory authority of the other Member State

- a) concerning the branches for which the insurance company is authorized,
- b) concerning the branches it wishes to engage in in the other Member State,
- c) as to whether the insurance company has the necessary solvency margin.

The Commission shall communicate the same information to the reporting insurance company as well.

(3) The Commission shall refuse to provide the information under Subsection (2) if the insurance company fails to disclose the data referred to in Subsection (1) or if the management structure of the reporting insurance company and its financial situation are not in accord with the relevant statutory provisions. If the Commission refuses to communicate the information specified in Subsection (2), it shall issue a resolution informing the insurance company concerned within one month.

(4) The insurance company may commence operations in the other Member State on the day following the date of receipt of the information from the Commission.

(5) The insurance company shall notify the Commission in accordance with Subsection (1) of any changes in the data referred to in Paragraphs a) and b) of Subsection (2) while engaged in cross-border services within fifteen days, upon which the Commission shall proceed according to Subsections (2) and (3).

*Section 82.*

(1) Upon receipt of notice from the competent supervisory authority of another Member State in regard to the fact that an insurance company that is registered under its jurisdiction is planning to engage in insurance activities for the first time in the form of cross-border services, the Commission shall inform the insurance company of the Hungarian regulations pertaining to such activities.

(2) The Commission may, periodically, request information from the insurance company concerning the contract conditions for the insurance policies they provide with the related documents in order to verify their compliance with legal regulations.

### Chapter III

## PROVISIONS CONCERNING THE EXECUTIVE EMPLOYEES AND OTHER DIRECTORS OF INSURANCE COMPANIES

### Executive Employees

#### *Section 83.*

(1) Prior to the election or appointment of an executive employee of an insurance company, the candidate must be reported to the Commission thirty days before the proposed date of election or appointment, and the person may be appointed in possession of the Commission's authorization. The Commission shall adopt a resolution for the authorization of the election or appointment of an executive employee, or for the refusal of such authorization.

(2) Authorization shall be construed granted if the Commission fails to adopt a decision within thirty days from the day following the date of receipt of the application or request.

(3) The executive employee of an insurance company shall

- a) have no prior criminal record;
- b) have the appropriate professional qualifications and a good business reputation;
- c) have experience in management in the field of insurance or at least five years experience in the field of insurance, or experience in business management at a company with a staff of at least thirty, or experience in financial or economic management in the public sector, if the length of experience in management is more than five years and the end of the prescribed period of experience in management is within ten years of the date of submission of the application for authorization;
- d) have a degree in higher education;
- e) not be in the employ of an insurance company in the capacity of auditor.

(4) As for the supervisory board members of an insurance company, the provisions of Paragraphs c) and d) of Subsection (3) shall only apply to the chairman of the supervisory board.

(5) No person who has been indicted by the public prosecutor for any of the criminal acts specified in Titles VII and VIII of Chapter XV and Chapters XVII and XVIII of Act IV of 1978 on the Criminal Code or who has been indicted abroad for a property or economic crime that is punishable under Hungarian law may be employed as an executive officer until the conclusion of the criminal procedure, and such persons shall be suspended from the performance of such duties and responsibilities.

(6) In justified cases, the Commission may move for the discharge of an executive employee in consideration of the gravity of the violation of duty.

(7) Any person elected an executive employee to effectively direct the business of an insurance holding company or a mixed financial holding company must satisfy the conditions set out in Subsections (1)-(6).

## **The Managing Director**

### *Section 84.*

(1) Any person to be appointed or elected as the managing director of an insurance company shall meet the general requirements set out in Section 83 pertaining to persons in executive positions and shall be a paid employee of the insurance company except in the case contained in Subsection (2).

(2) Insurance associations with less than three hundred million forints in annual premium revenue may procure the services of the managing director by way of contract.

(3) Authorization to sign on behalf of the company, including disposal of current accounts, and to undertake any commitment related to insurance on behalf of the insurance company shall be conferred jointly upon two members of the board of directors or two managing directors in the case of insurance companies operating as companies limited by shares or as cooperatives as well as in respect of the branch offices of third-country insurance companies and insurance associations with three hundred million forints or more in annual premium revenues.

(4) The authorization to sign on behalf of any insurance association to which Subsection (3) does not apply, including disposal of current accounts, and to undertake any commitment related to insurance on behalf of the insurance company conferred upon members of the board of directors or the managing directors may be joint or single.

(5) The joint right to sign as specified in Subsections (3) and (4) may be transferred as a joint or independent authority to sign in accordance with Subsections (3) and (4) and with the order of procedure defined in the internal rules and regulations approved by the insurance company's board of directors. The internal rules and regulations that stipulate the authority to sign of the persons undertaking commitments on behalf of the insurance company must be presented when requested by any of the insurance company's customers.

(6) The chief executive officer of an insurance company must be designated from among the company's managing directors.

## **Other Executives**

### *Section 85.*

(1) With the exception set out in Subsection (6), insurance companies shall employ the following executives in order to carry out insurance activities:

- a) senior insurance mathematician (actuary),
- b) senior legal counsel,
- c) chief accounting officer,
- d) director of internal control (internal auditor),
- e) chief medical officer if the risks covered under non-life insurance classes 1 and 2 and 18 of Part A) of Schedule No. 1 include sickness and accident or if engaged in the business of life assurance under Schedule No. 2 (hereinafter referred to as "executive managers").

(2) Prior to the appointment of an executive manager the candidate must be reported to the Commission thirty days before the proposed date of appointment, and the person may be appointed in possession of the Commission's authorization. The Commission shall adopt a resolution for the authorization of the election or appointment of an executive employee, or for the refusal of such authorization.

(3) Authorization shall be construed granted if the Commission fails to adopt a decision within thirty days from the day following the date of receipt of the application or request.

- (4) Executive managers shall be entitled to fill such positions in a maximum of two companies.
- (5) The executive staff of insurance associations conforming to the conditions set forth in Paragraph b) of Subsection (4) of Section 126 shall include a managing director.
- (6) Insurance associations with less than three hundred million forints in annual premium revenue may procure the services of the executive managers defined in Paragraphs a)-c) of Subsection (1) by way of contract or may hire an independent organization to render the same services, provided the organization employs persons who satisfy the requirements specified in Paragraphs a)-d) of Subsection (1) of Section 86, Paragraphs a)-e) of Subsection (1) of Section 87, and Paragraphs a)-e) of Subsection (1) of Section 88; furthermore, such associations shall not be required to employ an internal auditor. In the case of such associations, the executive managers of an insurance company providing reinsurance to the association shall also be acceptable in the stead of the executive managers referred to in Paragraphs a)-c) of Subsection (1).
- (7) The end of the period of professional experience specified under Paragraph b) of Subsection (1) of Section 86, Paragraph c) of Subsection (1) of Section 87, Paragraph c) of Subsection (1) of Section 88 and Paragraph b) of Subsection (2) of Section 89 shall be within ten years of the date of filing the application for registration.
- (8) In justified cases, the Commission may move for the discharge of an executive manager in consideration of the gravity of the violation of duty.
- (9) When terminating the employment of an executive manager referred to in Paragraphs a)-c) of Subsection (1), the supervisory board shall be notified in advance.
- (10) The executive managers referred to in Paragraphs a)-d) of Subsection (1) must be invited to the insurance company's general meeting in an advisory capacity in matters that affect their respective areas of responsibility.
- (11) In respect of the Claims Security Account and the Claims Guarantee Fund, the organization where such claims are administered shall have the executive managers specified in Paragraphs a)-c) of Subsection (1) placed in charge of the operation of the fund.

### **Senior Insurance Mathematician (Actuary)**

#### *Section 86.*

- (1) Senior mathematicians (actuaries) of insurance companies must satisfy the following conditions:
- a) they shall have the appropriate university degree and training as an insurance mathematician (actuary) as defined in specific other legislation;
  - b) they shall have at least five years professional experience working as an mathematician at an insurance company, the Commission, the trade organization of insurance mathematicians (actuaries) or insurance intermediaries, a business association engaged in insurance mediation or at the auditor of an insurance company as an insurance consultant;
  - c) they shall have no prior criminal record;
  - d) they shall have the appropriate professional qualifications and a good business reputation;
  - e) they shall be paid employees of the insurance company.
- (2) The signature of the insurance company's senior mathematician (actuary) shall be required to verify
- a) accuracy of the reserves contained in the annual report in terms of creation and size,
  - b) accuracy of the calculation of the solvency margin requirement,
  - c) distribution of the return on investment in the life assurance branch,
  - d) correctness of premium calculations,

e) authenticity of the reserves and the data pertaining to Paragraphs a)-d).

(3) Above and beyond the provisions of Subsection (2), the senior mathematician of the insurance company shall verify that the data available are sufficient, complete and consistent and that the methods applied conform to the nature of the risks.

(4) The senior mathematician of the insurance company shall attach an actuary's report to the annual report filed with the Commission.

(5) The content requirements for the actuary's report shall be decreed by the President of the Authority.

### **Senior Legal Counsel**

#### *Section 87.*

(1) Senior legal counsels of insurance companies must satisfy the following conditions:

a) they shall have a university degree in political science and law;

b) they shall have passed the bar examination and the insurance law examination;

c) they shall have at least five years of experience in the field of insurance, or as an insurance executive in the government sector in the field of finance, the trade organization of insurance companies or insurance intermediaries, a business association engaged in insurance mediation or at the auditor of an insurance company as an insurance consultant;

d) they have no prior criminal record;

e) they have the appropriate professional qualifications and a good business reputation;

f) they shall be paid employees of the insurance company.

(2) The senior legal counsel of the insurance company shall check and verify (with his signature) that the documents submitted to the Commission for licensing or as a reporting requirement are in compliance with legal regulations.

### **Chief Accounting Officer**

#### *Section 88.*

(1) Chief accounting officers of insurance companies must satisfy the following conditions:

a) they shall have the appropriate university or college degree;

b) they shall have a degree as a certified public accountant;

c) they shall have at least five of years experience in the field of accountancy in the government sector in the field of finance, the trade organization of insurance companies or insurance intermediaries, a business association engaged in insurance mediation or at the auditor of an insurance company as an insurance consultant;

d) they shall have no prior criminal record;

e) they have the appropriate professional qualifications and a good business reputation;

f) they shall be paid employees of the insurance company.

(2) The chief accounting officer of the insurance company shall check and verify (with his signature) - in conjunction with the insurance company's chief executive officer - that the assets record referred to in Section 143, the annual account specified under Sections 146 and 172, the annual report and the quarterly flash report submitted to the Commission are true and correct.

### **Director of Internal Control (Internal Auditor)**

*Section 89.*

(1) Insurance companies limited by shares, insurance cooperatives and insurance associations whose annual premium revenue is three hundred million forints or more shall employ an internal auditor subordinated to the supervisory board. Such insurance companies, if they employ the same person as internal auditor, shall agree in writing that they will raise no objection against the mutual employment of the internal auditor. This agreement shall be conveyed to the Commission within thirty days.

(2) Directors of internal control (internal auditors) of insurance companies must satisfy the following conditions:

a) they shall have the appropriate university or college degree,  
b) they shall have at least five of years professional experience in the government sector in the field of finance, the trade organization of insurance companies or insurance intermediaries, a business association engaged in insurance mediation or at the auditor of an insurance company as an insurance consultant,

c) they shall have no prior criminal record,

d) they have the appropriate professional qualifications and a good business reputation,

e) they shall be paid employees of the insurance company.

(3) The responsibilities of the director of internal control (internal auditor) of insurance companies shall be limited to monitoring

a) the insurance company's operation in accordance with internal regulations, and

b) insurance activities in respect of legality, security, transparency and expediency.

(4) The director of internal control shall, in addition to what is contained in Subsection (3), check, at least quarterly, the accuracy and completeness of the contents of the submitted reports as well as the data disclosed by the insurance company to the Commission.

(5) The director of internal control (internal auditor) shall send his reports to both the supervisory board and the board of directors. The director of internal control (internal auditor) shall prepare his reports in Hungarian and provide them to the officers of the Commission when carrying out regulatory inspections.

(6) The supervisory board shall, in particular, have the following responsibilities in connection with overseeing the operations of the insurance company:

a) ascertaining that the insurance company has a comprehensive control system affording suitable facilities for effective operation;

b) directing the internal control body, including

1. approving the internal control body's annual plan of inspections,

2. analyzing the reports prepared by internal control at least once every six months, and overseeing the implementation of the necessary measures,

3. appointing, if necessary, outside experts to assist in the work of the internal control unit,

4. making proposals regarding personnel changes in the internal control unit;

c) filing recommendations and proposals based on the findings of internal control procedures.

(7) The chief executive officer shall directly exercise employer's rights over internal controllers.

**Chief Medical Officer**

*Section 90.*

(1) Chief medical officers of insurance companies must satisfy the following conditions:

a) they shall have a medical degree;



- b) they shall have basic medical qualifications;
  - c) they shall have at least five of years of previous experience in the insurance industry;
  - d) they shall have no prior criminal record;
  - e) they shall be in the employ of the insurance company whether as a paid employee or in a self-employed capacity.
- (2) It is the chief medical officer's responsibility to oversee
- a) the medical aspects of insurance products and regulations,
  - b) the professional standards of the insurance company's risk and loss assessment experts.

### **Professional Qualifications and Good Business Reputation**

#### *Section 91.*

(1) The burden of proof for professional qualifications and good business reputation shall lie with the applicant.

(2) The applicant may provide proof of professional qualifications and good business reputation in any manner he desires, but the Commission may prescribe that other specific credentials (documents) be provided.

(3) If the Commission refuses to accept the proof provided to substantiate professional qualifications and good business reputation, it shall be stated in a written decision.

- (4) Professional qualifications and good business reputation shall not apply to any person
- a) who (that) is (has been) holding a qualifying interest or is (has been) an executive employee or executive manager of an insurance company, insurance intermediary or a financial institution,
    - aa) that was able to avoid insolvency solely as a result of intervention by its supervisory body and whose personal responsibility for this situation was established by court ruling or regulatory decision, or
    - ab) that had to be liquidated and whose responsibility for this situation was established by a final court ruling or regulatory decision; or
  - b) who has seriously or repeatedly violated the provisions of the acts covering the functions of the Authority, and other legislation adopted by authorization of those acts and has received the maximum fine for such offense by final decision of the competent supervisory authority rendered not more than five years earlier, or by final court decision adopted not more than five years earlier for any infringement of such regulations.

(5) The Commission shall be entitled to contact the competent foreign authority as part of its procedure to resolve a person's professional qualifications and good business reputation.

## Chapter IV

### AMENDMENT OF INSURANCE ACTIVITIES

#### **Authorization of the Revision of Insurance Activities**

#### *Section 92.*

(1) Any expansion of operations above and beyond the class(es) of insurance and risk group(s) for which the insurance company is already licensed shall be subject to the authorization of the Commission. The application for such authorization shall contain

- a) the amended charter,

- b) the revised scheme of operations, with the exception of the contents of Paragraph c) of Subsection (1) of Section 67,
  - c) proof of having the conditions for the activities after the revision,
  - d) adequate proof of having the requisite minimum solvency margin after the activities are revised.
- (2) The Authority may refuse authorization for making changes in the scope of activities on the grounds set out in Subsection (3) of Section 63.
- (3)

## **Portfolio Transfer**

### *Section 93.*

(1) An insurance portfolio may be transferred in part or in full by agreement between the transferor and the receiving insurance company, if the transfer is authorized by the Commission and if the receiving insurance company is a company registered in Hungary or in another Member State, its branch offices, or the branch office of a third-country insurance company in a Member State. The terms and conditions of the insurance contracts thus transferred shall remain unchanged. The consent of the policyholders affected and the contracting parties is not required for the transfer. Once the transfer has been concluded, the recipient insurance company will become a counterparty to the contracts involved, and also the data processor in terms of the personal data and business secrets of clients, effective as of the date of the Commission's authorization.

(2) The insurance portfolio of the Hungarian branch of an insurance company established in another Member State may be transferred in part or in full by authorization of the supervisory authority of the other Member State.

### *Section 94.*

- (1) Applications for authorization of a portfolio transfer shall contain
- a) a precise description of the portfolio to be transferred and the contractual conditions of the portfolio;
  - b) letters of intent from the transferor and the transferee;
  - c) a description of the technical reserves connected to the portfolio to be transferred and the coverage for these reserves;
  - d) date of transfer of the portfolio and the consideration paid for the portfolio;
  - e) proof from the receiving insurance company - if the receiving insurance company is established in Hungary - that its solvency margin is sufficient for the received portfolio in addition to the minimum solvency margin required for its own portfolio.
- (2) The supervisory authority authorizing the transfer shall contact the supervisory authority of the receiving insurance company seeking its verification that the receiving insurance company's solvency margin will continue to satisfy the minimum requirement after taking over the portfolio.
- (3) If the supervisory authority of the receiving insurance company fails to supply the verification referred to in Subsection (2) within three months from the time of receipt of the request for legal assistance, it shall be considered granted.
- (4) The Commission shall not authorize the transfer of a portfolio if
- a) the requirements laid down in Subsection (1) are not satisfied, or
  - b) it appears due to other reasons that the transfer is likely to injure the interests of the policyholders.

(5) The Commission shall authorize the transfer of a portfolio in possession of the consent of the competent authorities of the Member State of the commitment.

(6) Where the portfolio is transferred to an insurance company that is established in a Member State, the Commission of the country where the receiving insurance company is established shall provide the verification referred to in Paragraph *e*) of Subsection (1).

(7) If the authority contacted by the Commission fails to respond within three months from the time of receipt of the request for legal assistance, it shall be treated as its consent for the transfer of the portfolio.

(8) Upon receiving a request for legal assistance from a Member State, the Commission shall inform the supervisory authority of that Member State within three months as to whether it will consent to the portfolio transfer and whether the receiving insurance company will have the prescribed solvency margin after taking over the portfolio.

#### *Section 95.*

(1) The Commission shall publish its decision on the authorization of a portfolio transfer in two national daily newspapers.

(2) The receiving insurance company shall notify - in the language of the contract - all contracting parties concerned of the transfer within thirty days of receiving authorization or, in the event of a merger of insurance companies, from the date of registration in the records of the court of registry or of the general court. The contracting parties shall then have the option to terminate their contracts in a written notice addressed to the receiving insurance company within thirty days of the date of receiving notification.

(3) In respect of the merger, fusion and demerger of insurance companies, the provisions on transferring portfolios shall apply in terms of the notification requirement and the right of termination by notice.

### Chapter V

#### INSURANCE PRODUCTS

#### **Minimum Content Requirements for Insurance Contracts**

#### *Section 96.*

- (1) All insurance contracts must contain the following:
- a) the definition of the insured peril and any exclusions;
  - b) the procedure and deadline for reporting losses;
  - c) the rules pertaining to premium payment, the contractual rights and obligations of the insured party, the contracting party and the beneficiary, the manner and time of performance, and the consequences for failure to perform such rights and obligations;
  - d) a description of the services provided by the insurance company; the manner, time and special conditions of performance; and the conditions under which the insurance company is exempt from liability or its services are limited;
  - e) the rules for inflation escalation, where applicable;
  - f) a description of the rights of the insured, the contracting party, and the beneficiary and the obligations of the insurance company that apply when the contract is terminated, including

information on the provisions contained in Subsections (2)-(5) concerning the termination of a contract;

g) rules for the capitalization of regular payments of benefits in connection with health, accident and liability insurance, if applicable;

h) the term of limitation on claims;

i) the detailed rules for the provision of residual rights, and/or a life assurance policy loan, if it is available in the case of life assurance policies;

j) method of daily access to information concerning the placement and value of unit-linked life assurance policies;

k) theoretical and practical information on the handling of personal data if the contracting party or the policyholder is a natural person or a group entity consisting of natural persons,

l) address of the insurance company or branch;

m) procedure for crediting the surplus yield, if any, that is due to the policyholder.

(2) A natural person entering into the life assurance contract in a capacity other than self-employment or business activities shall be entitled to cancel the life assurance contract in writing - without having to show cause - within thirty days from the date of receipt of the notification referred to in Section 167.

(3) Within thirty days following receipt of the client's written cancellation, the insurance company shall account for any and all payments made by the client in connection with the insurance contract in question.

(4) No waiver of the cancellation right of policyholders shall be considered valid.

(5) Unless otherwise prescribed by law, the right of cancellation referred to in Subsection (2) shall not apply to life assurance contracts concluded in security for a loan or for a term of less than six months.

(6) In connection with the commitments arising from insurance contracts, insurance companies shall be authorized to provide compensation in the settlement of any insurance claim for the value added tax charged for services required for repairs or for eliminating the consequences of damages incurred (such as the costs of materials, repairs, renovations and other similar services subject to value added tax) if verified by invoice, and if the invoice indicates the amount of value added tax charged, or if it contains sufficient information for having the amount of value added tax calculated.

(7) The provisions of Subsection (6) shall also apply to settlements paid from the Claims Security Account.

(8) Insurance companies shall specify in the policy conditions the type of documents they require - including the invoices referred to in Subsection (6) - for payment of settlement for losses and costs in connection with a claim. Insurance companies may demand, as a precondition for payment of settlement, documents which are deemed necessary to verify the occurrence of the insured event, or for determining the extent of compensation to be provided, and may not render the payment of settlement subject to the final and binding conclusion of any criminal or misdemeanor proceedings that may have been opened in connection with the claim filed.

(9) If the loss concerns a motor vehicle to which civil liability for providing indemnification under the MVI applies, Sections 32/A and 32/B of the MVI shall apply, with the exception that any prepayment the insurance company is authorized to provide may not exceed 60 per cent of the amount of net compensation offered as calculated or awarded.

## **Prohibiting Discrimination on Grounds of Sex**

### *Section 96/A.*

(1) The following actions of insurance companies shall not be construed as a violation of the principle of gender equality defined in Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunity (hereinafter referred to as “ETOA”) based on sex, if the insurance company processes, stores and uses data related to sex solely for the purpose of:

- a) provisioning;
- b) internal pricing in connection with monitoring the composition of the insurance company’s financial assets from the point of view of total pricing;
- c) pricing reinsurance contracts;
- d) commercial and other advertising activities defined in the Act on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities;
- e) risk assessment in connection with life, accident and health insurance policies.

(2) In addition to what is contained in Subsection (1), discrimination based on sex shall not be construed to violate the principle of equal treatment:

- a) in the case of discrimination - which may be connected to sex - based on reasonable grounds that can be independently assessed relying on true distinction, if assessed objectively, and connected directly to the given contractual relationship;
- b) where preferential treatment is provided - relative to Section 30/A of the ETOA - to any client or client group, if it does not constitute unlawful discrimination vis-à-vis other person or persons in a situation comparable to that of specified clients or client groups;
- c) where access to certain products is refused to members of one sex, if the insurance company provides the product in question exclusively or primarily to members of one sex where this is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

## **Marketing of Insurance Products**

### *Section 97.*

- (1) No special license is required for marketing insurance products.
- (2) With regard to a compulsory motor vehicle liability insurance product, different provisions may be established by legal regulation.
- (3) If an insurance product is marketed with the participation of intermediaries and the insurance company detects any infringement in the methods of mediation, including the illegal conduct of an independent insurance intermediary who is involved in the marketing of an insurance product, the insurance company shall take immediate action to have the infringement terminated.

## **Product Plan**

### *Section 98.*

- (1) The marketing of each product of an insurance company shall be accompanied by a product plan drafted according to Schedule No. 4.
- (2) The product plan shall be signed by the chief executive officer, the senior legal counsel, the senior insurance mathematician (actuary) and the director of the branch of insurance concerned.

### *Section 99.*

(1) The President of the Authority shall decree the highest permissible technical interest rate that can be used to calculate the premiums on life assurance, accident and health (medical) insurance products as well as reserves and benefit payments.

(2) The highest permissible technical interest rate for the products referred to in Subsection (1), when offered by an insurance company established in a Member State by way of its branch office or in the form of cross-border services, shall be governed by the regulations of the home Member State.

*Section 100.*

(1) At least eighty per cent of the surplus yield from the investment of actuarial reserves of the life assurance branch shall be distributed among the policyholders. The amount of such earnings shall not be below the rate indicated in the insurance contract.

(2) In the actuary's report, the insurance company shall inform the Commission concerning the amount of surplus yield and the manner in which it is distributed.

**Suspending and Prohibiting the Marketing of an Insurance Product**

*Section 101.*

(1) In respect of a product that is already being marketed, if the Commission concludes that

- a) the product or the way it is marketed is illegal or violates the interests of the policyholders (contracting parties, beneficiaries etc.), or

- b) premium calculation fails to comply with the principles of insurance mathematics, or
- c) the insurance company did not submit a product plan or the product plan submitted does not comply with the provisions of Schedule No. 4;

the Commission shall instruct the insurance company to remedy the situation and eliminate the infringement, injury to one's interests, error or discrepancy before the prescribed deadline. In justified cases, the Commission may suspend marketing of the product.

(2) The Commission shall publish its decision ordering suspension of the marketing of an insurance product in two national daily newspapers within ten days from the date of the decision.

*Section 102.*

(1) The Commission shall prohibit the marketing of an insurance product if the insurance company fails to comply with the request specified in Subsection (1) of Section 101.

(2) The Commission shall publish its decision on prohibiting the marketing of an insurance product in two national daily newspapers within ten days from the date of the decision.

Chapter VI

Law applicable to Insurance contracts

**Common Provisions**

*Section 102/A.*

(1) This Chapter shall apply to insurance contracts covering risks situated in the Member States.

(2) The matters not regulated in this Chapter shall be governed under Law-Decree No. 13 of 1979 on International Private Law.

*Section 102/B.*

(1) Insurance contracts are subject to specific provisions of the national laws of the Member State in which the court is situated that require absolute compliance regardless of the law otherwise applicable to the contract in question.

(2) Where the insurance contract covers risks situated in more than one Member State, the contract is considered for the purposes of applying Subsection (1) as constituting several contracts each relating to only one Member State.

**Non-Life Insurance Contracts**

*Section 102/C.*

(1) The law applicable to non-life insurance contracts shall be determined in accordance with Subsections (2)-(6) with the exceptions set out in Sections 102/D-102/G.

(2) Where a policyholder has his habitual residence or central administration within the territory of the Member State in which the risk is situated, the law applicable to the insurance contract shall be the law of that Member State. However, where the law of that Member State so allows, the parties may choose the law of another country.

(3) Where a policyholder does not have his habitual residence or central administration in the Member State in which the risk is situated, the parties to the contract of insurance may choose to apply either the law of the Member State in which the risk is situated or the law of the country in which the policyholder has his habitual residence or central administration.

(4) Where a policyholder pursues a commercial or industrial activity or a liberal profession and where the contract covers two or more risks relating to these activities and situated in different Member States, the freedom of choice of the law applicable to the contract shall extend to the laws of those Member States and of the country in which the policyholder has his habitual residence or central administration.

(5) Notwithstanding Subsection (2) and (3), where the Member States referred to in those Subsections grant greater freedom of choice of the law applicable to the contract, the parties may take advantage of this freedom.

(6) When the risks covered by the contract of insurance referred to in Subsections (2)-(4) are limited to events occurring in one Member State other than the Member State where the risk is situated, the parties may always choose the law of the former State with regard to such insurance contracts.

*Section 102/D.*

The law applicable to insurance contracts covering large risks shall be the law of the Member State selected by the parties at the time of contracting or subsequently.

*Section 102/E.*

Where the parties have chosen a law as referred to in Subsection (2) of Section 102/C and Section 102/D, if the insurance contract at the time of the choice is connected with one Member State only,

the rules from which the law of that Member State allows no derogation by means of a contract shall also be applied.

*Section 102/F.*

(1) The choice of applicable law must be expressed or demonstrated with reasonable certainty by the terms of the insurance contract. If this is not so, or if no choice has been made, the contract shall be governed by the law of the country, from amongst those considered in Sections 102/C-102/E, with which it is most closely connected.

(2) Subsection (1) notwithstanding, if a severable part of the insurance contract which has a closer connection with another country, from amongst those considered in Sections 102/C-102/E, may by way of exception be governed by the law of that other country.

(3) The insurance contract shall be rebuttably presumed to be most closely connected with the Member State in which the risk is situated.

*Section 102/G.*

When, in the case of compulsory insurance, the law of the Member State in which the risk is situated and the law of the Member State imposing the obligation to take out insurance contradict each other, the law of the Member State imposing the obligation shall prevail.

**Life Assurance Contracts**

*Section 102/H.*

(1) Life assurance contracts are subject to law of the Member State where the risk is situated. If permitted by the laws of that country, the parties to the contract may choose to apply the law of another country.

(2) Where a policyholder is a natural person and his habitual residence is in a Member State other than the one of his nationality, the parties to the contract may choose to apply the law of the Member State in which the policyholder is a citizen.

***PART FOUR***

***SPECIAL RULES FOR CERTAIN TYPES OF INSURANCE***

Special Rules for Legal Expenses Insurance

*Section 103.*

(1) If an insurance company intends to introduce legal expenses insurance, its application for authorization for the commencement of operations [Subsection (2) of Section 63] or authorization to revise its insurance activities [Subsection (1) of Section 92] shall contain a statement in which it provides guarantees that

a) its employees engaged in the management of legal expenses claims and the employees providing legal advice are not performing the same or similar services in any of the insurance company's other divisions or for any other insurance company in connection with any class of insurance defined in Part A) of Schedule No. 1 and that any executive manager of the insurance company installed as a



superior officer for these employees shall not be installed in a similar position in connection with the management of claims in other branches of insurance; or

b) the insurance company entrusts another organization, whose name and address is indicated in the legal expenses insurance contract, for the management of legal expenses claims and for providing legal advice in respect thereof; or

c) the insurance contract states that the insured party is entitled to appoint a legal representative of his choice to represent his interests upon the occurrence of an insurance event.

(2) If selecting the solution under Paragraph b) of Subsection (1), management of claims shall be entrusted to a joint-stock company, a limited liability company, or the branch office of a foreign-registered company specializing in the management of legal expenses claims, provided it does not have financial, commercial or administrative links with the insurance company and it is not in any direct or indirect relationship that may have any effect on impartiality in the management of claims and whose other activities shall not obstruct its objectivity in terms of the management of claims.

(3) If the organization referred to in Subsection (2) that is considered a separate legal entity has any financial, commercial or administrative links with another insurance company, its executive officers and the employees engaged in the settlement of claims in the legal expenses division and the employees providing legal counsel may not perform the same or similar services for any other insurance company in connection with any class of insurance defined in Part A) of Schedule No. 1. The management of legal expenses claims and the provision of legal advice in respect thereof may not be entrusted to another insurance company that is engaged in other classes apart from legal expenses insurance. Information between the legal expenses insurance company and the company entrusted with the management of claims shall take place under adequate facilities to prevent the legal expenses insurance company from using such data in connection with the settlement of claims arising from other classes of insurance contracts.

(4) When the solution contained under Paragraph b) of Subsection (1) is selected, the insurance company may propose a legal representative upon the express written request of the policyholder if the policyholder did not wish to exercise his/her right of free choice of a legal representative. In this case, the insurance company shall offer at least three legal representatives for the policyholder to choose from. Information between the legal expenses insurance company and the legal representative shall take place under adequate facilities to prevent the legal expenses insurance company from using such data in connection with the settlement of claims arising from other classes of insurance contracts.

(5) The insurance company shall be entitled to adopt two or three of the solutions contained under Paragraphs a)-c) of Subsection (1); however, only one solution may be adopted in the case of an insurance relation.

(6) The provisions laid down in Subsections (1)-(5) shall only apply to insurance companies that are engaged in other non-life insurance activities in addition to legal expenses insurance.

(7) The terms and conditions of a contract for legal expenses insurance shall contain the following in addition to what is contained in Section 96:

a) confirmation of the insured person's right to name a legal representative of his choice prior to the commencement of a court or administrative proceeding, or a proceeding aimed at reaching a settlement without such proceedings, if it is necessary for the protection of his interest and for proper representation;

b) the designation of an unbiased arbitration procedure in which the parties are required to participate in case of any disagreement between the insurance company and the insured person in connection with the insurance company's services. If the finding of the arbitration procedure is for the policyholder, the costs of the procedure shall be borne by the insurance company; otherwise, the policyholder and the insurance company shall cover their own expenses. Unless otherwise stipulated

in the insurance contract, the policyholder shall have the right to hire a lawyer of his choice in the event of any disagreement. If the lawyer adopts the position of the policyholder, the insurance company shall be required to proceed accordingly;

c) a clause stipulating that the insured person has the right to name a legal representative of his choice in order to assert his contractual rights if the procedure referred to in Paragraph b) fails;

d) advice for the insured person in writing or in some other verifiable manner of his/her rights defined in Paragraphs b) and c) in case of any conflict with the insurance company;

e) the rules of the procedure to be followed by the parties if two or more adverse parties have legal expenses or liability insurance coverage with the same insurance company in connection with an event that serves as the basis of the insurance company's obligation to provide services;

f) information concerning the requirements defined under Paragraphs a)-c) of Subsection (1) that prevails in connection with legal expenses insurance policies.

(8) If there is a dispute between the insurance company and the insured party in connection with the insurance company's services, the insurance company shall be required to inform the insured party in writing concerning the provisions of Paragraphs a)-c) of Subsection (7).

(9) The provisions of Subsections (1)-(8) shall not apply

a) to legal expenses coverage for lawsuits or risks in connection with the operations of sea vessels;

b) to activities of an insurance company engaged in liability insurance that are performed in connection with the defense or representation of the insured person under the liability insurance policy, if the insurance company performs the same activities simultaneously in its own interest;

c) to legal expenses insurance provided by an insurance company engaged in assistance operations, if the activities are performed in a country other than the insured person's country of domicile or residence and if it is part of a contract that offers assistance to the insured person only in a country other than the country of such person's domicile or residence. In this case, it shall be indicated in the contract that legal expenses coverage is restricted to the above-specified locations and it is provided in conjunction with assistance services.

(10) Under special authorization, the members of the insurance company's staff engaged in the management of legal expenses claims and in providing legal advice in respect thereof or the persons authorized to represent the company entrusted by the insurance company with the management of legal expenses claims and provision of legal advice in respect thereof shall be entitled, unless otherwise prescribed by law, to represent the insurance company in any court or administrative proceeding.

#### *Section 104.*

If legal expenses coverage is provided as part of an insurance contract covering other risks as well, the legal expenses section of the insurance contract shall be clearly separated so that it may be easily identified by the clients. The insurance company shall be required to emphasize the existence of legal expenses coverage on all of the documents that are supplied to the client; furthermore, the premium payable for legal expenses insurance shall be shown separately from all other premiums in the currency in which the policyholder is required to pay the insurance premium.

#### Compulsory Insurance

#### *Section 105.*

(1) The obligation to contract insurance can be prescribed in the cases defined under Schedule No. 7 and in other acts.

(2) Insurance companies shall dissociate the accounting records for the costs and technical provisions connected to compulsory motor vehicle liability insurance policies from all of the other insurance products.

(3)-(5)

(6)

*Sections 106-109.*

*Section 109/A.*

(1)

(2)

*Section 110.*

(1) The rules for the accounting records of the compulsory motor vehicle liability insurance branch of insurance companies shall be decreed by the minister.

(2) The rules for the disclosure of data relating to the compulsory motor vehicle liability insurance branch of insurance companies shall be decreed by the President of the Authority.

## ***PART FIVE***

### ***RULES PERTAINING TO THE OWNERS, DIRECTORS AND EMPLOYEES OF INSURANCE COMPANIES***

#### Chapter I

#### ACQUISITION OF PARTICIPATION

#### **Authorization of the Acquisition of Participation**

*Section 111.*

(1) The prior permission of the Commission must be obtained for the acquisition of an interest in a limited insurance company that will provide a qualifying interest or alter an existing qualifying interest whereby the ownership interest or voting right will reach or exceed the twenty, thirty-three or fifty per cent limit. An agreement relating to ownership rights, voting rights or to secure advantages in excess of such rights may only be concluded in possession of the Commission's permission.

(2) The application for the above-specified authorization shall contain the name of the insurance company, the percentage of the interest existing or to be acquired, taking also into account the provisions of Points 5 and 38 of Subsection (1) of Section 3 of this Act and Subsections (2)-(6) of Section 37/A of the IRA.

(3) In addition to what is contained in Subsection (2), an application for the authorization of acquisition shall also contain:

a) the identification data (Point 3 of Subsection (1) of Section 3) of the applicant or any person holding a qualifying interest in the applicant company;

*b)* if the applicant is a natural person, an official certificate from the body operating the penal register, or a similar document that is deemed equivalent under the national law of the applicant's country of origin;

*c)* if the applicant is a natural person, and for natural persons holding a qualifying interest in the applicant company, a statement to declare that he is not subject to any other disqualifying factors;

*d)* if the applicant is other than a natural person, the complete text of the applicant's charter document as amended to date, a certificate issued within thirty days to date in proof that the applicant was established (registered) in compliance with the relevant national regulations and is not adjudicated in bankruptcy, liquidation or dissolution proceedings, and a statement declaring that its executive employees are not subject to any disqualifying factors;

*e)* documents issued within thirty days to date to verify of having no outstanding debts owed to the competent tax authority, customs authority or to the social security system of the applicant's country of origin;

*f)* evidence concerning the legitimacy of the financial means for acquiring the qualifying interest;

*g)* as statement in proof that other holdings and business activities of the applicant are not harmful to the prudent management of the financial institution, including a declaration on any pending and future liabilities defined as such by the Accounting Act;

*h)* the contract proposal made for the acquisition of ownership or for an agreement to secure substantial advantages attached to voting rights;

*i)* if the applicant is other than a natural person, a detailed description of the applicant's ownership structure;

*j)* the statements prescribed in Paragraphs *h)* and *i)* of Section 58;

*k)* a statement of full probative force from the applicant in which to grant consent to having the authenticity of the documents attached to the application for authorization checked by the Commission by way of the agencies it has contacted.

(4) Authorization for acquisition shall be granted on condition that the investor deposits the cash part of the capital necessary for the direct acquisition of the interest in a credit institution established in any Member State of the Community.

(5) If the applicant is a third-country insurance company, reinsurance company, credit institution or investment firm, the application shall have attached - in addition to what is contained in Subsections (3)-(4) - a statement from the supervisory authority of the country where the applicant is established verifying that the company operates in due observation of the relevant regulations.

(6) If the applicant fails to verify the data specified in Paragraphs *d)*, *e)* and *i)* of Subsection (3) above, the Authority shall launch a data disclosure request - in connection with the authorization of acquisition - to the authority or court that has the required information on record.

#### *Section 111/A.*

(1) If the applicant:

*a)* is an investment firm, credit institution, insurance company, reinsurance company or a management company engaged in the management of UCITS that has a registered office in another Member State of the European Union, or

*b)* is the parent of either of the companies mentioned in Paragraph *a)*, or

*c)* is controlled by either of the companies mentioned in Paragraph *a)*,

the Commission shall request the opinion of the competent supervisory authority of the other Member State where the investment firm, credit institution, insurance company, reinsurance company or the management company engaged in the management of UCITS is established.

(2) The Commission shall be entitled to contact the competent authority for the place where the applicant's registered address or private residence is located in order to verify or investigate the conditions prescribed for authorization.

*Section 111/B.*

(1) The Commission shall have sixty working days from the date of receipt of the application to check and verify the documents and information available in connection with the application (hereinafter referred to as "administrative time limit"), and to grant the authorization prescribed in Subsection (1) of Section 111.

(2) The Commission shall verify receipt of the application and its enclosures - as well as the additional information supplied according to Subsection (3) - to the applicant in writing within not more than two working days. In the aforesaid certificate of receipt the Commission shall inform the applicant concerning the expiry of the administrative time limit.

(3) The Commission may request the applicant to supply additional information within fifty working days from the date of receipt of the application, indicating the information specifically required for completion of the evaluation process.

(4) The applicant shall have twenty working days to comply with the request for additional information.

(5) The time limit prescribed for the disclosure of any further information the Commission may request in addition to the above shall be included in the administrative time limit.

(6) The time limit for the disclosure of additional information shall be thirty days if:

*a)* the applicant is established in a third country, or

*b)* the applicant is not subject to supervision according to the national laws of Member States on the transposition of Council Directive 85/611/EEC, Directive 2002/83/EC of the European Parliament and of the Council, Directive 2005/68/EC of the European Parliament and of the Council and Directive 2006/48/EC of the European Parliament and of the Council.

(7)

*Section 112.*

(1) The Commission shall refuse to grant the authorization specified in Subsection (1) of Section 111 if:

*a)* the applicant does not have a clean criminal record (if a natural person);

*b)* the applicant's legal status and ownership status is uncertain or cannot be verified;

*c)* the applicant's financial and business status is not sufficiently stable;

*d)* the applicant has seriously or repeatedly violated the provisions of this Act or another legislation pertaining to insurance activities and has received the maximum fine for such offense by a final court or regulatory decision within five years to date or whose responsibility was established by final court ruling within five years to date;

*e)* the applicant does not have the appropriate professional qualifications and a good business reputation;

*f)* the applicant's financial and economic position is deemed inadequate for the size of the ownership interest he intends to acquire, or the applicant has not been successful in business during the three-year period before the application is submitted;

*g)* there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof;

*b)* the applicant does not have an agent for service of process, if established in another country.

(2) In the case of failure to apply for authorization, rejection of the application, failure to comply with the obligation of notification as prescribed, or refusal to provide information, the Commission may prohibit the exercising of voting rights deriving from an agreement for the acquisition of ownership share or from other legal arrangement for securing advantages until the requirements stipulated by law are fulfilled.

(3) If the Commission fails to deliver a decision on the merits in due time, the applicant shall be deemed to have completed the proposed acquisition, unless the Commission exercises the right referred to in Subsection (2).

(4) The applicant shall have six months for concluding the proposed acquisition as approved.

(5) Where two or more proposals to acquire or increase qualifying interests in the same insurance company have been notified to the Commission for the purpose of authorization, the Commission shall treat the proposed acquirers in a non-discriminatory manner.

#### *Section 113.*

(1) The person holding a qualifying interest in a limited insurance company shall notify the Commission within fifteen working days in advance:

*a)* if he would like to terminate his qualifying interest completely, or

*b)* if he would like to alter or amend his ownership interest, voting rights or contract securing an advantage so that his ownership interest or voting right is reduced below the twenty, thirty-three or fifty per cent limit.

(2) The notification under Paragraph *b)* of Subsection (1) shall contain an indication of the ownership interest or voting right remaining or if the contract securing a substantial advantage is amended.

#### *Section 114.*

(1) The following shall be notified to the Commission in writing within thirty days of the contract date:

*a)* acquisition of a qualifying interest in a limited insurance company;

*b)* termination of a qualifying interest in a limited insurance company

*c)* altering a qualifying interest in a limited insurance company whereby:

*ca)* the ownership interest or voting right reaches the twenty, thirty-three or fifty per cent limit, or

*cb)* the ownership interest or voting right drops below the twenty, thirty-three or fifty per cent limit; or

*d)* conclusion of a contract securing substantial advantages in connection with an ownership interest or voting right, or the amendment of such contract.

(2) A joint-stock insurance company shall notify the Commission, in writing, within fifteen working days if it receives any information concerning the acquisition, alienation or modification of an ownership interest or voting right of the percentage specified in Section 111.

(3) A joint-stock insurance company shall send to the Commission from its internal database the names of shareholders with ownership interests in the percentages defined in Section 111 and the size of the interest held by each such shareholder.

#### *Section 114/A.*

The provisions of this Chapter shall also apply to insurance cooperatives.

## Chapter II

### RULES APPLICABLE TO THE ACTIVITIES OF MEMBERS OF THE MANAGEMENT BODY AND THE EMPLOYEES

#### *Section 115.*

The executive officers of insurance companies, other members of the management body and their employees shall keep all insurance secrets confidential during and after their employment (term in office). The data and information obtained by such persons in their official capacity pertaining to the operation of the insurance company and to its clients can only be used when acting in such official capacity and in connection with and for the purpose of the insurance contracts to which they pertain. Said data and information obtained by the above-specified persons in their official capacity must not be used to obtain any direct or indirect advantage for themselves or for any other person and/or to the detriment of the insurance company or the policyholder.

#### *Section 116.*

(1) The executive officers of insurance companies and other members of the management body (Sections 83 and 85), and their employees involved in the decision-making process shall notify the insurance company if they or one of their close relatives have a qualifying interest in the party that is about to enter into a contractual relationship with the insurance company, if they have any other interest in the contract to be concluded or if they are on the board of directors or supervisory board of the party that is about to enter into a contractual relationship with the insurance company. In such cases, the above-mentioned persons must not take part in any phase of the decision-making process (conflict of interests).

(2) The executive officers of insurance companies and other members of the management body and their employees involved in the decision-making process shall file a written statement with the insurance company at the time they are appointed (elected) in which they declare any direct or indirect share they or their close relatives own in the insurance company, in another insurance company, in a business association engaged in the activity of mediating in insurance or a business association engaged in insurance consulting, including the extent and the par value of such shares and any other securities issued by said organizations.

(3) The persons referred to in Subsection (2) shall notify the insurance company in writing within two working days regarding the occurrence of any of the situations specified in Subsection (2) or any changes therein.

(4) The insurance company shall keep records of the reports and statements filed in accordance with Subsections (1)-(3).

## ***PART SIX***

### ***THE INSURANCE COMPANY'S OPERATING CONDITIONS***

#### Chapter I

### RULES PERTAINING TO TECHNICAL PROVISIONS, SOLVENCY MARGIN AND SECURITY CAPITAL

## Technical Provisions

### *Section 117.*

(1) In order to provide adequate guarantees for safe operations, insurance companies shall create technical provisions to cover their underwriting obligations in effect on the balance sheet date, future liabilities, any fluctuation in claims, and any losses from insurance operations.

(2) Technical provisions shall comprise the following components:

- a) unearned premium reserves;
- b) mathematical provisions, including:
  - 1) life assurance premium reserve,
  - 2) health insurance premium reserve,
  - 3) reserve for benefit payments under accident insurance policies,
  - 4) reserve for benefit payments under liability insurance policies;
- c) reserve for pending claims, including:
  - 1) reserve for claims incurred and reported (itemized reserve for pending claims),
  - 2) reserve for claims incurred but not reported (IBNR);
- d) reserve for premium rebate dependent on profit;
- e) reserve for premium rebate independent of profit;
- f) claim fluctuation reserve;
- g) reserve for large claims;
- h) policy cancellation reserve;
- i) reserve for unit-linked life assurance policies;
- j) other technical provisions.

## Creation of Technical Provisions

### *Section 118.*

(1) Insurance companies shall create technical provisions sufficient for covering their underwriting obligations - which are not covered by reinsurance - on a continuous and regular basis as estimated under reasonable pretenses based on previous trends in the insurance business. In the case of life assurance, with the exception of net risk life assurance policies and the risk part of insurance policies also covering the risk of death, technical provisions shall be created for risks that are covered by reinsurance as well.

(2) In respect of non-life insurance services, the insurance company shall set aside two per cent of the gross technical provisions, irrespective of the percentage of risks covered by reinsurance, except if reinsurance cover is provided by an insurance company or reinsurance company that is established in a Member State.

(3) Insurance companies offering credit and suretyship insurance coverage shall create special provisions consistent with the risk involved in the manner stipulated in Subsection (3) of Section 119.

(4) In the case of coinsurance, technical provisions shall be created by the parties to the coinsurance contract as consistent with their respective share of underwriting obligations.

### *Section 119.*



(1) Technical provisions shall be created for each class of insurance starting on the balance sheet date.

(2) The resources for mathematical provisions estimated for the end of the year shall be set aside on a regular basis, but at least quarterly as consistent with the insurance companies foreseeable liabilities, and they shall be maintained so as to secure sufficient financial resources in due compliance with investment regulations by the end of the year in an amount equivalent to the required provisions.

(3) The minister shall decree the composition of technical provisions and the manner in which such provisions shall be created and used.

(4) Insurance companies shall disclose - upon request - the principles and guidelines used for the creation of technical provisions to holders of life assurance policies.

#### *Section 120.*

The premiums of life assurance contracts concluded after the date of this Act entering into force must be sufficient, on reasonable actuarial assumptions, for insurance companies to be able to meet all their commitments in connection with such contracts and for creating appropriate technical provisions.

### **Solvency Margin**

#### *Section 121.*

(1) The solvency margin represents the insurance company's own funds adjusted in accordance with Sections 123-124, the purpose of which is to enable the insurance company to meet its commitments even if the income from premiums and the technical provisions are insufficient to cover such liabilities.

(2) In order to be able to meet their commitments arising from insurance contracts at any given time, insurance companies shall maintain a minimum solvency margin for each class of insurance equivalent to the minimum solvency margin requirement consistent with the size of the insurance company's business operations.

(3) The formula for calculating the minimum solvency margin of insurance companies is contained in Schedule No. 8.

#### *Section 122.*

(1) A third-country insurance company that has applied for or received authorization for the foundation of a branch office in more than one Member State may request authorization

a) to determine the solvency margin for its branch offices and its minimum solvency margin on the aggregate for all its activities performed in the territory of the European Union;

b) to keep the deposit referred to in Paragraph h) of Subsection (2) of Section 70 in only one of the Member States affected;

c) to keep the assets representing the security capital in any one of the Member States in which it carries out business.

(2) The advantages contained under Paragraphs a)-c) of Subsection (1) may only be granted concurrently. An application for authorization shall be submitted to the supervisory authorities of all of the Member States affected. The application for authorization shall contain an indication of the Member State whose competent supervisory authority designated to carry out financial supervision

of the insurance company concerning its operations in the European Union if authorization is granted. The reasons for the selection of the competent supervisory authority shall also be indicated in the application.

(3) Authorization for the advantages contained under Paragraphs a)-c) of Subsection (1) shall take effect when the designated supervisory authority notifies the supervisory authorities of the Member State affected of the commencement of financial supervision.

(4) The Commission shall convey the information necessary for the financial supervision of the Hungarian branch office of a third-country insurance company to the designated supervisory authority.

(5) The advantages contained under Paragraphs a)-c) of Subsection (1) may be granted only if approved by the supervisory authorities of all of the Member States concerned and shall be withdrawn upon the initiative of a supervisory authority of any of the Member States affected.

### **Components of the Solvency Margin**

#### *Section 123.*

(1) The solvency margin requirement shall be specified separately for life assurance and non-life insurance companies in accordance with Subsections (2) and (3).

(2) The available solvency margin shall consist of the following assets:

a) the paid-up share capital or, in the case of mutual assurance company or cooperative companies, the effective initial fund subject to the following conditions:

aa) the statutes of the mutual association or cooperative society shall provide that payments may be made from these accounts - other than the liabilities stemming from insurance contracts - to shareholders and members only in so far as this does not cause the available solvency margin to fall below double of the minimum solvency margin requirement, or - if this is higher - double of the minimum guarantee fund or, after the dissolution of the insurance company, if all of the insurance company's other debts have been settled,

ab) the charter of the mutual association or cooperative must stipulate, with respect to any payments made from any member's accounts for reasons other than the individual termination of mutual assurance or cooperative membership, that the Commission must be notified at least one month in advance and can prohibit the payment within that period,

ac) the charter of the mutual association or cooperative must stipulate that the provisions under Paragraphs aa) and ab) may be amended only after the Commission has declared that it has no objection to the amendment;

b) capital reserve;

c) tied-up reserve;

d) 20 per cent of the evaluation reserve;

e) the profit or loss brought forward;

f) profit reserves appearing in the balance sheet;

g) subordinated loan capital.

h) dividend preference shares subscribed and paid up, also the paying of dividends unpaid from previous year(s) in the year in which there is profit.

(3) The available solvency margin may also consist of subordinated loan capital and the dividend preference shares referred to in Paragraph *b)* of Subsection (2) of this Section up to 50 per cent of the lesser of the available solvency margin and the required solvency margin.

(4) No more than 25 per cent of the subordinated loan capital included in the solvency margin under Paragraph *g)* of Subsection (2) shall consist of subordinated loans with a fixed maturity. The

subordinated loan capital installed as a component of the available solvency margin shall be gradually reduced in equal proportions during at least the last five years before the repayment date. The following requirements must also be satisfied:

- a) the claim of the lender ranks after the claims of all other creditors;
- b) the subordinated loan contract must contain a clause to permit use of the loan amount to settle the liabilities of the insurance company;
- c) only fully paid-up funds may be taken into account;
- d) for loans with a fixed maturity, the original maturity must be at least five years;
- e) loans whose maturity is not fixed must be repayable only subject to five years' notice;
- f) the loan agreement must not include any clause providing that in specified circumstances, other than the winding-up of the assurance undertaking, the debt will become repayable before the agreed repayment dates; the Commission shall authorize repayment upon request only if the insurance company's available solvency margin does not fall below the required level;
- g) the loan agreement may be amended only with the Commission's consent;
- h) the loan may not be terminated before the five-year maturity fixed in the contract unless it is authorized by the Commission.

*Section 124.*

(1) The Commission shall have the power to revalue downwards all of the elements eligible for the available solvency margin, in particular, where there has been a significant change in the market value of these elements since the end of the previous financial year.

(2) The available solvency margin shall consist of the assets referred to in Subsections (2) and (3) of Section 123, less

- a) the book value of intangible assets,
- b) the value of own stocks repurchased in the case of joint-stock companies,
- c) for non-life insurance companies, if they apply the pending claims reserve of the non-life branch at a discount by taking into account the anticipated yield on future assets, the difference of the amount of pending claims reserve before and after discounting, in all non-life classes exclusive of the classes set out under Points 1 and 2 of Part A) of Schedule No. 1 and the benefit payments included in the pending claims reserve.
- d) the value of dividend preference shares [Paragraph *b*] of Subsection (2) of Section 123] and subordinated loan capital [Paragraph *g*] of Subsection (2) of Section 123] the insurance company holds in another insurance company, third-country insurance company, reinsurance company or insurance holding company in which it has a participating share or dominant influence;
- e) the value of dividend preference shares specified in Schedule No. 5 of the CIFE, and subordinated loan capital the insurance company holds in a credit institution, financial institution or investment firm in which it has a participating share or dominant influence.

f)

(3) The preliminary calculation of the solvency margin requirement prescribed in Schedule No. 8 and a description of the components shall be prepared and sent to the Commission together with the annual report. Insurance companies shall supply information to the Commission quarterly concerning their prevailing prognosis of the solvency margin requirement and the available solvency margin.

(4) If the insurance company's solvency margin does not reach the minimum solvency margin requirement, the shortfall shall be rectified prior to satisfying the claims of shareholders and members, other than insurance settlement claims.

(5) The Commission may authorize an insurance company authorized to provide life assurance and non-life insurance to replenish any shortfall in the solvency margin of one branch of insurance from those of another.

### **Security capital**

#### *Section 125.*

One third of the required solvency margin shall constitute the insurance company's security capital if it is greater than the security capital referred to in Section 126. In all other instances, the minimum security capital of an insurance company shall be as defined in Section 126.

#### *Section 126.*

(1) The minimum guarantee fund for public limited companies, cooperatives and branch offices of third-country insurance companies shall be:

- a)* in the life assurance branch (Schedule No. 2) 3,500,000 euro;
- b)* in the non-life insurance branch (Schedule No. 1) 2,300,000 euro, or 3,500,000 euro for the insurance companies authorized to engage in either of classes 10, 11, 12, 13, 14 or 15;
- c)* in connection with non-life reinsurance companies engaged in non-life reinsurance activities, not less than 3,200,000 euro, or 3,500,000 euro for the non-life reinsurance companies authorized to engage in either of classes 10, 11, 12, 13, 14 or 15, which are engaged in non-life reinsurance activities, if:
  - ca)* the reinsurance premiums collected exceed 10 per cent of its total premium, or
  - cb)* the reinsurance premiums collected exceed 50,000,000 euro, or
  - cc)* the technical provisions resulting from its reinsurance acceptances exceed 10 per cent of its total technical provisions.

(2) The minimum security capital for mutual associations shall be seventy-five per cent of the values specified in Subsection (1), subject to the exceptions set out in Subsections (3) and (4).

(3) In place of Subsection (2), Subsection (4) shall apply to the mutual association whose charter contains instructions on ordering any additional contributions and/or on the possibility of any cutback in services, and

*a)* if the annual premium revenue and other revenues combined are below one billion five hundred million forints in each of the three preceding years;

*b)* if engaged in non-life insurance services with the exception of liability insurance and at least half of the annual contribution income comes from persons who are members of the mutual association.

(4) Instead of the amount specified in Subsection (2)

*a)* for the mutual associations under Subsection (3), with the exception of those mentioned in Paragraph *b)*, if the total amount of the association's annual premium income and revenue from membership fees has, during the previous three financial years:

*aa)* reached one billion two hundred million forints at least once, the minimum guarantee fund shall be 60 per cent of the amount referred to in Subsection (2),

*ab)* reached nine hundred million forints at least once and never reached one billion two hundred million forints, the minimum guarantee fund shall be 40 per cent of the amount referred to in Subsection (2),

*ac)* reached six hundred million forints at least once and never reached nine hundred million forints, the minimum guarantee fund shall be 20 per cent of the amount referred to in Subsection (2),

*ad)* reached three hundred million forints at least once and never reached six hundred million forints, the minimum guarantee fund shall be 10 per cent of the amount referred to in Subsection (2),

*ae)* reached one hundred and fifty million forints at least once and never reached three hundred million forints, the minimum guarantee fund shall be 5 per cent of the amount referred to in Subsection (2),

*af)* never reached one hundred and fifty million forints, the minimum guarantee fund shall be 2.5 per cent of the amount referred to in Subsection (2);

b) for the mutual associations engaged exclusively in classes 8, 9 and 18 under Part A) of Schedule No. 1:

ba) reached one billion forints at least once, the minimum security capital shall be seventy-five million forints,

bb) reached seven hundred and fifty million forints at least once and never reached one billion forints, the minimum security capital shall be fifty million forints,

bc) reached five hundred million forints at least once and never reached seven hundred and fifty million forints, the minimum security capital shall be twenty-five million forints,

bd) reached two hundred and fifty million forints at least once and never reached five hundred million forints, the minimum security capital shall be twelve million five hundred thousand forints,

be) reached one hundred and twenty-five million forints at least once and never reached two hundred and fifty million forints, the minimum security capital shall be six million two hundred and fifty thousand forints,

bf) never reached one hundred and twenty-five million forints, the minimum security capital shall be three million one hundred and twenty-five thousand forints.

(5) For the mutual associations referred to in Paragraph b) of Subsection (4), the Commission may authorize that 80 per cent of the security capital be offset by reinsurance.

#### *Section 127.*

The minimum guarantee funds prescribed for each class of insurance shall be reckoned on the aggregate for the insurance companies authorized to engage in both life assurance and non-life insurance services.

#### *Section 128.*

### Chapter II

## FINANCIAL, RESTORATION AND FINANCIAL RECOVERY PLAN

### **Financial Plan**

#### *Section 129.*

(1) The Commission shall instruct the insurance company to prepare a financial plan if

a) the insurance company's solvency margin is below the security capital requirement;

b) the technical provisions of the insurance company are below the amount required or if the cover for technical provisions is insufficient; or

c) if the insurance company's liabilities from bond issue, credit and other non-insurance-related transactions - not including loan capital - on the aggregate exceed 25 per cent of the insurance company's own funds.

(2) The financial plan shall be drafted so as to remedy the situations defined under Subsection (1) within a period of six months. The insurance company shall submit its financial plan to the Commission for approval within thirty days of the time of delivery of the Commission's decision.

(3) The Commission shall, within thirty days from the day following the date of receipt of the financial plan, determine whether the plan is able to remedy the situations defined under Subsection (1).

(4) At the time when ordering the insurance company to prepare a financial plan, and if the financial plan is rejected or not carried out, the Authority shall be empowered to take the measures defined in Section 195.

### **Restoration Plan**

#### *Section 130.*

(1) If the available solvency margin of an insurance company has fallen below the minimum required under Schedule No. 8 and if the general meeting does not adopt a resolution to replenish it within a period of one year, the Commission shall instruct such insurance company to prepare a restoration plan for achieving the minimum solvency margin requirement.

(2) The restoration plan shall cover a maximum period of one year, and it shall specify the manner and the timetable for restoring the minimum requirement. The insurance company shall submit its restoration plan to the Commission for approval within ninety days of the time of delivery of the Commission's decision. This deadline may be extended by thirty days in particularly justified cases.

(3) The Commission shall, within thirty days from the day following the date of receipt of the restoration plan, determine whether the plan is able to restore the insurance company's sound financial situation.

(4) At the time when ordering the insurance company to prepare a restoration plan, and if the restoration plan is rejected or not carried out, the Authority shall be empowered to take the measures defined in Section 195.

### **Financial Recovery Plan**

#### *Section 131.*

(1) If an insurance company is engaged in operations prejudicial to the interests of the policyholders, the Commission shall instruct the company to prepare a three-year financial recovery plan.

(2) The Authority shall refuse to disclose the information referred to in Subsection (3) of Section 79, Subsection (2) of Section 81 and Subsection (8) of Section 94 as long as the insurance company is engaged in operations prejudicial to the interests of the policyholders.

(3) The insurance company shall submit its financial recovery plan to the Commission for approval within ninety days of the time of delivery of the Commission's decision. This deadline may be extended by thirty days in particularly justified cases.

(4) The Commission shall, within thirty days from the day following the date of receipt of the financial recovery plan, determine whether the plan is able to restore the insurance company's sound financial situation.

(5) If the policyholders' rights are threatened because the financial position of the insurance company is deteriorating, the Commission - based on the financial recovery plan - shall have powers to oblige the insurance company to have a solvency margin higher than what is required under Schedule No. 8 in order to ensure that the insurance company is able to fulfill the solvency requirements in the near future.

(6) The Commission shall have powers to decrease the reduction, based on reinsurance, to the solvency margin as determined in accordance with Schedule No. 8 if

a) the nature or quality of reinsurance contracts has changed significantly since the previous financial year, or

b) there is no or an insignificant risk transfer under the insurance company's reinsurance contracts.

(7) At the time when ordering the insurance company to prepare a financial recovery plan, and if the financial recovery plan is rejected or not carried out, the Authority shall be empowered to take the measures defined in Section 195.

### **Common Provisions Relating to Financial Plans, Restoration Plans and Financial Recovery Plans**

#### *Section 131/A.*

(1) Financial plans, restoration plans and financial recovery plans shall include the following, in addition to what is contained in Subsection (2) of Section 129 and Subsection (2) of Section 130:

a) estimates of management expenses;

b) a plan setting out detailed estimates of income and expenditure in respect of direct insurance business, including reinsurance acceptances and reinsurance cessions;

c) a forecast balance sheet;

d) estimates of the financial resources intended to cover underwriting liabilities and the minimum solvency requirement;

e) the overall reinsurance policy.

(2) The Authority - in order to monitor the implementation of the financial plan and restoration plan past the time limits referred to in Subsection (2) of Section 129 and Subsection (2) of Section 130 - may order the insurance company to supplement the financial plan and restoration plan, that contains the requirements set out in Subsection (1) for a period of not more than three years.

(3) If the financial plan, restoration plan and financial recovery plan the insurance company has submitted is incomplete, or they fail to satisfy the requirements set out by law, or they contain impracticable or unreasonable stipulations, the Authority shall, within fifteen working days or twenty-two working days of receiving the financial plan, or the restoration or financial recovery plan, respectively, request - on one occasion - the insurance company to provide additional information or amend the plan.

(4) In ordering additional information or amending the plan, the Authority shall notify the insurance company that in the event of non-compliance the Authority shall decide on the basis of the data available.

### Chapter III

#### Investment Regulations

#### *Section 132.*

(1) The assets of an insurance company covering technical provisions shall be invested with a view to the class of insurance in which it is engaged and the maturity of liabilities in such a manner as to guarantee liquidity at all times while providing the highest yield under the safest conditions attainable.

(2) In order to achieve the highest degree of safety, the insurance company shall diversify its investments and strive to reduce risk factors within a specific form of investment by spreading investment-related risks.

(3) With regard to the investment of technical provisions, insurance companies must observe the provisions laid down in Schedule No. 9, except for the provisions referred to in Paragraph i) of Subsection (2) of Section 117.

(4) In connection with the investment and administration of the assets included in the portfolio covering the provisions specified in Paragraph i) of Subsection (2) of Section 117 the following provisions shall be observed:

*a)* the investment policy must include any significant information pertinent to the portfolio, as regards, in particular, the minimum duration of placement, the prospective clientele targeted, a description of market developments targeted, and the types of transactions and financial instruments authorized for the portfolio in question;

*b)* policyholders must be informed on a regular basis concerning the market value of the liquid assets and financial instruments comprised in the portfolio in which they are involved;

*c)* performance of the portfolio shall be explained according to the criteria specified in Schedule No. 14;

*d)* insurance companies may not purchase for any portfolio they manage:

*da)* securities of their own issue,

*db)* securities issued by their affiliated companies, with the exception of securities admitted to trading on a regulated market or whose price is listed publicly;

*e)* an insurance company may not transact any deals involving financial instruments - with the exception of government securities with a maturity of less than six months and open-ended public investment units - that are not listed on a regulated market on behalf of any portfolio it manages with a company in which it has a qualifying interest or with a company that has a qualifying interest in the insurance company;

*f)* purchasing shares issued by an affiliated company with a qualifying interest in an insurance company, which are traded in a regulated market, for the managed funds created from the reserves of unit-linked life assurance policies shall not constitute a violation of the restriction on the acquisition of participations by the controlled company, as specified in Subsection (2) of Section 287 of the Companies Act, if the insurance company's voting rights are not exercised.

(5) Insurance companies shall adopt regulations to fix the evaluation principles for the securities referred to in Paragraph *a)* of Subsection (4), and concerning the means and frequency of disclosure of information to policyholders.

(6) With respect to managed funds comprising cover for the provisions for unit-linked life assurance policies, insurance companies may guarantee the capital invested and the earnings (capital and performance guarantee). The performance guarantee incorporates a guarantee to preserve the capital invested. The capital and performance guarantee offered by insurance companies shall be accompanied by appropriate guarantee arrangements. A guarantee shall be deemed appropriate if:

*a)* provided by a credit institution, insurance company or reinsurance company;

*b)* provided in the form of a commitment made in writing;

*c)* the insurance company is able seek payment directly from the provider of the guarantee, and is able to enforce such claim within a reasonable period of time;

*d)* the amount of the guarantee is clearly defined in the currency of the life assurance policy and it is supported by appropriate calculations;



- e) the provider of the guarantee is not permitted to avoid its commitment relating to the guaranteed insurance policies to which the capital and performance guarantee pertains;
- f) it covers the capital and performance guarantee in full; and
- g) the guarantee is recognized by and can be enforced before all relevant jurisdiction.

(7) With respect to managed funds comprising cover for the provisions for unit-linked life assurance policies, insurance companies may pledge to preserve the capital invested and make a pledge for earnings (capital and yield protection). The pledge of performance incorporates a promise to preserve the capital invested. Insurance companies shall ensure that their pledge for the protection of capital and yield is secured by a sound investment strategy relating to financial instruments and exchange-traded instruments, of which the policyholder must be informed in detail.

### *Section 133.*

(1) When an insurance company acquires a share in the capital of another company in excess of ten per cent of its own capital, it shall report it to the Commission within two working days.

(2) The share held by an insurance company in another joint-stock company cannot reach seventy-five per cent of the subscribed capital of that joint-stock company unless it is another insurance company, a credit institution, financial enterprise, investment firm or investment fund manager.

(3) With regard to the investment of technical provisions, the share held by the insurance company in another company cannot exceed twenty-five per cent of the subscribed capital of that company.

(4) Insurance companies may not invest their assets used to cover mathematical provisions in a company of an owner with a qualifying interest that is not engaged in the insurance business, unless its activities are directly connected to the activities of the insurance company to a substantial degree.

(5) The investment restrictions prescribed in Subsections (1)-(3) shall not apply to a company under contract with the insurance company for outsourcing or for insurance operations if at least seventy-five per cent of the annual revenue originates from services provided to the insurance company in question.

(6) For the investment of funds from the technical provisions, other than mathematical provisions and the reserve for unit-linked life assurance policies, liquidity shall be the single most important criterion.

### *Section 134.*

The technical provisions of an insurance company may be held in the following instruments:

- A) investments
  - a) debt securities, bonds and other money and capital market instruments,
  - b) loans,
  - c) shares and other variable yield securities and participations,
  - d) units in companies for collective investment in transferable securities and other investment funds,
  - e) land, buildings and incorporeal rights in property;
- B) Debts and claims
  - f) debts owed by reinsurers, including the reinsurers' shares of technical provisions created on risks covered by reinsurance,
  - g) deposits with and debts owed by ceding companies,
  - h) debts owed by policyholders and intermediaries arising out of direct and reinsurance operations in so far as they have been outstanding for not more than three months,
  - i) life assurance policy loans,

- j) tax recoveries,
- k) claims against security capitals;
- C) Others
  - l) tangible fixed assets, other than land and buildings, valued on the basis of prudent amortization,
  - m) funds held on current account and cash on hand, deposits with credit institutions and any other bodies authorized to receive deposits,
  - n) accrued interest and rent,
  - o) deferred acquisition costs.
- D) Other claims
  - p) amounts recoverable from special purpose vehicles.

*Section 135.*

(1) In connection with the investment of assets covering technical provisions, the following principles shall be complied with:

- a) assets covering technical provisions shall be valued net of all debts arising out of or in connection with the purchase or acquisition of such assets;
- b) loans - whether to economic organizations, to state authorities or international organizations, to local or regional authorities or to natural persons - may be accepted as cover for technical provisions only if the borrower is able to produce sufficient guarantees as to their security, whether these are based on the status of the borrower, mortgages, bank guarantees or guarantees granted by insurance companies or other forms of security, with the exception of the loans referred to in Paragraph f) of Subsection (2) of Section 136;
- c) debts owed by and claims against a third party may be accepted as cover for technical provisions only after the deduction of all of the amounts owed to the same third party.

(2) Any asset that is mortgaged or whose disposition is restricted shall not be included in the cover for technical provisions of an insurance company.

(3) Investment units issued by an investment fund investing in derivative instruments under Section 278 of the CMA shall not be included in the cover for technical provisions of an insurance company.

*Section 136.*

(1) Assets constituting cover for technical provisions shall be kept in the territory of Member States or shall be placed in instruments issued by:

- a) an OECD or EEA Member State;
- b) local or regional authorities of OECD or EEA Member States;
- c) economic operators established in an OECD or EEA Member State;
- d) an international organization of which one or more Member States are members.

(2) With the exception of funds covering the reserves of unit-linked life assurance policies, the following restrictions shall apply with respect to assets constituting cover for technical provisions:

- a) of the instruments contained under Paragraph a) of Section 134, the ones without a state guarantee or other form of security shall not account for more than 25 per cent of the assets covering technical provisions;
- b) the instruments contained under Paragraph c) of Section 134 shall not account for more than 35 per cent of the assets covering technical provisions;

c) the instruments contained under Paragraph d) of Section 134 shall not account for more than 35 per cent of the assets covering technical provisions if falling within the scope of Directive 85/611/EEC or 30 per cent otherwise;

d) the value of any one piece of real estate (land, building) of the insurance company shall not account for more than 10 per cent of the assets covering technical provisions. This rule applies to a number of pieces of land or buildings close enough to each other to be considered effectively as one investment;

e) the insurance company shall not invest more than 5 per cent of its total gross technical provisions in shares and other negotiable securities treated as shares, bonds, debt securities and other money and capital market instruments from the same company, or in loans granted to the same borrower, taken together, the loans being loans other than those granted to a state, regional or local authority or to an international organization of which one or more Member States are members. This limit may be raised to 10 per cent of the insurance company's gross technical provisions if it does not invest more than 40 per cent of its gross technical provisions in the said loans or securities;

f) the insurance company shall not invest more than 5 per cent of its total gross technical provisions in unsecured loans, including 1% for any single unsecured loan, other than loans granted to credit institutions, insurance companies and investment companies established in a Member State;

g) the insurance company shall not invest more than 3 per cent of its total gross technical provisions in the form of cash in hand;

h) the insurance company shall not invest more than 10 per cent of its total gross technical provisions in shares, participations and bonds that are not traded on a regulated market;

i) the insurance company shall not invest more than 10 per cent of its total gross technical provisions in investment units of a single investment fund or collective investment instruments issued by a single collective investment trust.

j) the insurance company may invest no more than five per cent of its gross technical provisions in special purpose instruments.

(3) The assets listed under Paragraph h) of Section 134 shall not account for more than 5 per cent of the assets covering the total gross technical provisions on the aggregate.

(4) The combined market value of derivative instruments that were not offset by netting, calculated in accordance with the asset valuation regulations or with Subsection (5) of Section 272 of the CMA, may not exceed fifteen per cent of the market value of securities covering the total gross technical provisions of the insurance company.

(5) The restrictions set out in Subsection (2) shall not apply to international financial institutions of which one or more Member States are members.

### *Section 137.*

(1) The combined total value of investment units of close-ended real estate funds and close-ended collective investment instruments placed in real estate and investment units of open-ended real estate funds and open-ended collective investment instruments placed in real estate and real properties shall not account for more than twenty per cent of the liquid assets covering mathematical provisions.

(2) Investment units of securities investment trusts shall not account for more than thirty per cent of the liquid assets covering mathematical provisions. As regards the investment units of an investment fund falling under Directive 85/611/EEC, the limit pertaining to investment funds investing in securities shall increase with the amount invested to a maximum of thirty-five per cent.

(3) The combined total value of bonds unaccompanied by a bank guarantee, a guarantee issued by an insurance company, a mortgage or any other form of security, any other debt security or loan,

securities and bonds that are not traded on a regulated market shall not account for more than fifteen per cent of the liquid assets covering mathematical provisions.

(4) Deposits with credit institutions and any other body authorized to receive deposits shall not account for more than twenty-five per cent of the liquid assets covering mathematical provisions.

(5) The combined market value of derivative instruments that were not offset by netting, calculated in accordance with the asset valuation regulations or with Subsection (5) of Section 272 of the CMA, may not exceed five per cent of the market value of instruments covering mathematical provisions.

(6) The limit set out in Subsection (5) and Subsection (4) of Section 136 shall not include

- a) derivative transactions for the reduction of exchange and interest risks;
- b) repo operations with a credit institution for government securities.

#### *Section 138.*

(1) Derivative instruments must be valued on a prudent basis and may be taken into account in the valuation of the underlying assets.

(2) Derivative transactions shall be governed by the provisions of Subsections (4)-(8) of Section 272 and Section 273 of the CMA with the exception that investment fund manager, investment fund and fund operating regulations shall be construed, respectively, as the insurance company, assets covering technical provisions and the rules of asset valuation of the insurance company.

(3) An insurance company may not conduct any transaction that would result in a short net position if it uses the netting rules specified in Section 273 of the CMA, other than the short net positions committed under Subsection (6) of Section 273 of the CMA to cover specific risks of securities.

(4) Insurance companies shall, at all times, have liquid assets of sufficient offset value to cover the entire balance between all contract prices of derivative long positions and existing variable deposits in addition to the liquid assets required for regular business operations. The offset value shall be the same as the sum held in a bank deposit, whether payable on demand or tied up for no more than thirty days, or eighty-five per cent of the market value of other liquid assets.

#### *Section 139.*

(1) All debts and claims must be valued on a prudent basis, allowing for the risk of any amounts not being realizable. In particular, tangible fixed assets other than land and buildings may be accepted as cover for technical provisions only if they are valued on the basis of prudent amortization.

(2) The value of assets accepted as cover for technical provisions must be calculated on a prudent basis with due allowance for the risk of any amounts not being realizable. In particular, debts owed by policy-holders and intermediaries may be accepted only in so far as they have been outstanding for not more than three months.

(3) Deferred acquisition costs may only be accepted as cover for technical provisions if they are consistent with the calculation of the technical provision for unearned premiums.

#### *Section 140.*

(1) With respect to the assets for which Subsections (2) and (3) of Section 136 and Subsections (1)-(6) of Section 137 contain no limits, the following principles shall apply:

a) in accordance with what is contained in Subsection (2) of Section 132, the investment portfolio is to be diversified and spread in such a way as to ensure that there is no excessive reliance on the part of the insurance company on any particular category of asset, investment market or investment;

b) investment in particular types of assets that show high levels of risk, whether because of the nature of the asset or the quality of the issuer, must be restricted to prudent levels;

c) with respect to Paragraph f) of Section 134, determining the value of claims from a reinsurer must take account of the treatment of reinsurance;

d) where the assets held include an investment in a subsidiary company that manages all or part of the insurance company's investments on its behalf, the provisions laid down in this Section shall apply to the valuation of assets held by the subsidiary company. These rules shall also apply to the valuation of participations in other subsidiaries;

e) the percentage of non-liquid investments must be kept to a prudent level;

f) loans to or debt securities issued by certain credit institutions may be accepted as cover for the investment of technical provisions. This treatment may be applied only where the credit institution has its head office in a Member State, is entirely owned by that Member State and/or that state's local authorities and its business consists of extending loans to or guaranteed by the state or local authorities or loans to bodies closely linked to the state or local authorities.

(2) The forty per cent limit laid down in Paragraph e) of Subsection (2) of Section 136 may be raised by the Commission's authorization in the case of mortgage bonds and certain securities when these are issued by a credit institution that has its head office in a Member State and is subject by law to special official supervision designed to protect the holders of those securities. The sums deriving from the issue of such securities must be invested in accordance with the law in assets that, during the whole period of validity of the securities, are capable of covering claims attaching to the securities and that would be used on a priority basis for the reimbursement of the principal and payment of the accrued interest.

(3) Insurance companies shall be free to choose from investment instruments under Section 134 in due observation of the investment restrictions.

(4) In exceptional circumstances and at an insurance company's request, the Commission may, temporarily and under a properly reasoned decision, allow exceptions to the rules laid down in Section 134 concerning investment categories and in Sections 135 and 136 concerning restrictions.

(5) Any dispute as to which lawful investment category a particular type of investment belongs shall be resolved by the Commission.

#### *Section 141.*

(1) The provisions of Subsections (2)-(4) of Section 136, Subsections (1)-(6) of Section 137, and Paragraphs a), b), d), e) and f) of Subsection (1) of Section 140 and Subsections (2) and (3) of Section 140 shall not apply to the investment of unit-linked life assurance provisions. Insurance companies shall invest their unit-linked life assurance provisions in a structure consistent with their current liabilities.

(2) If unit-linked life assurance policies feature capital or yield guarantees, the provisions of Subsections (2) and (3) of Section 136, Subsections (1)-(6) of Section 137, Paragraphs a), b), d), e), f) of Subsection (1) of Section 140 and Subsections (2) and (3) of Section 140 shall be observed with respect to additional provisions created for covering such guarantees.

#### *Section 142.*

(1) If the value of an insurance company's liabilities from a credit relationship is in excess of five per cent of its subscribed capital, the insurance company shall immediately report the key characteristics of such relationship to the Commission.

(2) Insurance companies shall be required to report to the Commission quarterly on the amount of their mathematical provisions, the reserve for pending claims and unit-linked life assurance provisions as well as the manner in which such provisions are invested by the 15th working day of the month following the quarter to which it pertains and, for the last quarter, by 31 January following the subject year.

## Chapter IV

### REGULATIONS GOVERNING THE REGISTERS OF ASSETS, THE ACCOUNTING SYSTEM AND ANNUAL REPORTS OF INSURANCE COMPANIES

#### **Records of Assets**

##### *Section 143.*

(1) Insurance companies shall keep separate records of the assets they use to cover the mathematical provisions and unit-linked life assurance provisions broken down according to the categories contained in Section 134.

(2) The value of the insurance company's assets of record shall equal the prescribed amount of the mathematical provisions and unit-linked life assurance provisions at all times.

(3) The director of accounting shall immediately notify the insurance company's chief executive officer and supervisory board if the value of the insurance company's assets of record falls below the mathematical provisions fund requirement.

(4) In the case specified in Subsection (3), the chief executive officer of the insurance company shall notify the Commission without delay.

(5) The insurance company shall keep records on its real properties that are used for insurance operations and on ownership interests in business associations.

##### *Section 144.*

(1) Insurance companies shall keep separate records of each managed fund attached to unit-linked life assurance policies, apart from the funds covering other provisions and from the assets used for the insurance company's own investments.

(2) If the insurance company transfers assets from one managed fund to another, the provisions relating to records of transactions with third persons shall apply.

(3) The individual records referred to in Subsection (1) shall include subaccounts designated for each and every managed fund for the purpose of analysis of the performance of the managed funds.

#### **Accounting System of Insurance Companies**

##### *Section 145.*

(1) Insurance companies shall keep their business records in a manner - in the Hungarian language in due compliance with the provisions of the legal regulations on accounting - that permits inspection at any given time.

(2) The business records and the control system shall be deemed appropriate if - above and beyond the provisions of the Accounting Act and other relevant legal regulations - they are designed to assist in managing the company in a prudent and circumspect manner, permit oversight of

management by internal control and the Commission, and assist the insurance company so that it will meet its legal obligations.

### **Annual Report of Insurance Companies**

#### *Section 146.*

The special aspects of the annual reporting and accounting obligation of insurance companies shall be decreed by the Government.

#### *Section 147.*

(1) Insurance companies shall, within 150 days of the balance sheet date, send to the Commission and the MNB a copy of their annual report - as approved by the general meeting and endorsed by the auditor and deposited with the court of registry - as well as their business report, the minutes of the general meeting and the resolutions adopted.

(2) The insurance companies required to file a consolidated annual report shall send such report to the Commission and the NBH, together with the documents referred to in Subsection (1), within 180 days of the balance sheet date.

(3) The authenticity of the documents specified in Subsections (1) and (2) shall be endorsed with the signature of the insurance company's

- a) chief executive officer,
- b) senior mathematician (actuary),
- c) director of accounting.

(4) Insurance companies shall be required to file financial reports on the reinsurance contracts they conclude with foreign insurance companies, including their results, and shall send such reports to the Commission together with the annual report.

#### *Section 148.*

The insurance companies engaged in emergency assistance operations shall disclose in their annual report and the quarterly report the financial and other resources from which they finance the assistance services they provide.

### **Auditors of Insurance Companies**

#### *Section 149.*

(1) All insurance companies, except insurance associations with less than three hundred million forints per annum in premium revenues, must employ an auditor.

(2) Insurance companies may only choose certified auditors who

- a) have expertise in the field of insurance and are trained and experienced actuaries in compliance with the conditions set forth in Paragraphs a) and b) of Subsection (1) of Section 86; if the auditor is lacking experience, the insurance company shall employ an actuary who does satisfy this requirement;

- b) are not engaged in an employment or other work-related relationship with a person holding a qualifying interest in the insurance company, and not engaged in an employment or other work-

related relationship with an audit firm, that is owned by a person who holds a qualifying interest in the insurance company as well;

- c) have no direct or indirect share in the insurance company;
- d) is certified to audit insurance companies.

(3) The term of the auditor of an insurance company, if a natural person, may be for a maximum period of five years and it may not be renewed. An auditor employed or contracted by an auditing firm may audit the books of the same insurance company for a maximum period of five years.

(4) The same auditor may be appointed once again after two years following the end of the previous term. The same auditor in the employment of an auditing firm, whether as a paid employee or in a self-employed capacity, may be appointed once again to the same insurance company after two years following the end of the previous term.

(5) The auditor of an insurance company, if a natural person, shall be permitted to audit the books of a maximum of six insurance companies at any given time, and his income (revenue) from the insurance company may not account for more than thirty per cent of his annual income. The income (revenue) of the auditor from credit institutions, financial enterprises, investment enterprises, investment fund managers controlled by the same group or holding company, or from an investment fund managed by an investment fund manager controlled by the same group or holding company cannot exceed sixty per cent of his annual income (revenue).

(6) Any auditor in the employ of the auditing firm of an insurance company shall be permitted to audit the books of a maximum of six insurance companies at any given time and the income (revenue) of the auditing firm from the insurance company may not account for more than thirty per cent of its annual net revenue. The income (revenue) of an auditing firm from credit institutions, financial enterprises, investment firms, investment fund managers controlled by the same group or holding company, or from an investment fund managed by an investment fund manager controlled by the same group or holding company may not account for more than fifty per cent of its annual net revenue.

#### *Section 150.*

#### *Section 151.*

(1) The auditor shall immediately inform the insurance company's chief executive officer if he detects any violation of the provisions of this Act or other legal regulations pertaining to insurance operations; for example, if the amount or cover of technical provisions is insufficient.

(2) The auditor shall inform the Commission in writing, simultaneously with the audited insurance company, of the outcome of the audit if he ascertains any fact on the basis of which

a) the books cannot be endorsed, endorsement can only be granted subject to certain conditions, or he is compelled to refuse endorsement altogether;

b) the auditor notices circumstances that imply a criminal act, a serious violation of the insurance company's internal regulations, or the distinct possibility of these;

c) the auditor notices circumstances that imply infringement of the statutory provisions governing the authorization of insurance activities or the operations of insurance companies;

d) it is deemed that the insurance company is unable to meet its liabilities and commitments or safeguard the assets entrusted to it;

e) a serious deficiency or discrepancy in the insurance company's internal control system can be determined;



f) a significant difference of opinion between the auditor and the insurance company's managing director might occur on issues concerning the insurance company's solvency, income, data disclosure or bookkeeping mechanism that have a substantial impact on its operations.

(3) The managing director must notify the Commission concerning that which has been stipulated in Subsection (1).

(4) In addition to what is contained in Subsections (1) and (2),

a) the auditor must provide information at the request of the Commission,

b) the Commission must hold a consultation at the auditor's request.

(5) When auditing the annual report of an insurance company, the auditor shall also examine the following:

a) compliance with the provisions on solvency margin and capital adequacy, and the correctness of calculations of the solvency margin;

b) compliance with the legal provisions on prudential management for effective, reliable and independent operations as well as the resolutions of the Commission;

c) conformity of the continuous filing, data processing and data supply systems prescribed under Paragraph b) of Section 65;

d) the adequate operation of controlling systems.

(6) Upon conclusion of the audit, the auditor must record his findings on the issues specified in Subsections (5), (7) and (8) in a separate supplementary report and send it to the board of directors, the managing director, the chairman of the supervisory board and the Commission upon conclusion of the audit in the following year, or by 31 May at the latest.

(7) In the supplementary report referred to in Subsection (6), the auditor of the insurance company shall indicate as to whether the technical provisions are sufficient and whether the value of the insurance company's assets covering such provisions are in compliance with this Act.

(8) In the supplementary report referred to in Subsection (6), the auditor of the insurance company must evaluate in writing the technical provisions of the insurance company broken down by type of provision and branch of insurance.

(9) The insurance company shall notify the Commission within two working days concerning the resignation of its auditor or the termination of his contract, and it shall elect a new auditor within two months. The Commission shall be notified of the expiration of the term of an auditor two months in advance.

(10) When an auditor fails to comply with his obligations prescribed by legal regulation, the Commission shall be authorized to order the insurance company concerned to dismiss the auditor and appoint another one who satisfies the requirements laid down in Subsection (2) of Section 149. When the Commission initiates under Paragraph f) of Subsection (1) of Section 195 the discharge of the auditor of an insurance company, it may also request that the auditor's certificate to audit insurance companies be withdrawn.

#### *Section 152.*

(1) Insurance companies must send to the Commission the contract concluded with the auditor - for auditing the annual report - and all of the reports prepared by the auditor in connection with the annual report.

(2) The Commission is entitled, on the basis of the auditor's report, to instruct the insurance company to re-examine an annual report that contains incorrect or inaccurate data, implement the necessary corrections and have the corrected data verified by an auditor.

(3) If, after the annual report has been approved, the Commission discovers that the annual report contains any substantial error, the Commission may compel the board of directors of the insurance

company to have the figures revised and verified by an auditor. The insurance company must present the revised data verified by an auditor to the Commission before submitting it to the general meeting and re-publish the annual report once it has been approved by the general meeting.

### **Special Rules Relating to Audit Boards**

#### *Section 152/A.*

(1) Public-interest insurance companies - with the exception of any insurance company that operates in the form of a public limited company - shall set up an audit board consisting of three members elected by the board of directors (executive board), or by the supreme body from the members of the supervisory board, where applicable.

(2) At least one member of the audit board shall be independent and shall have competence in accounting and/or auditing.

(3) The audit board shall carry out the functions defined in Subsections (3)-(4) of Section 311 of the Companies Act.

(4) A member of the audit board shall be considered independent if holding an office only on the board of directors or supervisory board of the insurance company, and does not receive any other form of remuneration from the insurance company apart from the salary for his board membership, and if not related to any executive employee or other director of the insurance company.

(5) Subsections (1)-(3) shall not apply if the insurance company has a body that meets the conditions laid down in Subsections (1)-(2), and this body performs the functions set out in Subsection (3) hereof.

(6) In the case provided for in Subsection (5), the insurance company shall disclose on its own website which body carries out the functions set out in Subsection (3) and how it is composed.

#### *Section 152/B.*

(1) Any insurance company that operates in the form of a public limited company shall set up and operate an audit board in accordance with Section 311 of the Companies Act.

(2) Subsection (1) shall not apply to any insurance company that operates in the form of a public limited company, if the insurance company that operates in the form of a public limited company has a body that meets the conditions laid down in Subsections (1)-(2) of Section 311 of the Companies Act, and this body performs the functions set out in Subsections (3)-(4) of Section 311 of the Companies Act.

(3) In the case provided for in Subsection (2), the insurance company that operates in the form of a public limited company shall disclose on its own website which body carries out the functions set out in Subsections (3)-(4) of Section 311 of the Companies Act and how it is composed.

## ***PART SEVEN***

### ***ADMINISTRATION RULES CONCERNING CLIENTS***

#### **Insurance Secrets**

#### *Section 153.*

Insurance secrets shall comprise all of the data - other than classified information - in the possession of insurance companies, reinsurance companies, insurance intermediaries and insurance

consultants that pertain to the particulars and financial situations (or business affairs) of their clients (including claimants), and the contracts of clients with insurance companies and reinsurance companies.

*Section 154.*

According to Act XLVII of 1997 on the Protection of Personal Data in the Field of Medicine, insurance companies shall be authorized to process any data pertaining to clients' health only for the reasons set out in Subsection (1) of Section 155 and only in possession of the express written consent of the data subject.

*Section 155.*

(1) Insurance companies, insurance intermediaries and insurance consultants shall be allowed to process the insurance secrets of clients only to the extent that they relate to the insurance contract, with its creation and registration, and to the service. Processing of such data shall take place only to the extent necessary for the conclusion, amendment and maintenance of the insurance contract and for the evaluation of claims arising from the contract or for any other purpose specified in this Act.

(2) Insurance companies, insurance intermediaries and insurance consultants must obtain the data subject's prior consent for processing data for purposes other than what is contained in Subsection (1). The client shall not suffer any disadvantage if the consent is not granted, nor shall any advantage shall be given if it is granted.

(3) Unless otherwise provided by law, the owners, directors and employees of insurance companies, insurance intermediaries and insurance consultants and all other persons having access to insurance secrets in any way or form during their activities in insurance-related matters shall be required to maintain professional confidentiality with no time limit whatsoever.

*Section 156.*

Insurance secrets may only be disclosed to third parties

- a) under the express prior consent of the client to whom they pertain or his legal representative, and this consent shall precisely specify the insurance secrets that may be disclosed,
- b) if there is no legal confidentiality obligation.

*Section 157.*

(1) The requirement of confidentiality concerning insurance secrets shall not apply to:

- a) the Authority when acting in an official capacity;
- b) investigating authorities and the public prosecutor's office, in connection with a pending criminal procedure;
- c) the court of law in connection with criminal or civil cases as well as bankruptcy and liquidation proceedings, and the independent court bailiff in connection with a case of judicial enforcement;
- d) notaries public in connection with probate cases;
- e) the tax authority in the cases referred to in Subsection (2) hereof;
- f) the national security service acting in an official capacity;
- g) the Gazdasági Versenyhivatal (*Hungarian Competition Authority*) when acting within its powers and authority to monitor competition in the insurance industry including insurance companies, insurance intermediaries and consultants, Hungarian representation offices of third-country insurance

companies, independent insurance intermediaries and consultants, and the trade organizations of these;

*h)* guardian authority acting in an official capacity;

*i)* the healthcare authority defined in Subsection (2) of Section 108 of Act CLIV of 1997 on Health Care;

*j)* the agencies authorized to use secret service means and to conduct covert investigations if the conditions prescribed in specific other legislation are provided for;

*k)* providers of reinsurance and co-insurance, where applicable;

*l)* the bureau of insurance policy records maintaining the central policy records with respect to data transmitted as governed in this Act;

*m)* the receiving insurance company with respect to insurance contracts conveyed under a portfolio transfer arrangement;

*n)* with respect to the information required for settlement and for the enforcement of compensation claims, and also for the conveyance of these among one another, the body operating the Compensation Fund and/or the Claims Guarantee Fund, the National Bureau, the correspondent, the Information Center, the Claims Organization, claims representatives and claims adjustment representatives, or the responsible party if wishing to access - in exercising the right of self-determination - the particulars of the other vehicle that was involved in the accident from the accident report for the purpose of settlement;

*o)* the outsourcing service provider with respect to data supplied under outsourcing contracts;

*p)* third-country insurance companies, insurance intermediaries and consultants in respect of their branches, if they are able to satisfy the requirements prescribed by Hungarian law in connection with the management of each datum and the country in which the third-country insurance company is established has regulations on data protection that conform to the requirements prescribed by Hungarian law;

*q)* the Commissioner for Fundamental Rights and the Commissioner for Financial Rights when acting in an official capacity;

*r)* the Nemzeti Adatvédelmi és Információszabadság Hatóság (*National Authority for Data Protection and Freedom of Information*) acting in an official capacity;

*s)* the insurance company in respect of the bonus-malus system and the bonus-malus rating, and the claims record and the bonus-malus rating in the cases specified in the decree on the detailed rules for the verification of casualties;

upon receipt of a written request from a body or person referred to in Paragraphs *a)-j)*, *n)*, *s)* and *t)* indicating the name of the client or the description of the insurance contract, the type of data requested and the purpose and grounds for requesting data, with the exception that the bodies or persons referred to in Paragraphs *k)-m)* és *p)-r)* are required to indicate only the type of data requested and the purpose and grounds for requesting it. An indication of the statutory provision granting authorization for requesting data shall be treated as verification of the purpose and legal grounds.

(2) Pursuant to Paragraph *e)* of Subsection (1), there shall be no confidentiality obligation in connection with tax matters where the insurance company is required by law to disclose specific information to the tax authority upon request and/or to disclose data concerning any payment made under an insurance contract that is subject to tax liability.

(3) Insurance companies, insurance intermediaries and insurance consultants shall be authorized to disclose the personal data of clients in the cases and to the agencies indicated in Subsections (1) and (5) of this Section and in Sections 156, 158 and 159.

(4) The confidentiality requirement shall apply to the employees of the agencies specified in Subsection (1) beyond the framework of their official capacity.

(5) Insurance companies, insurance intermediaries and insurance consultants shall be required to supply information forthwith where so requested in writing by the investigative authorities, the national security service or the public prosecutor if there is any suspicion that an insurance transaction is associated - pursuant to Act IV of 1978 on the Criminal Code - with:

- a) illegal possession of narcotic drugs;
- b) an act of terrorism;
- c) illegal possession of explosives and destructive devices;
- d) illegal possession of firearms or ammunition;
- e) money laundering;
- f) any felony offense committed in criminal conspiracy or in a criminal organization.

(6) Insurance companies, insurance intermediaries and insurance consultants shall supply information concerning insurance secrets on record to investigative authorities on the basis of an official request made in connection with a specific case and marked "urgent" even if there is no public prosecutor's endorsement attached.

(7) The obligation to keep insurance secrets shall not apply where an insurance company, insurance intermediary or an insurance consultant complies with the obligation of notification prescribed in the Act on the Implementation of Restrictive Measures Imposed by the European Union Relating to Liquid Assets and Other Financial Interests.

(8) The disclosure of the group examination report data to the dominating member of the financial group during the control procedures carried out under the Act on the Hungarian Financial Supervisory Authority in the case of supervision on a consolidated basis shall not be construed as violation of insurance secrets and business secrets.

#### *Section 157/A.*

The obligation to keep insurance secrets shall not apply when a Hungarian law enforcement agency or the National Police Headquarters makes a written request for information - that is considered insurance secret - from a financial institution acting within its powers conferred under Act XV of 2003 on the Prevention and Combating of Money Laundering or in order to fulfill the written requests made by a foreign law enforcement agency or a foreign financial intelligence unit pursuant to an international agreement if the request contains a confidentiality clause signed by the foreign law enforcement agency of financial intelligence unit.

#### *Section 158.*

(1) It shall not constitute a violation of professional secrets when an insurance company supplies information to a third-country insurance company or a third-country data processing agency (third-country data manager) if the client to whom such information pertains (data subject) has given his prior written consent, the third-country data manager satisfies the requirements prescribed by Hungarian law in connection with the management of each datum, and the country where the third-country data manager is established has legal regulations on data protection that conform to the requirements prescribed by Hungarian law.

(2) The provisions governing data disclosure within the domestic territory shall be observed when sending data that is treated as an insurance secret to another Member State.

#### *Section 159.*

(1) The following shall not be deemed a violation of insurance secrets:

- a) disclosure of summarized information from which the clients and/or the specifics of their business cannot be identified;
  - b) in respect of branch offices, transfer of data to the supervisory authority of the country where the registered address (main office) of the foreign-registered enterprise is located, if such transfer is in compliance with the agreement between the Hungarian and the foreign supervisory authorities;
  - c) disclosure of information, other than personal data, to the minister for legislative purposes and in connection with the completion of feasibility studies.
  - d) the disclosure of data in order to comply with the provisions contained in Chapters III and III/A of Part Eight of this Act, in Chapter XIX/B of the CMA, and in Chapter XIV/A of the CIFE.
- (2) Insurance companies may not refuse to disclose the data specified in Subsection (1) in reference to the protection of insurance secrets.

*Section 160.*

- (1) The personal data indicated in the data transfer records and the data that fall under the scope of Section 154 and are treated as special data under the Data Protection Act shall be deleted, respectively, after five years and twenty years following the date of disclosure.
- (2) The insurance company shall not be authorized to notify the data subject when data is disclosed pursuant to Paragraphs b), f) and j) of Subsection (1) of Section 157 or Subsection (5) of Section 157.
- (3) Insurance companies, insurance intermediaries and insurance consultants shall be entitled to process personal data during the life of the insurance or contractual relation and as long as any claim can be asserted in connection with the insurance or contractual relation.

*Section 161.*

- (1) Insurance companies shall be entitled to process personal data relating to any frustrated insurance contract as long as any claim can be asserted in connection with the frustration of the contract.
- (2) Insurance companies, insurance intermediaries and insurance consultants shall be required to delete all personal data relating to their current or former clients or to any frustrated contract in connection with which the data in question is no longer required, if the data subject has not given consent, or if it is lacking the legal grounds for processing such data.
- (3) Within the meaning of this Act, the processing of data related to deceased persons shall be governed by the statutory provision on the processing of personal data.
- (4) The rights of a deceased person in terms of data processing may be exercised by the heir or by the person named as the beneficiary in the insurance contract.

Business Secrets of Insurance Companies, Insurance Intermediaries and Consultants

*Section 162.*

Insurance companies, insurance intermediaries and consultants and their owners, any person planning to acquire an interest in the insurance company, insurance intermediary or consultant as well as their executive officers and their employees shall keep any business secrets made known to them in connection with the operation of the insurance company, insurance intermediary or consultant confidential without any time limitation.

*Section 163.*

- (1) The obligation of confidentiality described in Section 162 shall not apply in respect of
- a) the Commission,
  - b) the NBH,
  - c) the national security service,
  - d) the State Audit Office,
  - e) the Economic Competition Office,
  - f) the internal oversight agency appointed by the Government, which controls the legality and propriety of the use of central budget funds,
  - g) property supervisors,
  - h) the Information Center
  - i) the agricultural damage survey body, the agricultural damage compensation body, the agricultural administration body, and the institution delegated to conduct economic assessments under the supervision of the ministry directed by the minister in charge of the agricultural sector in respect of insured persons claiming any aid for the payment of agricultural insurance premiums acting within the scope of their official capacity.
- (2) The obligation of confidentiality described in Section 162 shall not apply, concerning the grounds for procedure, in respect of
- a) investigating authorities and the public prosecutor acting within the scope of criminal procedures in progress and investigating charges,
  - b) the courts acting in criminal cases and civil cases or in bankruptcy and liquidation proceedings as well as local self-government debt-settlement proceedings acting within the scope of their official capacity.
- (3) Upon the investigating authority's "urgent matter" request, insurance companies, insurance intermediaries and consultants shall disclose data, whether or not deemed a business secret, from those of their files that are connected to the case in question even without the public prosecutor's approval as prescribed in specific other legislation.
- (4) The disclosure of information by the Commission to the minister on insurance companies, insurance intermediaries and consultants, in a manner permitting individual identification, for legislative purposes and in connection with the completion of feasibility studies shall not be construed as violation of business secrets.
- (5) The disclosure of information by the Information Center in an official capacity shall not be construed a violation of business secrets.

*Section 164.*

- (1) Persons acquiring any business secrets must keep them confidential without any time limitation.
- (2) By virtue of the obligation of secrecy, no facts, information, know-how or data within the sphere of business may be disclosed to third parties beyond the scope defined in this Act without the consent of the client or the insurance company, insurance intermediary or consultant concerned, or used beyond the scope of official responsibilities.
- (3) The person acquiring any business secrets may not utilize such for his own benefit or for the benefit of a third person, whether directly or indirectly, or to cause any disadvantage to the insurance company, insurance intermediary or consultant or its clients.

Common Provisions Relating to Insurance Secrets and the Business Secrets of Insurance Companies, Insurance Intermediaries and Consultants

*Section 165.*

(1) In the event of termination of an insurance company, insurance intermediary or consultant without a successor, the business documents managed by the insurance company, insurance intermediary or consultant and the documents containing business secrets may be used for archival research in sixty years after the date of their origin.

(2) Any information that is declared by specific other legislation to be information of public interest or public information and as such is rendered subject to disclosure may not be withheld on the grounds of being treated as a business secret.

(3) Other issues relating to insurance secrets and business secrets shall be governed by the relevant provisions of the Civil Code.

Information for Policyholders

*Section 166.*

(1) Before a life assurance contract is concluded - with the exception of net risk life assurance policies that contain no savings elements, which are offered by the financial institution in connection with financial services it provides, or where the sum insured is less than one million forints - the insurance company and the insurance intermediary shall assess customer demand or shall interview the client in order to ascertain the needs and requirements of the client.

(2) Unless otherwise provided by law, before a life assurance contract is concluded, insurance companies and insurance intermediaries must furnish the policyholder with easily intelligible, clearly written and detailed information that is verifiable and documented - written in an official language of the Member State of the commitment - about the insurance company or the insurance intermediary (name of the company and its legal form, address of its head office, name of the Member State in which the head office is located and the competent Commission there, and, where appropriate, the address of the branch office concluding the contract) and the particulars of the assurance contract. This information may also be provided in a language specified in the agreement concluded with the client. The insurance company's obligation to supply information to policyholders shall apply during the term of the contract with respect to any changes in the above-specified information apart from the particulars of dependent insurance intermediaries and the data contained in Point 17 of Part A) of Schedule No. 10. Unless otherwise prescribed by law, the insurance intermediary referred to in Section 35 is only required to communicate information about the insurance company and the terms and conditions of the insurance contract. The type of information to be provided in connection with insurance contracts is contained in Part A) of Schedule No. 10.

(3) Insurance companies and insurance intermediaries are required to supply - in connection with life assurance policies where the customer survey referred to in Subsection (1) is required - information, supported by sufficient evidence, in addition to that listed in Subsection (2) in the form of a product information guide - Part B) of Schedule No. 10 - containing the results of the customer survey referred to in Subsection (1) before the life assurance policy is issued.

(4) The insurance company shall not be under the obligation referred to in Subsection (2) in connection with any insurance contract concluded by way of an independent insurance intermediary representing the client or in connection with reinsurance or for insurance contracts covering large exposures.

(5) Where insurance services are provided through electronic commerce, insurance companies and insurance intermediaries shall be required to provide unlimited easy access for the client information through electronic channels. If the insurance company's declaration of acceptance is endorsed by a



qualified certificate defined in Act XXXV of 2001 on Electronic Signatures, the insurance company shall be required to provide unlimited easy access for the client to the information specified in Subsection (2) through electronic channels.

(6) The information provided in accordance with Subsection (2) shall be sufficient to focus attention on the conditions under which the insurance company is released from liability or entitled to limit its services, the exclusions stipulated in the insurance contract, and all other terms and conditions that differ substantially from common contractual practice, contracting regulations or any contract clause previously accepted by the parties, thus, for example, if some law other than Hungarian is stipulated as authoritative or if Hungarian courts are not vested with exclusive jurisdiction.

(7) Unless otherwise prescribed by law, before concluding a contract, the insurance company shall obtain a statement from the client, supported by sufficient evidence, to the effect that he has received the information specified in Subsections (2) and (3). In the statement, the client shall also state any other information received in connection with the insurance policy in question prior to concluding the contract.

(8) If the insurance company's declaration of acceptance is endorsed by a stamp, certification note or a seal, the insurance company shall post the information sheet containing the information specified in Subsection (2) at the place of contracting.

(9) Once a life assurance contract has been concluded - other than net risk life assurance policies with no residual rights attached, supplementary insurance against disability resulting from an accident or sickness covered under the life assurance branch - the insurance company shall provide written information to the policyholder at least once a year on the service value of the life assurance policy, its current cash surrender value and the amount of any surplus yield to be refunded.

(10) In connection with an inflation escalation clause in an insurance contract, the client is to be clearly informed concerning the components to which the inflation escalation clause pertains. The insurance company shall be required to emphasize the existence of inflation escalation clauses, including the rights of the client relative to such clauses.

(11) As regards unit-linked life assurance policies, the insurance company must provide the contracting party with access to information on the placement of investments, to wit, the cross rate of the various investment forms used to cover the contracting party's investment, the types of each form of investment and the current value of the contracting party's investments. The form and content requirements regarding the information to be supplied to clients in connection with unit-linked life assurance policies shall be decreed by the minister.

(12) If a medical examination of the prospective policyholder is required for the conclusion of an insurance contract - life assurance and non-life insurance alike - the insurance company must inform the client of his/her right to obtain the results of such tests and examination pursuant to Act CLIV of 1997 on Health Care.

#### *Section 167.*

(1) Following conclusion of the life assurance contract, the insurance company shall notify - and provide sufficient evidence - the policyholder within thirty days of the operative date of the contract - in an official language of the Member State of the commitment or in another language if the policyholder so requests and if there is an agreement to that effect - that the contract has entered into existence.

(2) In the notification referred to in Subsection (1), the insurance company shall inform the client - if the client is a natural person entering into the life assurance contract in a capacity other than self-employment or business activities - of the provisions contained in Subsections (2)-(5) of Section 96.

(3)-(5)

Proceedings in Connection with Any Infringement of the Regulations Relating to Business-to-Consumer Commercial Practices

*Section 167/A.*

In connection with any infringement of the provisions of this Act and other legislation adopted for the implementation of this Act, relating to business-to-consumer commercial practices and in particular to the information of clients, the Authority shall proceed in accordance with Act XLVII of 2008 on the Prohibition of Unfair Business-to-Consumer Commercial Practices (hereinafter referred to as “UCPA”), if the infringement concerns any consumer to whom the definition under Paragraph *a)* of Section 2 of the UCPA applies.

Complaints Handling

*Section 167/B.*

(1) The insurance company and the independent insurance intermediary (hereinafter referred to as “service provider”) shall provide facilities for clients to submit any complaint they may have relating to the service provider’s conduct, activity or any alleged infringement orally (in person, by telephone) or in writing (delivered in person or by others, by post, fax transmission, or by electronic mail).

(2) The service provider shall receive:

*a)* oral complaints in all premises open to the clients, during the regular business hours, or failing this at the fund’s main offices workdays between 8:00 hours and 16:00 hours;

*b)* oral complaints made by telephone on at least one workday of the week between 8:00 hours and 20:00 hours;

*c)* electronically, with alternate facilities made available on demand at all times, in the event of any malfunction.

(3) Where complaints are handled by telephone, the service provider shall have in place means to receive calls and to deal with the complaint within a reasonable period of time.

(4) Where complaints are handled by telephone, the service provider shall record the conversation between the service provider and the client, and shall retain this recording for a period of one year. The client shall be informed of this before the opening of the telephone conversation. At the client’s request the audio recording shall be replayed, and a certified report on the audio recording shall be made available to the client free of charge.

(5) Subject to the exception set out in Subsection (6), the service provider shall investigate oral complaints without delay and, if possible, take action to remedy the situation. If the client is in disagreement with the way the complaint is handled, the service provider shall write up a report on the complaint, indicating also its position, and shall give a copy of this report to the client if the complaint is made orally in person, or shall send it to the client if the complaint is communicated by telephone - together with what is contained in Subsection (7) -, and shall proceed in other respects in accordance with the provisions on written complaints.

(6) If the complaint cannot be investigated immediately, the service provider shall write up a report on the complaint, and shall give a copy of this report to the client if the complaint is made orally in person, or shall send it to the client if the complaint is communicated by telephone - together with what is contained in Subsection (7) -, and shall proceed in other respects in accordance with the provisions on written complaints.

(7) The service provider shall communicate its position relating to the written complaint - with explanation - to the client within thirty days of receipt of the complaint.

(8) Where a complaint is rejected, the service provider shall inform the client affected in writing of his right to initiate the proceedings of the Pénzügyi Szervezetek Állami Felügyelete (*Hungarian Financial Supervisory Authority*) for the protection of consumers' interests for any infringement of consumer regulations under the Act on the Hungarian Financial Supervisory Authority, or to bring action in the court of law in connection with any dispute relating to the conclusion, validity, legal aspects and termination of contracts, and cases of breach of contract and the related legal ramifications, or may seek remedy at the Financial Arbitration Board. The service provider shall furnish the mailing address of the Financial Arbitration Board.

(9) The service provider shall retain the complaint and the reply provided therefor for a period of three years, and shall make them available to the Pénzügyi Szervezetek Állami Felügyelete when so requested.

(10) Service providers are required to draw up effective and transparent procedures for the reasonable and prompt handling of complaints received from clients, and to keep records in accordance with Subsection (11) (hereinafter referred to as "complaints handling policy"). The service provider shall inform clients in the complaint handling policy concerning the place for handling complaints, and shall indicate its mailing address, electronic mail address, telephone number and fax number.

(11) Service providers shall maintain records on the complaints received from clients, and the actions and measures taken for the handling and resolution of such complaints.

(12) The records referred to in Subsection (11) shall contain:

- a) a description of the complaint, and an indication of the underlying event or fact;
- b) the date and time of submission of the complaint;
- c) a description of the measures proposed for the handling and resolution of the complaint, and the reason or reasons if rejected;
- d) the time limit for taking the measures indicated in Paragraph c) and the person appointed to implement it; and
- e) the date and time of response to the complaint.

(13) The service provider shall display the complaint handling policy in premises open to the clients, or failing this it may be posted at its main offices and on its website.

(14) Service providers shall not be authorized to charge the costs of investigating complaints to the consumers.

(15) Service providers shall designate a consumer protection officer for handling consumer affairs, and shall notify the Authority in writing within fifteen days of this officer, including any subsequent changes in his person.

(16) The obligation set out in this Section shall not apply to the service providers in connection with reinsurance contracts and insurance contracts covering large exposures.

## ***PART EIGHT***

### ***OVERSIGHT OF THE INSURANCE INDUSTRY***

#### Chapter I

#### LEGAL STATUS, OPERATION AND ACTIVITIES OF THE COMMISSION

##### **Legal Status of the Commission**

*Section 168.*

The powers and legal status of the Commission is defined in another act.

*Section 169.*

*Section 169/A.*

Chapter II

SUPERVISORY SYSTEM OF THE COMMISSION

**Supervisory Control**

*Section 170.*

*Section 171.*

(1) Insurance companies, independent insurance intermediaries and insurance consultants shall supply the Commission with data and information on a regular basis and in special cases by virtue of law or a Commission resolution.

(2) The order and contents of the internal data disclosure of insurance companies shall be decreed by the President of the Authority.

*Section 172.*

Insurance companies shall provide to the Commission

- a) an internal report once a year, in addition to the annual report, that assesses their underwriting activities; the internal report shall not be made public;
- b) once a year the insurance company's actuarial report;
- c) a quarterly report concerning the key characteristics of their operations, including large exposures and large losses, and the estimated figures for the solvency margin, equity capital and technical provisions.

*Section 173.*

Independent insurance intermediaries shall send a duplicate of their annual account, which is deposited with the court of registry, to the Authority by the last day of the fifth month following the balance sheet date.

*Sections 174-176.*

*Section 177.*

Chapter III

Supervision on a Consolidated Basis

## Scope of Supervision on a Consolidated Basis

### *Section 178.*

(1) Every insurance company:

*a)* that is the parent company of another insurance company, reinsurance company or non-member country insurance company or that holds a participation in at least one insurance company, reinsurance company, non-member country insurance company or non-member country reinsurance company;

*b)* whose parent company is an insurance holding company, a reinsurance company, a non-member country insurance company or non-member country reinsurance company;

*c)* whose parent company is a mixed-activity insurance holding company;  
shall be subject to supervision on a consolidated basis.

(2) In addition to Subsection (1), supervision on a consolidated basis shall apply to:

*a)* the parent company of the insurance company or any other company holding a participation in the insurance company;

*b)* the insurance company's subsidiary or any other company in which it has a participation;

*c)* other subsidiary companies of the insurance company's parent company or any company that holds a participation in the insurance company, or any other company in which they have a participation.

(3) Supervision on a consolidated basis shall not apply to any non-member country insurance company or non-member country reinsurance company that is established in a country where there are legal impediments to the transfer of the necessary information.

### *Section 179.*

(1) The Commission shall maintain a register of insurance companies that are subject to supervision on a consolidated basis.

(2) The Commission shall have competence to exercise supervision on a consolidated basis of any Hungarian-registered insurance company that is the parent company of another insurance company, reinsurance company, non-member country insurance company or non-member country reinsurance company, or that has a participation in at least one insurance company, reinsurance company, non-member country insurance company or non-member country reinsurance company, or that is the subsidiary of an insurance holding company, reinsurance company, non-member country insurance company, non-member country reinsurance company or a mixed-activity insurance holding company.

(3) Hungarian-registered insurance companies that are subject to supervision on a consolidated basis shall be required to notify the Commission within two working days when entering into a parent company-subsidiary relationship or when acquiring any participation referred to in Subsection (2), including all changes therein.

(4) Insurance companies that are subject to supervision on a consolidated basis under Subsection (1) of Section 178 shall convey to the Commission a description of the apparatus for the conveyance of information related to supervision on a consolidated basis when falling under the scope of Subsection (2) of Section 178 for the first time.

(5) When the parent company or the subsidiary of an insurance company, a company in which the insurance company has a participation, or a company that has a participation in the insurance company falls under the scope of Subsection (2) of Section 178 for the first time, the company shall

provide a statement guaranteeing that it will provide the Commission with the data, facts and information that are necessary for supervising the insurance company on a consolidated basis.

(6) If the Commission detects any unreported parent company, subsidiary relationship or any unreported participation, the insurance company affected shall be officially advised to handle the relationship in accordance with the provisions laid down in this Act.

### **Data Disclosure Obligations**

#### *Section 180.*

(1) The Commission - in exercising supervision on a consolidated basis - may request reports, data or information from insurance companies that are subject to supervision on a consolidated basis regularly or periodically, and the insurance companies requested must comply with such requests.

(2) The procedure for the regular disclosure of data for supervision on a consolidated basis shall be decreed by the President of the Authority.

(3) Insurance companies that are subject to supervision on a consolidated basis shall have sufficient information systems for providing the data and information required for exercising supervision on a consolidated basis and internal control systems that ensure the reliability of the disclosed data and information.

(4) An insurance company indicated in Subsection (2) of Section 178 shall - unless otherwise prescribed by legal regulation - be required to supply to the insurance company that is subject to supervision on a consolidated basis all of the data and information necessary for consolidated supervision.

(5) If the company referred to in Subsection (2) of Section 178 fails to supply the insurance company that is subject to supervision on a consolidated basis with all of the data and information necessary for the calculation of the adjusted solvency margin, the insurance company that is subject to supervision on a consolidated basis shall deduct from the solvency margin the book value of its participation held in the company referred to in Subsection (2) of Section 178 as well as the book value of the subordinated loan capital provided to such company.

(6) The Commission shall be authorized to request the data and information necessary for consolidated supervision directly from the company referred to in Subsection (2) of Section 178.

### **Inspection**

#### *Section 181.*

The Commission shall be authorized to carry out inspections in connection with the consolidated supervision of companies that are subject to supervision on a consolidated basis.

### **The Commission's International Cooperation with the Supervisory Authorities of Other Countries Regarding Supervision on a Consolidated Basis**

#### *Section 182.*

(1) If a Hungarian insurance company (companies) and an insurance company (companies) established in another Member State are subsidiaries of the same insurance holding company, reinsurance company, third-country insurance company or mixed-activity insurance company,

supervision on a consolidated basis shall be exercised by the supervisory authority designated in the agreement between the Commission and supervisory authorities of the Member States concerned.

(2) The Commission shall cooperate with the supervisory authorities of other Member States in exercising supervision on a consolidated basis.

(3) The Commission may supply reports, data and information to the supervisory authorities of other Member States as they are necessary for the objectives of supervision on a consolidated basis.

(4) The Commission may supply reports, data and information that may be necessary for exercising supervision on a consolidated basis to a third-country supervisory authority having considered the availability of reciprocity or on the basis of a valid supervision cooperation agreement.

(5) The Commission may conduct the inspection specified in Section 181 at the request of the supervisory authority of another Member State of the European Union, and it may give its consent to the supervisory authority requesting consent or to an auditor or to another expert designated by it to conduct the inspections. The competent authority which made the request may, if it so wishes, participate in the inspections insofar as it does not carry out the inspections itself.

(7) The Commission may supply information to the supervisory authorities of other Member States that is necessary to determine whether the owners and executive employees of any company within the same group possess appropriate professional qualifications and business reliability.

### **Transactions Between Companies and/or Persons Subject to Supervision on a Consolidated Basis**

#### *Section 183.*

(1) The Commission shall have competence to supervise the transactions that take place between

a) an insurance company and

1) the insurance company's subsidiary or any other company in which it has a participation,

2) the parent company of the insurance company or any other company holding a participation in the insurance company,

3) other subsidiary companies of the company referred to in Point 2 or any other company in which it has a participation;

b) an insurance company and any natural person who has a participation or dominant influence

1) in the insurance company or its subsidiary, or any other company in which the insurance company has a participation,

2) in the parent company of the insurance company or any other company holding a participation in the insurance company,

3) in other subsidiary companies of the company referred to in Point 2 or any other company in which it has a participation.

(2) The transactions referred to in Subsection (1) shall include, in particular:

a) transactions with debt securities and loan transactions,

b) provision of surety facilities and other forward commitments and contingent liabilities,

c) transactions involving any component of the available solvency margin,

d) investment-related transactions,

e) transactions in connection with reinsurance,

f) diversification of expenses.

(3) The insurance company shall disclose to the Commission the transactions referred to in Subsection (1) involving over five per cent of its subscribed capital (share capital, initial capital) in the

quarterly disclosure or the annual report in accordance with the decree of the President of the Authority governing data disclosure for supervision on a consolidated basis.

(4) Insurance companies shall have adequate risk management processes and internal control mechanisms, including accounting and reporting procedures, in order to identify, measure, monitor and control transactions as provided for above.

## **Adjusted Solvency Requirement**

### *Section 184.*

(1) The adjusted solvency of insurance companies subject to supervision on a consolidated basis shall be calculated to establish whether its available solvency margin satisfies the required level of solvency margin.

(2) If the insurance company is a subsidiary or a company has any participation in the insurance company, and such insurance parent company has any participation in another insurance company, the adjusted solvency requirement shall be calculated for each insurance company that is either a parent company or has any participation in another insurance company.

(3) If there are several insurance companies that are subsidiaries of the same insurance holding company, reinsurance company or third-country insurance company, the adjusted solvency requirement shall be calculated by the insurance holding company, reinsurance company or third-country insurance company and conveyed to the insurance company that is subject to supervision on a consolidated basis.

(4) Where an insurance holding company or reinsurance company is the subsidiary of an insurance holding company, reinsurance company or third-country insurance company, the Commission may authorize - on a case-by-case basis - that calculation of the adjusted solvency requirement is made only by the insurance holding company, reinsurance company or third-country insurance company that is on the highest level.

(5) The Commission may grant an exemption from the adjusted solvency requirement

a) to an insurance company that is the subsidiary of another Hungarian insurance company or in which another Hungarian insurance company has any participation, and the parent company or the company holding the participation calculates its adjusted solvency requirement consolidated with the insurance company in question;

b) to an insurance company that is a subsidiary of a Hungarian insurance holding company or a reinsurance company, and if the adjusted solvency requirement is calculated on the basis of the consolidated data of the subsidiary insurance company and the insurance holding company or reinsurance company;

c) to an insurance company whose parent company is an insurance company, insurance holding company or reinsurance company that is registered in another Member State or in which such company has a participation, and the Commission of the other Member State exercises supervision on a consolidated basis of the insurance company by virtue of an agreement referred to in Subsection (1) of Section 182;

d) to an insurance company that is a subsidiary of a third-country insurance company or in which a third-country insurance company has any participation, and if the adjusted solvency requirement is calculated on the basis of the consolidated data of the subsidiary and the parent company or the company holding a participation;

e) to an insurance company that is the subsidiary, together with other Hungarian insurance companies, of the same insurance holding company, reinsurance company or third-country insurance



company and if the adjusted solvency requirement of the insurance holding company, reinsurance company or third-country insurance company is calculated consolidated with such subsidiary;

f) to an insurance company that is the subsidiary, together with other Member State insurance companies, of the same insurance holding company, reinsurance company or third-country insurance company and the Commission of the other Member State exercises supervision on a consolidated basis of the insurance company by virtue of an agreement referred to in Subsection (1) of Section 182.

(6) The Commission shall grant the exemption under Subsection (5) only if there exist facilities that are equal to or better than what is contained in this Act for the calculation of the adjusted solvency requirement and for its adequate apportionment between the companies according to Subsection (2) of Section 178.

(7) The Commission shall grant the exemption under Subsection (5) to a third-country insurance company only if there is a valid agreement between the supervisory authorities concerned.

### **Calculation of the Adjusted Solvency Requirement**

#### *Section 185.*

(1) Calculation of the adjusted solvency requirement shall be carried out according to one of the methods described in Schedule No. 11.

(2) The insurance companies required to file a consolidated annual report according to the Accounting Act shall calculate their solvency requirement by the 'Accounting consolidation-based method' (Schedule No. 11, Point 3).

(3) The insurance companies that are not required to file a consolidated annual report according to the Accounting Act but are nevertheless subject to supervision on a consolidated basis shall calculate their solvency requirement by the 'Deduction and aggregation method' (Schedule No.11, Point 1).

(4) The Commission may authorize - on a case-by-case basis - for insurance companies that are not required to file a consolidated annual report according to the Accounting Act but are nevertheless subject to supervision on a consolidated basis to calculate their solvency requirement by the 'Requirement deduction method' (Schedule No.11, Point 2).

(5) When using methods 1 and 2 under Schedule No. 11, the solvency requirement of a parent company or a participating company shall be calculated based on a proportional basis taking into account their direct and indirect shares calculated by the formula contained in Schedule No. 3 of this Act or shall be calculated based on the percentage ratios contained in the consolidated annual report prepared according to the Accounting Act when using method 3.

(6) When a subsidiary company has a solvency deficit, the total solvency deficit of the subsidiary has to be taken into account. However, the Commission may give permission - on a case-by-case basis - for the solvency deficit of the subsidiary company to be taken into account on a proportional basis if the parent company owning a share of the capital is able to prove that its responsibility is limited strictly and unambiguously to that share of the capital.

(7) Where dominant influence is exercised without any capital involvement, the method of consolidation shall be determined by the Commission.

(8) With respect to records and the definition of data for the calculation of the adjusted solvency margin, and to methods of inclusion Subsection (4) of Section 10 of the Accounting Act shall be disregarded.

#### *Section 186.*

(1) The double use of elements eligible for the solvency margin among the different insurance companies under consolidated supervision taken into account in that calculation must be eliminated. For this purpose, when calculating the adjusted solvency the following amounts shall be eliminated:

a) the value of any asset of that insurance company that represents the financing of elements eligible for the solvency margin of one of its subsidiary companies or other insurance companies in which it has a participation, and

b) the value of any asset of a subsidiary of that insurance undertaking or a company in which it has a participation that represents the financing of elements eligible for the solvency margin of that insurance company, and

c) the value of any asset of a subsidiary of that insurance undertaking or a company in which it has a participation that represents the financing of elements eligible for the solvency margin of any other subsidiary of that insurance company or any other company in which it has a participation.

(2) With respect to a life assurance company

a) whose parent company is an insurance company or in which an insurance company holds a participation, its profit reserves and future profits, or

b) that has a subsidiary or other company in which it participates, the subscribed but not paid-up capital of these companies

may only be included in the calculation of the solvency margin in so far as they are eligible for covering the solvency margin requirement of that subsidiary or the company in which it has a participation.

(3) Without prejudice to the provisions of Subsection (2),

a) any subscribed but not paid-up capital of the subsidiary of the insurance company or any other company in which the insurance company has a participation that represents a potential obligation on the part of the insurance company to the related company, and

b) any subscribed but not paid-up capital of the insurance company that represents a potential obligation on the part of any subsidiary of the insurance company or any other company in which it has a participation, and

c) any subscribed but not paid-up capital of any subsidiary of the insurance company or any other company in which it has a participation that represents a potential obligation on the part of a subsidiary of the insurance company or any other company in which it has a participation

shall be excluded from the calculation.

(4) The Commission - on a case-by-case basis - may restrict the eligibility of elements of the solvency margin that are not effectively available to the insurance company and may prescribe that certain elements eligible for the solvency margin of a subsidiary insurance company or an insurance company in which a company has a participation may be included in the calculation of the adjusted solvency requirement only in so far as they are eligible for covering the solvency margin requirement of the subsidiary insurance company or the insurance company in which a company has a participation.

(5) The sum of the elements referred to in Subsections (2)-(4) may not exceed the solvency margin requirement of the subsidiary insurance company or the insurance company in which a company has a participation.

(6) When calculating adjusted solvency, no account shall be taken of any element eligible for the solvency margin arising out of reciprocal financing between the insurance company and

a) a subsidiary or other company in which it has a participation, or

b) the parent company of the insurance company or another company in which the insurance company has a participation, or

c) another subsidiary of any of the companies referred to in Paragraph b) or another company in which it has a participation.

(7) In particular, reciprocal financing exists when a subsidiary of an insurance company or any of the companies in which it has a participation is the parent company of another company, participates in another company, or makes loans to another company which, directly or indirectly, holds an element eligible for the solvency margin of the first insurance company or for its own funds.

(8) Furthermore, no account shall be taken of any element eligible for the solvency margin of a subsidiary company of the insurance company for which the adjusted solvency is calculated or another company in which it participates when the element in question arises out of reciprocal financing with any other subsidiary company of that insurance company or another company in which it participates.

(9) Where an insurance company has a participating share in a credit institution, investment firm or financial institution, the book value of this participating share and the book value of any subordinated loan provided to these companies shall be deducted when calculating its adjusted solvency margin.

### **Adjusted Solvency Requirement of Insurance Companies**

#### *Section 187.*

(1) The adjusted solvency calculation of the insurance companies referred to in Paragraph a) of Subsection (1) of Section 178 shall be carried out by integrating each of their subsidiaries and other companies in which they have a participation.

(2) The Commission - on a case-by-case basis - may authorize that where the related insurance company (subsidiary or participating company) has its registered office in a Member State other than that of the insurance company for which the adjusted solvency calculation is carried out, the calculation shall take account, in respect of the related undertaking, of the solvency situation as assessed by the competent authorities of that other Member State.

(3) When calculating the adjusted solvency of an insurance company that is a subsidiary or a participating company in a reinsurance company, this related reinsurance company shall be treated, solely for the purposes of calculation, by analogy with a related insurance company, applying the general principles and methods described in this Act for capital requirements.

(4) When calculating the adjusted solvency of an insurance company that holds a participation in an insurance company, a related reinsurance undertaking, or a third-country insurance company through an insurance holding company, the situation of the intermediate insurance holding company is taken into account, and this insurance holding company shall be treated as if it were an insurance company subject to a zero solvency requirement and subject to the same conditions that are laid down in Subsection (3) in respect of elements eligible for the solvency margin.

(5) Where a third-country insurance company is subject to authorization and solvency requirements at least comparable to those laid down in this Act, taking into account the elements of coverage of that requirement, the Commission may approve, on a case-by-case basis under a valid supervisory agreement, that the calculation shall take into account, as regards that company, the solvency requirement and the elements eligible to satisfy that requirement as laid down by the third country in question.

(6) Where a third-country reinsurance company is subject to requirements at least comparable to that laid down in this Act, the Commission may approve, on a case-by-case basis under a valid supervisory agreement, that calculation of the adjusted solvency margin shall take account, as regards the insurance company that is a subsidiary of a third-country insurance company or a company in which the insurance company holds a participation, if a reinsurance company, of the elements eligible to satisfy that requirement as laid down by the third country in question.

(7) If only the insurance companies of that third country in which the reinsurance company is established are subject to authorization and solvency requirements at least comparable to those laid down in this Act, the Commission may approve, on a case-by-case basis under a valid supervisory agreement, that the own-funds requirement on the related reinsurance company and the elements eligible to satisfy that solvency requirement may be calculated as if the company in question were a related insurance company of that third country.

(8) If the information necessary for calculating the adjusted solvency of an insurance company is not available to the insurance company and the Commission, the book value of that company in the participating insurance company shall be deducted from the elements eligible for the adjusted solvency margin. The same procedure applies in the cases referred to in Subsection (3) of Section 178.

### **Adjusted Solvency Requirement of the Subsidiary Companies of Insurance Holding Companies, Reinsurance Companies and Third-Country Insurance Companies**

#### *Section 188.*

(1) The calculation of the adjusted solvency margin of the insurance companies referred to in Paragraph *b*) of Subsection (1) of Section 178 shall be carried out by integrating each of their subsidiaries of insurance holding companies, non-member country reinsurance companies and non-member country insurance companies and other companies in which they have a participation.

(2) When calculating the adjusted solvency of a parent insurance company, it shall be treated as if it were an insurance company. Insurance holding companies are subject to a zero solvency requirement, while third-country insurance companies and reinsurance companies shall fall within the scope of Subsections (2)-(7) of Section 187.

(3) If the information necessary for calculating the adjusted solvency of a parent insurance company or a participating company is not available to the insurance company and the Commission, the book value of that company in the subsidiary company and participating insurance company shall be deducted from the elements eligible for the adjusted solvency margin.

### **Evaluation of the Adjusted Solvency Requirement**

#### *Section 189.*

(1) Insurance companies that are subject to supervision on a consolidated basis shall be required to calculate their adjusted solvency requirement on or before the last day of the year. The formula for the calculation of the adjusted solvency requirement and proof of coverage shall be disclosed to the Commission together with the annual report in accordance with the statutory provisions governing the disclosure of data to the Commission.

(2) The adjusted solvency margin of an insurance company shall be considered negative if the adjusted solvency available [Paragraph a) of any of the methods contained in Schedule No. 11] is less than the adjusted solvency requirement [Paragraph b) of any of the methods contained in Schedule No. 11].

(3) If the adjusted solvency of an insurance company referred to in Paragraphs a) and b) of Subsection (1) of Section 178 is negative, the provisions of Section 130 pertaining to restoration shall apply.

(4) If the restoration plan is rejected or not carried out, the Commission shall be empowered to take the measures defined in Section 195.

## Chapter III/A

### SUPPLEMENTARY SUPERVISION

#### Financial Conglomerates

##### *Section 189/A.*

(1) According to this Act, a financial conglomerate is a group [Point 81 of Subsection (1) of Section 3] that meets the following conditions:

*a)* at the head of the group:

1. is an insurance company; or

2. is a non-regulated entity, and the group's activities mainly occur in the financial sector within the meaning of Subsection (3); and

*b)* at least one of the entities in the group is within the insurance sector and at least one is within the banking or investment services sector; and

*c)* the consolidated and/or aggregated activities of the entities in the group within the insurance sector and the consolidated and/or aggregated activities of the entities within the banking and investment services sector are both significant within the meaning of Subsection (4) or (5).

(2) The entity at the head of the financial conglomerate:

*a)* is a parent company in which none of the entities in the same financial conglomerate exercises a dominant influence or holds a participating share;

*b)* is a parent company with the largest balance sheet total if the financial conglomerate contains several parent companies that meet the criteria set out in Paragraph *a)*;

*c)* is an entity with the largest balance sheet total of the entities in which none of the entities in the same financial conglomerate exercises a dominant influence or holds a participating share, and if none of the entities in the financial conglomerate qualifies as a parent company that meets the criteria set out in Paragraph *a)*;

*d)* is an entity with the largest balance sheet total if none of the entities in the financial conglomerate meets the requirements set out in Paragraphs *a)*-*c)*.

(3) The activities of a group in different financial sectors shall be deemed significant if the balance sheet total of the regulated and non-regulated financial sector entities in the group as a whole exceeds forty per cent of the combined balance sheet total of the group.

(4) Activities within a financial sector shall be deemed significant, if:

*a)* the average of the ratio of the balance sheet total of that financial sector to the balance sheet total of the financial sector entities in the group and

*b)* the average of the ratio of the solvency requirements of the same financial sector to the total solvency requirements of the financial sector entities in the group exceeds ten per cent within the insurance sector and within the banking and investment services sector as well. For the purposes of these calculations the banking sector and the investment services sector shall be treated as a single sector.

(5) Cross-sectoral activities within the financial sector shall be deemed significant within the meaning of Subsection (4) if the balance sheet total of the smallest financial sector in the group exceeds six billion euros.

(6) The Commission, in its capacity as the appointed coordinator, may - in agreement with the competent authorities concerned - regard a group as a financial conglomerate, and may apply the provisions contained in Sections 189/F-189/G, if:

*a)* the size of its smallest financial sector exceeds five per cent:

1. relative to the average ratio calculated under Subsection (4); or
2. relative to the ratio of the balance sheet total of that sector to the balance sheet total of the financial sector as a whole; or
3. relative to the ratio of solvency requirements of that sector to the total solvency requirements of the financial sector as a whole; or

b) the market share exceeds five per cent in Hungary, measured in terms of the balance sheet total in the banking or investment services sectors and in terms of gross premiums written in the insurance services sector.

(7) If the ratios referred to in Subsections (3)-(5) fall below the thresholds specified therein, however, the limit specified in Subsection (3) reaches thirty-five per cent, the limit specified in Subsection (4) reaches eight per cent, and the limit specified in Subsection (5) reaches five billion euros, then the group shall remain to be regarded a financial conglomerate for three more years.

(8) If the Commission functions as the coordinator, it may decide - with the agreement of the competent authorities concerned - to terminate the supplementary supervision anytime during the three-year period referred to in Subsection (7).

(9) The calculations regarding the balance sheet shall be made on the basis of the aggregated balance sheet total of the entities of the group. For the purposes of this calculation, the entities of the group in which a participating share is held by another entity of the group shall be taken into account as regards the amount of their balance sheet total corresponding to the aggregated proportional share held by the group. In the case of dominant influence the consolidated accounts shall be used.

(10) For the purposes of this Chapter:

a) capital requirement of credit institutions shall be the total of the capital requirements specified in Subsections (1)-(2) of Section 76 of the CIFE and the amount of overdraft specified in Point 16 of Schedule No. 5 of the CIFE;

b) capital requirement of investment firms shall be subject to the capital requirement defined in Subsection (2) of Section 105 of the IRA;

c) capital requirement of insurance companies shall be the minimum solvency margin referred to in Subsection (3) of Section 121 or the minimum guarantee fund referred to in Section 126, whichever is higher;

d) capital requirement of third-country regulated companies shall cover the minimum subscribed capital prescribed for authorization according to the laws of their home country.

(11) Where a financial conglomerate is a subgroup of another financial conglomerate, the provisions of this Chapter shall not apply to the financial conglomerate that is a subgroup.

(12) By way of derogation from Point 10 of Subsection (1) of Section 3, insurance company shall also mean third-country insurance companies in application of this Chapter.

## **Supplementary Supervision**

### *Section 189/B.*

(1) The objective of supplementary supervision is to exercise prudential supervision of entities at the level of the financial conglomerate. Accordingly, the Commission, in exercising supplementary supervision, shall oversee the exposures, intra-group transactions, solvency position, internal control mechanisms and risk management processes of financial conglomerates at the group level.

(2) Supplementary supervision shall apply to every insurance company that is at the head of a financial conglomerate:

- a) if it exercises dominant influence or holds a participating share in any of the regulated entities, at least one of which is a credit institution or an investment firm; or
- b) the parent company of which is a mixed financial holding company which has its head office in the European Union; or
- c) if it exercises dominant influence in an entity of the banking sector or the investment services sector.

(3) Supplementary supervision shall include:

- a) every entity in the financial conglomerate;
- b) every insurance company in the financial conglomerate, the parent company of which is a regulated entity that has its head office in a third country;
- c) every insurance company in the financial conglomerate, the parent company of which is a mixed financial holding company that has its head office in a third country.

#### *Section 189/C.*

(1) If in accordance with this Chapter the Commission identifies an insurance company it has authorized as being an entity or member of a group which may be a financial conglomerate, supplementary supervision shall apply to this entity and group.

(2) In the interest of identifying a group as a financial conglomerate in accordance with Subsection (1), the Commission shall:

- a) routinely examine the insurance companies it has authorized to establish whether they are a member of a group which may be a financial conglomerate;
- b) cooperate closely with the supervisory authorities of the regulated entities in the group;
- c) inform the competent authorities concerned, if it is of the opinion that a regulated entity that has a registered office in Hungary is a member of a group which may be a financial conglomerate.

#### *Section 189/D.*

(1) The Commission shall provide for the supplementary supervision of the insurance company referred to in Subsection (2) of Section 189/B and Paragraphs *b)* and *c)* of Subsection (3) of Section 189/B, that have a registered office in Hungary.

(2) The Commission is not required to play a supervisory role in relation to mixed financial holding companies, third-country regulated entities in a financial conglomerate or unregulated entities not belonging to the financial sector, on a stand-alone basis.

(3) Where the Commission discovers the existence of a close link, whether on its own accord or in cooperation with the competent authorities concerned on the basis of documents or inspections, it may subject an insurance company that is registered in Hungary to supplementary supervision, or may extend supplementary supervision to an entity.

(4) The Commission may, by common agreement with the competent authorities concerned:

- a) exclude an entity - that has been exempted by the coordinator under Subsection (5) of Section 189/F - from the calculations specified under Subsections (3)-(5) of Section 189/A at the request of the coordinator;
- b) take into account compliance with the thresholds envisaged in Subsections (3) and (4) of Section 189/A, at the request of the coordinator, for three consecutive years, and may disregard compliance with the thresholds if there are significant changes in the group's structure; or
- c) for the application of Subsections (3) and (4) of Section 189/A, may, in exceptional cases, replace the criterion based on the balance sheet total with parameters based on the income structure

or off-balance-sheet activities or add one or both of these parameters, if it is of the opinion that these parameters are of particular relevance for the purposes of supplementary supervision.

### **Prudential Operation of Insurance Companies Subject to Supplementary Supervision**

#### *Section 189/E.*

(1) Insurance companies subject to supplementary supervision and mixed financial holding companies shall be responsible for ensuring the prudent operation of the entities they control, including compliance with the provisions on exposures and capital requirements.

(2) Insurance companies subject to supplementary supervision and mixed financial holding companies may instruct the entities in the financial sector in which they have a dominant influence to observe and enforce the regulations pertaining to supplementary supervision, and they must follow these instructions.

(3) The board of directors of an insurance company that is subject to supplementary supervision shall indicate the name of its member appointed to oversee the prudential operation of the entities in the financial sector in which it has a dominant influence.

### **Concentration of Exposures, Intra-Group Transactions and Capital Adequacy of Insurance Companies Subject to Supplementary Supervision at the Level of the Financial Conglomerate**

#### *Section 189/F.*

(1) Insurance companies subject to supplementary supervision are required to ensure that own funds are available at the level of the financial conglomerate which are always at least equal to the capital adequacy requirements and to have adequate capital adequacy policies at the level of the financial conglomerate.

(2) The type of data and information required under Subsection (9) for risk concentration and intra-group transactions shall be defined and calculations for supplementary capital adequacy requirements shall be carried out at least once a year, either by the insurance company subject to supplementary supervision or by the mixed financial holding company. The results of the calculation and the relevant data for the calculation shall be submitted to the coordinator by the insurance company which is at the head of the financial conglomerate or by the mixed financial holding company.

(3) Where the financial conglomerate is not headed by a regulated entity, or by a mixed financial holding company, the results of the calculation and the relevant data for the calculation referred to in Subsection (2) shall be submitted to the coordinator by the insurance company in the financial conglomerate identified by the Commission, in its capacity as the appointed coordinator, after consultation with the other relevant competent authorities and with the financial conglomerate.

(4) The mixed financial holding company shall hand over the calculations to the insurance company subject to supplementary supervision. Any insurance company that is subject to supplementary supervision and is a subsidiary of a mixed financial holding company shall be required to process the data necessary for the calculations separately, and may not use them for any other purpose.

(5) The Commission, in its capacity as the appointed coordinator, may decide not to include a particular entity in the scope of its supervision when calculating the supplementary capital adequacy requirements in the following cases:



*a)* if the entity is situated in a third country where there are legal impediments to the transfer of the necessary information; or

*b)* if the inclusion of the entity would be misleading with respect to the objectives of supplementary supervision; or

*c)* if the entity is of negligible interest with respect to the objectives of the supplementary supervision.

(6) Prior to the decision of exclusion under Paragraph *b)* of Subsection (5) the Commission, in its capacity as the appointed coordinator, shall - with the exception of urgent cases - consult the competent authorities concerned.

(7) If several entities are to be excluded pursuant to Paragraph *c)* of Subsection (5), they must nevertheless be included in the calculation of supplementary capital adequacy requirements when collectively they are of non-negligible interest.

(8) In the case of an insurance company excluded under Paragraphs *b)* and *c)* of Subsection (5), the competent authorities of the Member State in which that insurance company is situated may ask the entity which is at the head of the financial conglomerate for information which may facilitate their supervision of the insurance company.

(9) The Commission, in its capacity as the appointed coordinator, after consultation with the other relevant competent authorities, shall identify the type of intra-group transactions and risk concentration to take into account for the calculations under Subsections (2)-(4). In these consultations they shall take into account the specific group and risk management structure of the financial conglomerate. In order to identify significant intra-group transactions and significant risk concentration, the Commission, in its capacity as the appointed coordinator, after consultation with the other relevant competent authorities and the conglomerate itself, shall define appropriate thresholds based on regulatory own funds and/or technical provisions.

(10) Insofar as no definition of the thresholds referred to in Subsection (9) has been drawn up, an intra-group transaction shall be presumed to be significant if its amount exceeds at least five per cent of the total amount of capital adequacy requirements at the level of a financial conglomerate.

(11) The formulas for calculations of capital adequacy requirements at the level of a financial conglomerate are contained in specific other legislation.

### **Risk Management Processes and Internal Control Mechanisms of Insurance Companies Subject to Supplementary Supervision at the Level of the Financial Conglomerate**

#### *Section 189/G.*

(1) Insurance companies subject to supplementary supervision shall be required to have adequate risk management processes and internal control mechanisms in place at the level of the financial conglomerate.

(2) The risk management processes shall include:

*a)* sound governance and management based on the policies and strategies at the level of the financial conglomerate with respect to all risks they assume;

*b)* adequate capital adequacy policies in order to anticipate the impact of their business strategy on risk profile and capital requirements;

*c)* adequate procedures to ensure that their risk monitoring systems are well integrated into their organization and that all measures are taken to ensure that the systems are consistent so that the risks can be measured, monitored and controlled at the level of the financial conglomerate.

*d)* arrangements and policies - updated at least annually - in place to contribute to and develop, if required, adequate recovery and resolution arrangements and plans.

- (3) The internal control mechanisms shall include:
- a) adequate mechanisms as regards capital adequacy to identify and measure all significant risks incurred and to appropriately relate own funds to risks;
  - b) procedures to identify, measure, monitor and control the intra-group transactions and the risk concentration.
- (4) All insurance companies included in the scope of supplementary supervision shall have adequate facilities for the production of any data and information which would be relevant for the purposes of the supplementary supervision, as well as means of security and internal control mechanisms to protect such facilities.

## **The Coordinator**

### *Section 189/H.*

(1) The Commission, as the competent authority, shall cooperate with the competent authorities of other Member States of the European Union in selecting a competent supervisory authority to coordinate and exercise supplementary supervision of entities of financial conglomerates (hereinafter referred to as “coordinator”).

(2) The Commission shall exercise the tasks of the coordinator if authorization to the insurance company that is at the head of the financial conglomerate was granted by the Commission.

(3) The Commission shall exercise the tasks of the coordinator if the financial conglomerate is not headed by a regulated entity and:

a) the parent company of the insurance company authorized by the Commission is a mixed financial holding company; or

b) where more than one regulated entity with a head office in the Community have as their parent the same mixed financial holding company with a head office in Hungary, and one of the insurance companies in the financial conglomerate has its head office in Hungary; or

c) the financial conglomerate does not include an insurance company that has been authorized in the Member State where the head office of the mixed financial holding company is located, the most important financial sector in the financial conglomerate is the insurance services sector, and the insurance company with a head office in Hungary has the largest balance sheet total.

(4) The Commission shall exercise the tasks of the coordinator if:

a) the financial conglomerate is headed by more than one mixed financial holding company with a head office in different Member States of the European Union and there is a regulated entity of the financial conglomerate in each of these States; or

b) the financial conglomerate is not headed by a parent company, and the most important financial sector in the financial conglomerate is the insurance services sector, and the insurance company with a head office in Hungary has the largest balance sheet total within the financial conglomerate.

(5) By way of derogation from Subsections (2)-(4) above, the Commission may exercise the tasks of the coordinator by common agreement with the competent authorities concerned, and appoint a different competent authority as coordinator, taking into account the structure of the conglomerate and the relative importance of its activities in different countries. Before taking its decision, the Commission shall give the conglomerate an opportunity to state its opinion on that decision.

## **Tasks of the Coordinator**

### *Section 189/I.*

- (1) The tasks to be carried out by the Commission in the capacity of the coordinator shall include:
- a) supervisory overview and assessment of the financial situation of a financial conglomerate;
  - b) gathering of data and information pertaining to the entities in a financial conglomerate and forwarding them to the competent authorities concerned;
  - c) assessment of compliance with the rules on capital adequacy and of risk concentration and intra-group transactions within the financial conglomerate as set out in Section 189/F;
  - d) assessment of the financial conglomerate's structure, organization and internal control system as set out in Section 189/G;
  - e) planning and coordination of supervisory activities in cooperation with the relevant competent authorities involved;
  - f) other tasks, measures and decisions assigned to the coordinator and which are necessary in order to achieve the objectives of supervision;
  - g) notification of the entity that is at the head of the financial conglomerate, the competent supervisory authorities concerned, the supervisory authority of the Member State where the mixed financial holding company is established and the Joint Committee of the European Supervisory Authorities when identifying a group as a financial conglomerate and of the appointment of a coordinator.
- (2) In order to facilitate and establish supplementary supervision, the Commission, in its capacity as the coordinator, and the other relevant competent authorities, and where necessary other competent authorities concerned, shall have coordination arrangements in place.

### **Cooperation between Competent Authorities**

#### *Section 189/J.*

- (1) The Commission shall cooperate closely with the competent authorities concerned for supplementary supervision of entities in a financial conglomerate. The Commission shall provide data and information which is essential or relevant for the exercise of supplementary supervision to the other competent authorities.
- (2) Cooperation with the competent authorities concerned shall cover the following items:
- a) identification of the group structure of the financial conglomerate, as well as of the competent authority exercising supervision of the regulated entities in the group;
  - b) monitoring the financial conglomerate's strategic policies and objectives;
  - c) monitoring the financial situation of the financial conglomerate, in particular on capital adequacy, intra-group transactions, risk concentration and profitability;
  - d) identification of the major shareholders with qualifying interest and executive employees of the entities in the financial conglomerate;
  - e) monitoring the organization of the financial conglomerate, risk management and internal control systems at the financial conglomerate level;
  - f) procedures for the collection of information from the entities in a financial conglomerate, and the verification of that information;
  - g) monitoring adverse developments in regulated entities of the financial conglomerate which could seriously affect the regulated entities;
  - h) information on major sanctions and exceptional measures taken by the competent authorities.
- (3) The Authority may also exchange information to the extent necessary for the performance of supplementary supervision with the central banks of Member States of the European Union, the European Central Bank, the European System of Central Banks and the European Systemic Risk Board.

(4) The Commission shall, prior to its decision, consult the competent authorities concerned with regard to the following items, where these decisions are of importance for other competent authorities' supervisory tasks:

*a)* changes in the shareholders and/or executive employees, which require the authorization of the Commission;

*b)* major sanctions or exceptional measures.

(5) By way of derogation from what is contained in Subsection (4), the Commission may decide not to consult in cases of urgency or where such consultation may jeopardize the effectiveness of the decisions. In this case, the Commission shall, without delay, inform the other competent authorities.

(6) The Commission, in its capacity as the coordinator, may contact the competent authority of the country where the entity that is at the head of the financial conglomerate is established to exchange data and information concerning such entity.

### **Disclosure of Information**

#### *Section 189/K.*

(1) Regulated and non-regulated entities within a financial conglomerate, and the natural persons involved shall supply all data and information which would be relevant for the purposes of calculations in the interest of supplementary supervision to the entity at the head of the financial conglomerate. The entity at the head of the financial conglomerate shall process such data and information separately, with due observation of data protection regulations.

(2) The Commission may approach the competent authorities concerned for data and information which would be relevant for the purposes of supplementary supervision.

### **Verification**

#### *Section 189/L.*

(1) The Commission may verify, on site or otherwise, the data and information supplied by the entities in a financial conglomerate to the extent necessary for the purposes of supplementary supervision.

(2) The Commission may ask the competent authorities of other Member States of the European Union to have the verification carried out.

#### *Section 189/M.*

(1) If the financial conglomerate includes an insurance company referred to in Paragraphs *b)* and *c)* of Subsection (3) of Section 189/B, the competent authorities shall appoint the coordinator disregarding the third country parent company that is the head of the financial conglomerate.

(2) The Authority, if serving as coordinator according to Subsection (1) hereof, shall examine as to whether the laws of that third country are in conformity with the provisions laid down in Directive 2002/87/EC of the European Parliament and of the Council. The Authority shall consult the competent supervisory authorities concerned, and shall make every effort to comply with any applicable guidelines prepared by the Joint Committee of the European Supervisory Authorities. Following consultations the Authority, in its capacity as the coordinator, shall make a decision regarding conformity.

(3) If the laws of the third country are in conformity with the provisions laid down in Directive 2002/87/EC of the European Parliament and of the Council, supplementary supervision of the

financial conglomerate that is headed by the third country parent company of an insurance company referred to in Paragraphs *b*) and *c*) of Subsection (3) of Section 189/B shall not be exercised by the Commission.

(4) If the laws of a third country are not in conformity with the provisions laid down in Directive 2002/87/EC of the European Parliament and of the Council, the Commission, in its capacity as the appointed coordinator, shall take over to exercise supplementary supervision, and shall take all appropriate measures at its disposal.

## Chapter IV

### COMMISSION PROCEDURES AND ACTIONS

#### Commission Procedures

##### *Section 190.*

##### *Section 191.*

(1) Foreign-registered entities shall employ an agent for service of process when submitting an application to the Commission.

(2)

##### *Sections 192-193.*

##### *Section 194.*

#### Actions and Sanctions

##### *Section 195.*

(1) In order to enforce the obligations of insurance companies, independent insurance intermediaries and insurance consultants and/or to safeguard the interests of clients and in order to enforce compliance with the provisions of this Act and other relevant legal regulation on insurance activities and the activities of independent insurance intermediaries, consultants and insurance representations, and with the conditions of its resolutions; the Commission shall have powers to

a) issue a warrant in which to demand proper actions to meet the requirements prescribed in this Act, in other legal regulation on insurance activities and the activities of independent insurance intermediaries, consultants and insurance representations, and in the Commission's resolutions within a specific timeframe;

b) convene the general meeting (members' meeting) to discuss the issues defined by the Commission;

c) impose a disciplinary fine (Sections 196-198);

d)

e) suspend payment of any dividend in respect of joint-stock companies and cooperatives;

f) request the dismissal of the executive officers, other members of the management body or the auditors of insurance companies, or disciplinary action against employees;

g) demand that a restoration plan, financial plan or a financial recovery plan be submitted;

- h) suspend marketing of a certain insurance product;
- i) ban marketing of a certain insurance product;
- j) limit, in part or in full, the insurance company's right of disposition over its technical provisions and solvency margin;
- k) prohibit any unauthorized insurance company, independent insurance intermediary, principal agent or unregistered insurance consultant to further engage in insurance related activities;
- l) remove an insurance intermediary from the register;
- m) compel an independent insurance intermediary business association to increase its capital to the required minimum prescribed in this Act;
- n) delegate a supervisory commissioner in an emergency situation;
- o) compel an insurance company to transfer its insurance portfolio if there is another insurance company willing to receive it;
- p) prohibit the outsourcing of an activity;
- q) interview the chief executive officer of an insurance company or the director of operations of an independent insurance intermediary or consultant;
- r) partially or completely suspend its authorization for operations;
- s) withdraw its authorization for operations;
- t) withdraw its foundation permit.

(2) In order to meet the requirements prescribed in this Act, in other regulations on insurance activities and the activities of insurance intermediaries and consultants, and in the Authority's resolutions, the Authority shall have powers to instruct insurance companies, insurance intermediaries and consultants to draw up an action plan for a specific timeframe, and to execute the action plan if approved.

*Section 196.*

(1) The Commission may order the insurance company, the managing director of an insurance company, the independent insurance intermediary, insurance consultant, the director of operations of an independent insurance intermediary or insurance consultant, and any person engaged in any of the activities governed by this Act without proper authorization or without being registered to pay a disciplinary fine

- a) for any violation of the provisions of this Act or other legal regulations on insurance activities and the activities of independent insurance intermediaries and consultants,
- b) for failure to comply or delayed compliance with the Commission's regulations, or
- c) for failure to disclose data or satisfy the hearing obligation ordered by the Commission within the specified deadline.

(2)-(3)

*Sections 197-198.*

**Supervisory Commissioners**

*Section 199.*

(1) The Authority shall have powers to appoint a supervisory commissioner in emergency situations. The term of a supervisory commissioner shall not exceed one hundred and eighty days; however, it may be extended until a liquidator is appointed. The owners (members) with qualifying

interests shall be notified concerning the appointment. The supervisory commissioner shall be responsible for observing and enforcing the provisions of this Act.

(2) In the case of liquidation, the term of the supervisory commissioner shall expire when the liquidator is appointed.

(3) The responsibilities of the supervisory commissioner shall be defined in the letter of authorization.

(4) During the period of the supervisory commissioner's appointment, members of the executive board may not perform their tasks and exercise their signatory rights as described in the statutory provisions governing business associations, cooperatives and groupings, and the charter. For the period of appointment, the supervisory commissioner shall exercise the rights of board members described by law and the charter.

(5) By way of derogation from Subsection (4), members of the executive board and the supervisory board shall have the right to seek remedy against the resolution appointing the regulatory commissioner and the resolution the Commission has adopted against the insurance company, and to represent the insurance company in such proceedings or delegate a representative on the insurance company's behalf.

(6) If requested in writing, the supervising commissioner shall, within three days, inform the concerned owners (members) of the measures he has taken in writing.

(7) In the case of mutual associations, where either of the circumstances specified in Subsection (3) of Section 11 of the Civil Societies Act apply, the court shall forthwith notify the Authority.

(8)

#### *Section 200.*

#### *Section 201.*

### **Suspension of Operations**

#### *Section 202.*

(1) The Commission may suspend the operations of an insurance company, independent insurance intermediary or insurance consultant that operates in violation of the legal regulations governing insurance activities, insurance mediation and consultancy if there is a possibility that the legality of operations can be restored during the suspension period. The suspension period may not exceed six months.

(2) The Commission may authorize an independent insurance intermediary or consultant to suspend operations for a maximum of six months.

(3) The liability insurance of independent insurance intermediaries and consultants shall cover damages caused during operations if the damages are realized or reported during the suspension period, or secured financial reserves must be made available for such damages.

### **Withdrawal of Foundation Permit**

#### *Section 203.*

(1) The foundation permit of an insurance company may be withdrawn if

a) it was obtained by deceiving the Commission or by any other irregular means;

b) the insurance company fails to file the application for authorization for the commencement of operations within ninety days of delivery of the foundation permit or fails to commence operations within one year of delivery of the authorization for operations;

c) the insurance company is no longer in compliance with the requirements prescribed for the foundation permit;

d) the insurance company repeatedly or seriously violates the legal regulations on insurance activities and the actions defined in Sections 195 and 196 have been ineffective;

e) the measures imposed by the Commission during the suspension of the company's insurance operations did not eliminate the infringement for which they were issued;

f) its conduct seriously or repeatedly violates the interests of the policyholders and is detrimental to the insurance industry in general.

(2) When it withdraws a foundation permit, the Commission shall make a resolution for winding up the insurance company or initiate liquidation.

(3) If the Commission has withdrawn the foundation permit of an insurance company, it shall take all appropriate measures to protect the interests of policyholders. Thus, for example, it may limit, in part or in full, the insurance company's right of disposition over its assets.

### **Withdrawal of Authorization**

#### *Section 204.*

(1) The authorization of an insurance company to conduct business may be partially or completely withdrawn only if

a) the insurance company fails to commence operations within one year of receipt of the authorization for operations or fails to commence operations within eight days following the end of a suspension period;

b) the insurance company repeatedly or seriously violates the legal regulations on insurance activities, and the actions defined in Sections 195 and 196 have been ineffective;

c) the insurance company is no longer able to meet the requirements for authorization following the time limit prescribed by the Commission for compliance;

d) the insurance company obtained the authorization for conducting business by deceiving the Commission or by any other irregular means;

e) the measures imposed by the Commission during the suspension of the insurance activities did not eliminate the infringement for which they were imposed;

f) the insurance company terminates its operations.

(2) In addition to what is contained in Subsection (1), the authorization of the branch office of a third-country insurance company shall be withdrawn if the authorization of the third-country insurance company has been withdrawn by the supervisory authority responsible for the place where such insurance company is established.

(3) After the authorization is withdrawn, no new insurance contract may be concluded, the existing underwriting liabilities of the insurance company in existing contracts may not be increased and the contracts may not be renewed.

(4) If the Commission has withdrawn the authorization of an insurance company, it shall take all appropriate measures to protect the interests of policyholders. Thus, for example, it may limit, in part or in full, the insurance company's right of disposition over its assets.

(5) The Commission shall notify the supervisory authorities of all Member States concerning the withdrawal of authorization of an insurance company and shall publish it in the Official Journal of the European Communities.



*Section 205.*

(1) The Authority shall authorize the closure of insurance operations if the insurance company has satisfied all its commitments and liabilities stemming from insurance activities.

(2) Possible scenarios for satisfying commitments and liabilities shall include the following:

*a)* transferring existing contracts;

*b)* canceling insurance contracts;

*c)* reaching agreements with the policyholders affected.

(3) The insurance company shall be required to submit the documents in proof of the actions mentioned in Subsection (2) to the Authority.

(4) The Authority may stipulate certain conditions and requirements, which must be satisfied before the insurance company is permitted to terminate operations.

(5) If the Authority has authorized the closure of insurance operations, it shall also decide concerning the withdrawal of the insurance company's authorization pursuant to Paragraph *f)* of Subsection (1) of Section 204.

**Notification by the Commission**

*Section 206.*

(1) The Commission shall forthwith send a copy of its resolutions on the foundation permits and authorizations it has issued for insurance activities and on the amendment or withdrawal of such authorizations to the minister, the NBH, the court of registry, the general courts that keep records of mutual associations, the Office of Economic Competition and the trade organizations of insurance companies.

(2)

(3)

(4) The Commission shall be required to notify the supervisory authorities of all Member States when taking the measures referred to in Paragraphs *j)*, *r)*, *s)*, and *t)* of Subsection (1) of Section 195. In connection with the sanction contained under Paragraph *j)* of Subsection (1) of Section 195, the Commission shall specify the financial assets to which the sanction pertains.

(5) Prior to imposing the sanction under Paragraph *j)* of Subsection (1) of Section 195, the Commission shall notify the supervisory authority of the Member State of the commitment.

(6) The contents of the Commission's data disclosure obligation shall be decreed by the minister.

**Supervision Fee**

*Section 207.*

(1) Insurance companies, independent insurance intermediaries, insurance consultants, the Hungarian branches of insurance companies, insurance intermediaries and insurance consultants shall be required to pay a supervision fee.

(2) The supervision fee shall comprise the minimum charge calculated according to Subsections (3)-(5), plus the variable-rate fee calculated according to Subsections (6)-(7).

(3) The minimum charge is calculated by multiplying the unit base-rate with the index number specified in Subsections (4)-(5). The unit base-rate shall be fifty thousand forints.

(4) The index number:

- a) for insurance companies operating in the form of public limited companies and for the Hungarian branches of third-country insurance companies shall be forty;
  - b) for insurance cooperatives shall be four;
  - c) for insurance associations shall be two;
  - d) for the insurance associations described in Paragraph *b)* of Subsection (4) of Section 126 shall be half, if the annual premium income and the revenue from membership fees combined is below the sum specified in Subparagraph *b)* of Subsection (4) of Section 126;
  - e) for insurance consultants, and the Hungarian branches of insurance companies, insurance intermediaries and insurance consultants shall be one;
  - f) for independent insurance intermediaries shall be at least one, but for each fifty natural persons engaged in insurance intermediation acting on his behalf under contract of employment or otherwise, or on behalf of any economic operator they hired, it shall be one.
- (5) The index number:
- a) for the branches of insurance companies established in another Member State of the European Union shall be forty;
  - b) for the Hungarian branches of independent insurance intermediaries established in another Member State of the European Union shall be one.
- (6) The variable-rate fee payable by insurance companies shall be:
- a) 3.8 ‰ of the minimum solvency margin calculated according to Schedule No. 8, and
  - b) 0.25 ‰ of the book value of technical provisions.
- (7) The variable-rate fee payable by the Hungarian branches of insurance companies established in other Member States of the European Union shall be 0.1 ‰ of the balance sheet total shown in the annual account of the Hungarian branch.

*Section 207/A.*

*Section 208.*

**Supervision of the Operations of Insurance Companies, Independent Insurance Intermediaries and Insurance Consultants Established in Other Member States of the European Union Performed in Hungary through their Branch Offices or in the Form of Cross-Border Services**

*Section 209.*

(1) Upon prior notification of the Commission, the supervisory authority of another Member State where an insurance company, independent insurance intermediary or insurance consultant that is engaged in operations in the territory of Hungary through a branch office or in the form of cross-border services is established shall be entitled to inspect the operations of such branch or the cross-border service in Hungary; the inspection may be carried out by the supervisory authority itself or by a person it has authorized.

(2) The Commission may take part in the inspection referred to in Subsection (1).

*Section 210.*

(1) If an insurance company, independent insurance intermediary or insurance consultant established in another Member State that is engaged in operations in the territory of Hungary through a branch office or in the form of cross-border services violates the Hungarian regulations or

if the Commission detects any discrepancies in their operations, the Commission shall instruct the branch office and the parent insurance company, independent insurance intermediary or insurance consultant to bring its operations into compliance with regulations.

(2) If the branch office and the parent insurance company, independent insurance intermediary or insurance consultant fails to comply with the Commission's instruction in due time, the Commission shall notify the supervisory authority of the home Member State and shall move to take the measures it considers appropriate.

(3) If the measures taken by the supervisory authority of the home Member State fail to eliminate the illegal situation, the Commission shall impose the sanctions referred to in Paragraphs a), c), d), f), h), i) and k) of Subsection (1) of Section 195 following notification of the supervisory authority of the home Member State.

(4) The Commission, in order to prevent the conclusion of new insurance contracts in the event of any violation Hungarian laws, may proceed by bypassing the measures referred to in Subsections (1)-(3) if any further continuation of the illegal situation would seriously jeopardize the stability of the insurance industry or the interests of policyholders.

#### *Section 211.*

(1) If, on the basis of information in its possession the Commission is of the opinion that the operations of an insurance company that is established in another Member State and performed in Hungary through its branch office or in the form of cross-border services have jeopardized the financial stability of the insurance company, the Commission shall notify the competent supervisory authority of the home Member State.

(2) If the supervisory authority of the home Member State of an insurance company that has a branch office in the Republic of Hungary has withdrawn the authorization of the parent insurance company and has notified the Commission accordingly, the Commission shall take all measures it deems appropriate to prevent the insurance company affected to continue to engage in insurance activities.

(3) If the operations of a branch office jeopardize the financial stability of the parent insurance company, the Commission - at the request of the supervisory authority of the home Member State - shall limit, in part or in full, the branch office's right of disposition over its assets. The supervisory authority of the home Member State shall specify in the above-specified request the financial assets for which the measures are being requested.

(4) When requested by the competent supervisory authority, the Commission shall have the right to inspect the operations of an insurance company established in another Member State that are performed in Hungary through its branch office or in the form of cross-border services and to request information from the insurance company.

### **Supervision of the Operations of Insurance Companies Established in Hungary and in Other Member States through their Branch Offices or in the Form of Cross-Border Services**

#### *Section 212.*

(1) If the operations of a branch office of a Hungarian insurance company in another Member State jeopardize the financial stability of the parent insurance company, the Commission shall request the competent supervisory authority of the host Member State to limit, in part or in full, the branch office's right of disposition over its assets. The Commission shall specify in the above-specified request the financial assets for which the measures are being requested.

(2) When requested by the Commission, the competent supervisory authority shall have the right to inspect the operations of an insurance company in another Member State through its branch office or in the form of cross-border services and to request information from the insurance company.

*Section 213.*

**Supervision of the Hungarian Branch Offices of Third-Country Insurance Companies,  
Independent Insurance Intermediaries and Insurance Consultants**

*Section 214.*

Third-country insurance companies, independent insurance intermediaries and insurance consultants that have a branch office in the territory of Hungary shall publish the official Hungarian translation of their balance sheets and profit and loss statements prepared according to the laws of their home countries and approved by an auditor in two national daily newspapers within thirty days of approval.

*Section 215.*

(1) The Commission may take measures if the supervisory authority with jurisdiction over the registered office of a third-country insurance company, independent insurance intermediary or insurance consultant has taken measures against or penalized the given insurance company, independent insurance intermediary or insurance consultant or one of its branch offices operating in any country for a reason that affects the safe operation of the Hungarian branch office.

(2) When requested by the competent supervisory authority, the Commission shall have the right to inspect the operations of the Hungarian branch office of a third-country insurance company, independent insurance intermediary or insurance consultant and request information from it.

(3) The Commission, if there is reciprocity or under a valid supervisory agreement, may give its consent for the inspection of the Hungarian branch office of a third-country insurance company, independent insurance intermediary or insurance consultant to be carried out by the supervisory authority of the country where it is established or by an auditor or other expert on its behalf.

***PART NINE***

***EMERGENCY SITUATIONS, SPECIAL RULES PERTAINING TO LIQUIDATION  
AND WINDING-UP PROCEDURES***

Insurance Emergency

*Section 216.*

- (1) In the event
- a) an insurance company fails to meet its due and undisputed payment obligations within five working days due to insufficient financial resources; or
  - b) the technical provisions of the insurance company are below the required level or if the coverage for technical provisions is insufficient; or

c) the coverage of the security capital of an insurance company is insufficient or falls below the required level; or

d) an insurance company is unable to execute its restoration or financial plan within the timeframe specified by the Commission; or

e) any other emergency situation of substantial gravity develops at an insurance company that endangers the reliability of insurance services (Paragraphs a)-e) are hereinafter referred to collectively or separately as 'emergency');

the Commission shall be empowered to take emergency measures in order to avoid liquidation and safeguard the interests of policyholders.

(2) In emergency situations, the Commission shall have powers to take the measures contained in Section 195.

(3) If the measures taken by the Commission in accordance with Sections 210-211 are ineffective, meaning that the insurance company in question continues to engage in illegal conduct in spite of the measures taken by the supervisory authority of the country where established or due to the measures being inappropriate or lacking altogether, the Commission shall have powers to take measures - after notifying the supervisory authority of the country where established - in order to prevent further infringement, including blocking the insurance company from concluding new insurance contracts in Hungary.

(4) If the insurance company that is engaged in illegal conduct holds any share or right in a Hungarian company, such share or right may be subject to judicial execution in connection with the Commission's measures and in harmony with the relevant statutory provisions.

## **Common Provisions on Bankruptcy and Liquidation and Winding Up Procedures**

### *Section 217.*

(1) The provisions of the Act on Bankruptcy Proceedings and Liquidation Proceedings (hereinafter referred to as "Bankruptcy Act") shall apply to the liquidation of limited insurance companies and insurance cooperatives with the exceptions set out in this Chapter, and the provisions of the Civil Societies Act shall apply to the liquidation of mutual associations, subject to the exceptions set out in this Chapter.

(2) The provisions of the Act on Public Company Information, Company Registration and Winding-up Proceedings (hereinafter referred to as "CRA") shall apply to the winding up of limited insurance companies and insurance cooperatives, subject to the exceptions set out in this Chapter, and the provisions of the Civil Societies Act shall apply to the winding up of mutual associations, subject to the exceptions set out in this Chapter.

(3) For the liquidation of branches, the provisions of Chapters I, III and V of the Bankruptcy Act and the provisions of the FCA shall apply with the exceptions set out in this Chapter.

(4) Limited insurance companies, branches and insurance cooperatives, furthermore, mutual associations shall not be adjudicated in bankruptcy.

(5) The Hungarian branch office of an insurance company established in another Member State of the European Union shall not be liquidated or wound up under Hungarian law.

(6) The regulations contained in the Bankruptcy Act on the avoidance of contracts shall not apply in cases in which the party acquiring any right through a contract is able to verify that the contract in question falls within the scope of the law of another Member State of the European Union and such law does not allow the contract to be contested.

(7) As regards the legal ramifications of any bankruptcy proceeding, liquidation or winding up of an insurance company with headquarters in another Member State of the European Union, the laws

of the country in which the insurance company is established shall apply. The decisions adopted in such proceedings shall be recognized without any further proceeding.

(8) The Fővárosi Törvényszék (*Budapest Metropolitan Court*) shall have exclusive jurisdiction concerning the winding-up and liquidation of limited insurance companies, the Hungarian branches of third-country insurance companies and insurance cooperatives, and mutual associations with the exception of those that satisfy the condition set out in Paragraph *b*) of Subsection (4) of Section 126.

#### *Section 218.*

(1) As regards the legal aspects of any contract pertaining to real estate involved in liquidation or similar proceedings, the laws of the country in which the property is located shall apply.

(2) The rights attached to securities that are to be registered or kept in an account as a prerequisite for transfer shall be subject to the laws of the Member State in which the register or account is kept.

#### *Section 219.*

(1) The court shall notify the Commission forthwith on the opening of liquidation proceedings.

(2) The Commission shall withdraw the authorization of any insurance company upon being notified of the ruling ordering liquidation or of the decision on going into dissolution.

(3) With respect to any winding up or liquidation proceedings and the ramifications of these proceedings, the Commission shall inform the supervisory authorities of the Member States of the European Union.

(4) Following publication of the decision on going into dissolution or the court ruling ordering liquidation in the Cégközlöny (*Companies Gazette*) and on the Civil Információs Portál (*Civil Information Portal*), the Authority shall forthwith publish the contents of the ruling - on the forms referred to in Subsection (7) of Section 220 - in the Official Journal of the European Communities.

(5) With respect to any creditor whose permanent residence or corporate domicile is located in another Member State of the European Union, the legal ramifications attached to publication as set out in Section 28 of the Bankruptcy Act shall be contingent upon the publication referred to in Subsection (4) above.

#### *Section 219/A.*

#### *Section 220.*

(1) The liquidation proceedings under this Act of limited insurance companies, branches of third-country insurance companies and insurance cooperatives, as well as mutual associations, or their winding up - except for the mutual association that meets the condition set out in Paragraph *b*) of Subsection (4) of Section 126 - may only be conducted by the nonprofit business association established by the Authority for the liquidation of organizations covered by the Act on the Pénzügyi Szervezetek Állami Felügyelete.

(2) Liquidators and receivers shall be subject to the confidentiality requirements prescribed under Sections 153-165.

(3) Receivers and liquidators shall have powers to exercise the rights conferred by this Act, the Bankruptcy Act and the CRA in all Member States in due observation of the laws of the respective Member State.

(4) In order to carry out their duties more effectively, receivers and liquidators shall have powers to delegate representatives in the territory of the affected Member States to provide assistance to local creditors.

(5) The receiver or liquidator shall be required to inform all policyholders, insured persons and the known creditors concerning the commencement of liquidation or winding up of an insurance company and the termination of their insurance contracts.

(6) The receiver or liquidator shall be required to separately inform all of the policyholders, insured persons and known creditors whose head office, domicile or normal place of residence is located in another Member State of the European Union immediately upon receiving the decision on going into dissolution or the court ruling ordering liquidation concerning the contents of such decision and ruling, and the legal consequences attached to specific deadlines. The notification addressed to policyholders shall also indicate the date when insurance contracts will be terminated and the legal consequences attached to their termination.

(7) The information specified in Subsection (6) shall be provided in Hungarian. The form titled "Invitation to lodge a claim. Time limits to be observed" in all the official languages of the European Union shall be used for this purpose.

(8) Any creditor who has his domicile, normal place of residence or head office in another Member State of the European Union shall lodge his claim in Hungarian or in the official language of his home Member State. If submitted in the official language of his home Member State, the title "Lodgement of claim" [Követelés benyújtása] shall be indicated in Hungarian.

#### *Section 221.*

(1) The receiver or liquidator shall be required to regularly inform the Commission and the creditors on the status of the liquidation or winding up procedure.

(2) At the request of the supervisory authorities of other Member States of the European Union, the Commission shall be required to provide information concerning the status of the liquidation or winding up proceedings.

#### *Section 222.*

(1) At the starting date of liquidation or winding up,  
a) insurance contracts shall be terminated, with the exception of those in the process of being transferred;

b) insurance premiums due for the period ending at the time of termination may be collected in connection with terminated insurance contracts;

c) no new insurance contract may be concluded and existing ones may not be renewed, and no insurance portfolio may be transferred or received at the insurance company's own discretion.

(2) Within fifteen days following the starting date of the liquidation or winding up proceedings, the list of assets shown under mathematical provisions or serving as coverage for the provisions of unit-linked life assurance policies shall be closed as of the date of the commencement of liquidation or winding up and shall be delivered to the liquidator or receiver.

(3) In the course of the liquidation or winding up proceedings, the assets referred to in Subsection (2) shall be handled separately, from which to satisfy the insurance company's underwriting liabilities to policyholders (beneficiaries), covered by mathematical provisions or the provisions of unit-linked life assurance policies, before satisfying any other liabilities.

(4) If the assets under mathematical provisions are insufficient to cover underwriting liabilities, the remaining portion shall be satisfied from other assets of the insurance company as appropriate.

## Liquidation

### *Section 223.*

(1) The Authority has exclusive jurisdiction to initiate the opening of liquidation proceedings against a limited insurance company, a branch of a third-country insurance company, an insurance cooperative or a mutual association.

(2) The Authority shall initiate liquidation proceedings if:

*a)* in spite of regulatory measures, the insurance company fails to meet its due and undisputed payment obligations within fifteen working days due to insufficient financial resources or if it is unable to execute its restoration plan within the time limit prescribed by the Authority, or

*b)* the debts of the limited insurance company, branch of a third-country insurance company, the insurance cooperative or mutual association consistently exceed its equity (overindebtedness).

(3) As regards the liquidation of mutual associations, Subsections (3), (5) and (6) of Section 10 of the Civil Societies Act shall not apply.

(4) The court shall adopt a decision concerning a request for liquidation within eight days of the submission thereof. The court shall order the liquidation of an insurance company upon the request of the Authority without having to declare the insurance company insolvent. The decision ordering the liquidation shall be enforceable notwithstanding any appeal.

### *Section 224.*

(1) The insurance company's liabilities arising from insurance contracts shall be satisfied after the liabilities referred to in Paragraphs *a)* and *b)* and before those referred to in Paragraphs *c)*-*g)* of Subsection (1) of Section 57 of the Bankruptcy Act. This shall have no effect on the contents of Subsection (3) of Section 222.

(2) Insurance companies shall meet their underwriting liabilities from insurance contracts in the following order:

*a)* liabilities from health insurance policies as well as liabilities for payment of benefits from accident insurance policies and liability insurance policies (excluding the claims which are due to the Claims Guarantee Fund and the Compensation Fund);

*b)* liabilities from life assurance policies;

*c)* settlements from liability insurance policies approved on the basis of losses suffered before the starting date of liquidation proceedings, and notified within the deadline specified in the Bankruptcy Act (excluding the claims which are due to the Claims Guarantee Fund and the Compensation Fund);

*d)* settlements approved on the basis of losses suffered before the starting date of liquidation proceedings, and notified within the deadline specified in the Bankruptcy Act;

*e)* liabilities to the Claims Guarantee Fund and the Compensation Fund in respect of the settlements they have provided;

*f)* liabilities to refund insurance premiums paid in advance;

*g)* other liabilities.

(3) In the case of liquidation of an insurance company, suspension of the proceedings is not allowed.

## **Voluntary Liquidation**



*Section 225.*

The prior consent of the Commission shall be required for the termination of an insurance company without legal successor.

*Section 226.*

The Authority may grant its prior consent after having adopted the decisions specified in Subsection (5) of Section 205.

**PART TEN**

**CLOSING PROVISIONS**

Entry into Force

*Section 227.*

(1) This Act - with the exception of Subsection (2) of Section 233 - shall enter into force simultaneously with the act promulgating the treaty on Hungary's accession to the European Union; its provisions shall only be applied in respect of pending cases if they include more favorable regulations for the clients, insurance companies and other participants of the insurance industry.

(2) Authorization procedures shall be deemed pending when the application for authorization has been submitted before the date of entry into force in compliance with the form and content requirements set out in Act XCVI of 1995 on Insurance Institutions and the Insurance Business.

(3) The provisions of Act XCVI of 1995 on Insurance Institutions and the Insurance Business must be applied in all cases where the event serving as the basis of the regulatory measure has occurred prior to this Act entering into force, and, according to Act XCVI of 1995 on Insurance Institutions and the Insurance Business, it falls under a less severe category.

**Transitional and Miscellaneous Provisions**

*Section 228.*

(1) The insurance associations concurrently engaged in insurance and other activities before 1 January 1996 may continue to provide insurance services only under a separate accounting system.

(2) The rules on taxation and social insurance contributions regarding membership contributions paid on behalf of members in consideration for the life assurance services specified in Paragraph a) of Subsection (1) of Section 10 of Act XCVI of 1993 on Voluntary Mutual Insurance Funds (hereinafter referred to as 'VMIFA'), including employers' contributions and sponsors' donations, and provided by insurance associations established before the entry into force of VMIFA shall be the same as the rules relating to pension funds following the entry into force of this Act, provided the provisions of Sections 46-49 of VMIFA are duly applied to such services as evidenced by the Commission.

(3) The provisions contained in Subsection (1) of Section 99 shall not apply to the insurance associations referred to in Subsection (2).

(4) If the members of the insurance association referred to in Subsection (2), to whom services are supplied under this provision, have decided to establish a voluntary mutual insurance fund in

accordance with the relevant provisions of the VMIFA, after the fund has been authorized, the supreme body of the insurance association shall have authority to decide on the transfer of the portfolios of contracts in connection with these members and on the termination of activities related to such services.

(5) If the supreme body of the insurance association approved the portfolio transfer pursuant to Subsection (4), the balance from the individual and service accounts of the founding members of the voluntary mutual insurance fund shall be transferred within thirty days of the time of the supreme body's decision to the individual and service accounts of the same members opened at the voluntary mutual insurance fund, while the part of the assets covering the technical provisions of the insurance association in the proportion due to the founding members of the voluntary mutual insurance fund shall be transferred to the voluntary mutual insurance fund within thirty days of the time of the supreme body's decision.

(6) Where a member of the insurance association joins the voluntary mutual insurance fund after it was established according to Subsection (4), the balance from the individual and service accounts of this member shall be transferred within thirty days upon the member's request made to the insurance association to the individual and service accounts of the same member opened at the voluntary mutual insurance fund, with the part of the assets covering the technical provisions in the proportion due to the member according to Subsection (5) transferred at the same time as well.

(7) The assets transferred according to Subsections (5) and (6) shall be exempt from taxes and duties.

#### *Section 229.*

(1) At the time the Commission's registration system is placed into operation, insurance intermediaries and consultants shall apply for registration - via the insurance company or independent insurance intermediary on whose behalf they mediate insurance - within three months from the date the registration system is placed into operation, and they shall provide proof of satisfying the criteria for registration with the exception of the professional qualifications if they are not yet available. Insurance intermediaries and consultants shall, as a prerequisite for registration, provide the Commission with proof of their professional qualifications within forty-eight months from the date the registration system is placed into operation.

(2) If an insurance intermediary fails to obtain the professional qualifications laid down in specific other legislation within the deadline referred to in Subsection (1), the Commission shall remove such intermediary from the register specified in Section 36.

(3) The persons and organizations authorized to engage in multiple insurance agency at the time this Act enters into force shall be required to satisfy the requirements set out in this Act by 31 December 2004.

(4) Insurance intermediaries who have at least five years of professional experience and are aged fifty-five or older at the time this Act enters into force shall, as a prerequisite for registration, provide the Commission with proof of their professional qualifications within seven years from the date the registration system is placed into operation.

#### *Section 229/A.*

(1) The persons authorized to engage in multiple insurance agency at the time this Act enters into force shall be required to notify the Commission by 30 September 2004 as to whether they wish to engage in multiple insurance agency in the capacity of independent insurance intermediaries after 1 January 2005.

(2) The Commission shall withdraw the authorization of persons authorized to engage in multiple insurance agency at the time this Act enters into force if they fail to provide proof of compliance with the relevant requirements by 31 December 2004.

*Section 230.*

(1) Any insurance company that has already been authorized at the time this Act enters into force and whose solvency margin at that time is below the minimum specified in Schedule No. 8 or the amount of the minimum guarantee funds specified in Section 125 must bring them into compliance by 31 December 2006.

(2) Any insurance company that has already been authorized at the time this Act enters into force and whose solvency margin remains below the required minimum by 31 December 2006 may request the Commission to grant a two-year extension for compliance with the solvency margin requirements on the basis of the recapitalization plan submitted by the insurance company.

(3)

(4) In respect of the life insurance contracts concluded before 1 January 1996 or before 31 December 2000 under a product permit granted before 1 January 1996, insurance companies shall refund to the policyholders at least fifty per cent of the investment profits of the mathematical provisions of the life assurance branch, instead of what is described in Subsection (1) of Section 100, provided the insurance companies have not entered into any other commitment. The refunds, however, shall not be less favorable to the insured parties than what is stipulated in the contract. The refund shall also contain revenue consistent with the technical interest base. The distribution of surplus yield according to Subsection (1) of Section 100 of this Act and the refunds made under this Subsection shall be administered and recorded separately.

*Section 231.*

(1) The insurance companies already authorized to provide life assurance and non-life insurance services at the time this Act enters into force shall be entitled to engage in both branches concurrently if the solvency margin of the joint-stock insurance company complies with the minimum requirement specified in Sections 121 and 122.

(2) The joint-stock insurance companies authorized to provide life assurance and non-life insurance services at the time this Act enters into force shall, above and beyond the provisions laid down in Subsection (1), be entitled to engage in both branches concurrently under separate internal control and financial management systems. Separate systems shall apply to assets, areas of powers and authorizations, separate accounting records for each branch of insurance and separate profit and loss accounts for each branch.

(3) The rules for separation of insurance branches under Subsection (2) shall be decreed by the minister.

(4) The person employed in the capacity of senior legal counsel at the time this Act enters into force must satisfy the requirement set out in Paragraph c) of Subsection (1) of Section 87 as of 1 May 2006.

(5) The person employed in the capacity of chief executive officer at the time this Act enters into force must satisfy the requirement set out in Paragraph c) of Subsection (3) of Section 83 as of 1 May 2006.

(6) Subsection (5) notwithstanding, the persons regarded as chief executive officers at the time this Act enters into force must satisfy the requirements set out in Paragraphs c) and d) of Subsection (3) of Section 83 by 31 December 2006, and they shall provide the Commission with proof of the

conditions set out under Paragraphs a), b) and e) of Subsection (3) of Section 83 by 30 September 2004.

(7) The first supplementary report specified under Subsections (5)-(8) of Section 151 shall be prepared for 2005 and sent to the Commission within fifteen days following the annual general meeting of 2006 convened to approve the annual report for 2005.

(8) Independent insurance intermediaries shall comply with the obligation set out in Subsection (1) of Section 39 on or before 1 January 2005. The provisions in force on 30 April 2003 shall be authoritative during the period between the entry of this Act into force and 31 December 2004.

(9) By way of derogation from Paragraph a) of Subsection (3) of Section 207, the supervision fee payable by independent insurance intermediaries for 2004 is

a) the commensurate portion of the annual fee of 60,000 forints up to 30 June 2004,

b) the commensurate portion of two thousandths of the annual premium revenue from 1 July 2004.

(10) The person employed in the capacity of head of internal control (internal controller) at the time this Act enters into force must satisfy the requirements set out in Paragraphs a) and b) of Subsection (2) of Section 89 as of 1 May 2006.

(11) The provisions contained in Points 2 and 3 of Part B) of Schedule No. 10 of this Act shall apply to unit-linked life assurance policies effective as of 1 July 2005.

(12) The persons engaged in principal agency activities at the time this Act enters into force shall apply for the Commission's authorization by 30 September 2004 and shall provide proof of compliance with the requirements set out in Subsection (3) of Section 50 by 31 December 2004. Under justified circumstances, the Commission may grant an exemption from compliance with the requirements set out in Subsection (3) of Section 50.

#### *Section 231/A.*

(1) Independent insurance intermediaries are required to satisfy the requirements set out in Subsection (5) of Section 38 of this Act, as established by Subsection (2) of Section 116 of Act CLIX of 2010 on the Amendment of Financial Regulations, by the time when the obligation of data disclosure is satisfied for the first time after the time of the amendment entering into force.

(2) The provisions of Paragraph *m*) of Subsection (1) of Section 57 of this Act, as amended by Section 117 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply to persons to be hired, commissioned or appointed after the time of the amendment entering into force for directing the activities of independent insurance intermediaries; persons already engaged at the time of the amendment entering into force in such activities may continue to do so without having to go through an authorization procedure.

(3) The condition set out in Paragraph *b*) of Subsection (6) of Section 38 of this Act, as amended by Subsection (3) of Section 116 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply exclusively to persons to be hired, commissioned or appointed after the time of the amendment entering into force for directing the activities of independent insurance intermediaries.

(4) The condition set out in Paragraph *e*) of Subsection (6) of Section 38 of this Act, as supplemented by Subsection (4) of Section 116 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply exclusively to persons to be hired, commissioned or appointed after the time of the amendment entering into force for directing the activities of independent insurance intermediaries.

(5) The provisions contained in Subsection (3) of Section 63 of this Act, as amended by Section 118 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply to authorization procedures opened after the time of the amendment entering into force.

(6) The provisions contained in Paragraph *a*) of Subsection (1) of Section 68 of this Act, as amended by Section 119 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply to authorization procedures opened after the time of the amendment entering into force.

(7) The provisions contained in Paragraph *c*) of Subsection (3) of Section 83 of this Act, as amended by Section 121 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply to the appointment of executive employees notified after the time of the amendment entering into force.

(8) The provisions contained in Paragraph *b*) of Subsection (4) of Section 91 of this Act, as amended by Section 122 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply to proceedings opened after the time of the amendment entering into force.

(9) The provisions contained in Subsection (2) of Section 92 of this Act, as amended by Section 123 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply to authorization procedures opened after the time of the amendment entering into force.

(10) The provisions contained in Paragraph *e*) of Subsection (1) of Section 112 of this Act, as amended by Section 124 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply to authorization procedures opened after the time of the amendment entering into force.

(11) The provisions contained in Subsection (4) of Section 129, Subsection (4) of Section 130, Subsection (2) of Section 131, Subsection (7) of Section 131 and Section 131/A of this Act, as amended by Sections 125-128 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply to resolutions adopted after the time of the amendments entering into force on ordering the preparation of financial plans, restoration plans and financial recovery plans.

(12) The provisions contained in Section 226 of this Act, as amended by Section 134 of Act CLIX of 2010 on the Amendment of Financial Regulations, shall apply to proceedings opened after the time of the amendment entering into force.

#### *Section 231/B.*

(1) The provisions of Section 96/A of this Act, as established by Act CLI of 2012 on the Amendments of Financial Regulations - shall apply to insurance contracts concluded between 21 December 2007 and 21 December 2012 if the contract can be amended subject to the collective and express prior consent of the insurance company and the policy-holder, and if it pertains to the amount of the premium payable by the policy-holders or the amount of settlement payments made to policy-holders, and the last statement required for the aforesaid amendment was made after 21 December 2012.

(2) The provisions of Section 96/A of this Act, as established by Act CLI of 2012 on the Amendments of Financial Regulations - shall not apply to amendments of the insurance contracts concluded between 21 December 2007 and 21 December 2012 in the following cases:

*a*) changing the extent of coverage, such as where the personal and material scope of the contract is extended to cover other persons or assets, where a new class of insurance is added to the contract, or if the personal and material scope of the contract is terminated with respect to certain insured persons or assets, or certain insurance risks, and in cases where amendment is prompted by changes which are to be notified and communicated by the client and which in fact had been notified and communicated, provided that other parts of the contract unaffected by these amendments remain unaltered;

*b*) amending the investment part of the premium payable for life assurance policies determined unrelated to sex, and the payments provided under such policies, without altering the risk premium of the life assurance policy and the related services, such as, in particular altering the investment part

of the premium payable for unit-linked life assurance policies and the payments provided under such policies;

c) altering the premium charged and the payments payable, where the contract provides for the possibility of doing so on the basis of factors unrelated to sex.

(3) The provisions of Section 96/A of this Act, as established by Act CLI of 2012 on the Amendments of Financial Regulations - shall not apply to insurance contracts concluded before 21 December 2007.

## **Amendments**

### *Section 232.*

Any reference made in legal regulation promulgated before the date of this Act entering into force to Act XCVI of 1995 on Insurance Institutions and the Insurance Business or the Insurance Act shall be understood as referring to this Act.

### *Section 233.*

## **Authorizations**

### *Section 234.*

The Government is hereby authorized to decree

- a) the rules of accounting and annual reporting obligations of insurance companies,
- b) the detailed rules relating to compulsory insurance prescribed in Subsection (1) of Section 105 and in other acts,
- c)-f)

### *Section 235.*

The minister is hereby authorized to decree

- a)
- b) the regulations for the Authority's responsibilities relating to the official training of tied agents and independent insurance intermediaries, the amount of the examination fee, the terms of payment and the conditions for refund;
- c) the regulations on exposures; on the determination, analysis, evaluation and definition of exposures relating to mortgage loan operations; on the management and reduction of exposures and on the control of risks;
- d)-e)
- f) the composition of technical provisions and the procedures for creating and using them;
- g) the form and content requirements regarding the information to be supplied to clients in connection with unit-linked life assurance policies;
- h)
- i) for the accounting of profit or loss of insurance companies from compulsory motor vehicle liability insurance policies;
- j) the ceilings on large exposures and large claims;
- k)-l)
- m) the rules for separation of insurance branches;

- n)
- o)
- p) the rules for keeping the register of insurance intermediaries and insurance consultants,
- q)
- r) the calculations at the level of the financial conglomerate relating to supplementary supervision, their contents, structure and frequency.

*Section 235/A.*

The President of the Authority is hereby authorized to decree:

- a) the highest technical rate of interest;
- b) the detailed regulations for the official training of tied agents and independent insurance intermediaries, and the conditions for obtaining the Authority's certificate for the pursuit of intermediation of financial services, including the requirements for the validity of such certificates;
- c) the detailed regulations concerning the procedure for providing information to consumers before the conclusion of a contract concluded with the client, during and upon the termination of the contractual relationship, and the form in which to provide it, for handling client complaints, and concerning the minimum content requirements for the information relating to insurance products;
- d) the detailed regulations for recording offers received from clients over the phone or electronically - as fixed in the standard service agreement - until a contract is made out in writing, or until an acknowledgement of receipt is provided in writing.

### **Compliance with the Acquis**

*Section 236.*

This Act contains regulations that may be approximated with the legislation of the Communities listed in Schedule No. 12.

*Act CIII of 2008 on the Amendment of Regulations Relating to Financial Services*

**Section 176** (2) After the time of this Act entering into force - at the time specified in Subsection (1) of Section 175 of this Act - an insurance association for engaging in classes of liability insurance may be established, and authorizations for engaging in classes of liability insurance may be granted in the event if compliance with the requirements set out in Paragraph *i*) of Subsection (1) of Section 22 of the Insurance Act, as amended by the Act. These provisions shall apply to authorization procedures opened after the time of this Act entering into force, at the time specified in Subsection (1) of Section 175 of this Act. As regards the authorization procedures opened after the time of this Act entering into force, at the time specified in Subsection (1) of Section 175 of this Act, the Commission shall request - in die observation of the provisions of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services relating to insufficient information procedures - the applicant to declare his intention to continue the authorization procedure under the new legal requirements.

(3) Authorized insurance associations already in existence at the time of this Act entering into force, at the time specified in Subsection (1) of Section 175 of this Act, shall bring their charter documents into compliance with the provisions of Paragraph *i*) of Subsection (1) of Section 22 of the Insurance Act, as amended by this Act, by 31 December 2009.

(4) Authorized insurance associations already in existence at the time of this Act entering into force, at the time specified in Subsection (1) of Section 175 of this Act, shall be subject to the provisions of Subsection (1) of Section 24 of the Insurance Act, as amended by this Act, after the time of having their charter amended in compliance with this Act, but not later than 1 January 2010.

(5) The provisions of Subsections (3)-(4) shall apply to those insurance associations which are authorized to engage in certain specified classes of liability insurance in proceedings that were opened before the time of this Act entering into force.

**Section 177.** (1) Independent insurance intermediaries already in existence at the time of this Act entering into force, at the time specified in Subsection (1) of Section 175 of this Act, shall comply with the new limits set out in Section 39 of the Insurance Act, as amended by this Act, subsequent to 30 June 2009, and shall provide proof thereof to the Commission in the annual report.

(2) The person already in employment as a mathematician (actuary) of an insurance company at the time of this Act entering into force, at the time specified in Subsection (1) of Section 175 of this Act, shall be required to satisfy the new conditions introduced under Paragraph *b*) of Subsection (1) of Section 86 of the Insurance Act, as amended by this Act, as of 1 January 2010.

(3) Where a natural person is engaged in insurance mediation activity, as registered by the Commission by 30 June 2008, and this person does not have a diploma of higher education or the professional qualification prescribed, he shall provide proof to the Commission - by way of the procedure specified by the Commission - of having completed the official training program prescribed in specific other legislation within thirty days upon the expiry of the 24-month period following the time of his registration, or else be removed from the registration.

*Schedule No. 1 of Act LX of 2003*

***Part A)***

***Classification of Risks of the Non-life Insurance Branch***

- 1) Accident (including industrial injury and occupational diseases)
  - a) one-time services,
  - b) recurrent or regular services,
  - c) combined services,
  - d) services to passengers.
- 2) Sickness
  - a) one-time services,
  - b) recurrent or regular services,
  - c) combined services.
- 3) Land vehicles comprehensive coverage (not including railway rolling stock)  
All damage to or loss of
  - a) land motor vehicles,
  - b) other motor-driven land vehicles and machinery,
  - c) land vehicles other than motor vehicles.
- 4) Comprehensive coverage of rail vehicles  
All damage to or loss of railway rolling stock.
- 5) Comprehensive coverage of aircraft  
All damage to or loss of aircraft.
- 6) Comprehensive coverage of sea, lake and river vessels  
All damage to or loss of



a) river vessels,

b) sea vessels.

7) Goods in transit (including merchandise, baggage, and all other goods)

All damage to or loss of goods in transit or baggage, irrespective of the form of transport.

8) Fire and natural forces

All damage to or loss of property (other than those included in classes 3, 4, 5, 6 and 7) due to

a) fire,

b) explosion,

c) storm,

d) natural forces other than storm,

e) nuclear energy,

f) land subsidence and earthquake.

9) Other damage to property

All damage to or loss of property (other than the property included in classes 3, 4, 5, 6 and 7) due to hail or frost, and any event such as theft, other than those mentioned under class 8.

10) All liability arising out of the use of self-propelled motor vehicles operating on the land (including carrier's liability and compulsory liability coverage.

11) Aircraft liability

All liability arising out of the use of aircraft (including carrier's liability).

12) Liability for sea, lake and river vessels

All liability arising out of the use of ships, vessels or boats on the sea, lakes or rivers (including carrier's liability).

13) General liability

All liability other than those forms mentioned under classes 10, 11 and 12, e.g., liability related to the pollution of the environment.

14) Credit

a) insolvency (general),

b) export credit,

c) installment credit,

d) mortgages,

e) agricultural credit.

15) Suretyship, guarantee

a) suretyship, guarantee (direct),

b) suretyship, guarantee (indirect).

16) Miscellaneous financial loss

a) employment risks,

b) insufficiency of income,

c) bad weather,

d) loss of profits,

e) any type of continuing general and other expenses,

f) unforeseen trading and operating expenses,

g) loss of value,

h) loss of rent or revenue,

i) indirect trading losses other than those mentioned above,

j) other financial loss (non-trading),

k) other forms of financial loss.

17) Legal expenses

Legal-expenses policies offer coverage of costs of litigation along with other services for a premium, thus particularly

- indemnification of loss suffered by the insured through an out-of-court settlement or in civil or criminal proceedings,
- defense or representation of the insured in civil, criminal or administrative proceedings or if a claim is filed against the insured for compensation for damages.

18) Emergency assistance

19) Funeral assistance

### ***Part B)***

#### ***Designation of Multi-Class Authorizations***

The following designations shall be used if the authorization covers more than one class:

- a) classes 1 and 2: "Accident and Sickness" or "Medical Insurance";
- b) classes 1 d), 3, 7 and 10: "Motor Vehicle Insurance";
- c) classes 1 d), 4, 6, 7 and 12: "Marine Transport Insurance";
- d) classes 1 a), 5, 7 and 11: "Aviation Insurance";
- e) classes 8 and 9: "Insurance against Fire and other Damage to Property";
- f) classes 10, 11, 12 and 13: "Liability Insurance";
- g) classes 14 and 15: "Credit and Suretyship Insurance".

A designation for any other combination of classes must be approved by the Commission.

### ***Part C)***

#### ***Ancillary Risks***

1) An insurance company obtaining an authorization for a principal risk belonging to one class or a group of classes may also insure risks included in another class without an authorization being necessary for them if they

- a) are connected with the principal risk,
- b) pertain to the object that is covered against the principal risk, and
- c) are covered by the contract insuring the principal risk.

2) The risks covered under classes 14, 15 and 17 in Part A) - with the exceptions stipulated in Point 3 - may not be regarded as risks ancillary to other classes.

3) The risk covered under class 17 (legal expenses insurance) may be considered as a risk ancillary to class 18 if the conditions indicated in Point 1 are satisfied and the principal risk only pertains to assistance provided to persons in a country other than the country of their domicile or residence. Furthermore, legal expenses insurance may be considered an ancillary risk if the conditions indicated in Point 1 are satisfied and if it pertains to lawsuits or risks arising from or in connection with the operations of sea vessels.

### ***Part D)***

#### ***Large Exposures***

The following shall be considered large exposures:

- 1) the risks classified under Points 4, 5, 6, 7, 11 and 12 of part A);

- 2) the risks classified under Points 14 and 15 of part A) if the insured is engaged in an industrial or commercial trade or is self-employed and the risk concerns such activities;
- 3) the risks classified under Points 8, 9, 13 and 16 of part A) if at least two of the policyholder's
  - a) balance sheet total,
  - b) turnover,
  - c) average number of employees exceeds the limits specified in the decree of the minister issued pursuant to Paragraph j) of Section 235 of this Act.

Schedule No. 2 of Act LX of 2003

***Classification of Risks in the Life Assurance Branch***

- I. Conventional life assurance policies, such as
  - fixed term full life death assurance plan,
  - assurance on survival to a stipulated age only or life assurance with return of premiums,
  - ordinary endowment insurance,
  - term fix insurance,
  - deferred annuity policy,
  - immediate annuity policy,
  - supplementary insurance against disability resulting from an accident or sickness.
- II. Marriage assurance, birth assurance, where marriage or birth constitutes the insurance event.
- III. Unit-linked life assurance.
- IV. Individual and group retirement insurance
  - retirement funds,
  - individual retirement accounts.
- V. Annuity insurance auxiliary to social security pension.

Schedule No. 3 of Act LX of 2003

***Definition and Calculation of Indirect Holdings***

1. The ratio of an indirect holding shall be determined by multiplying the ownership share in an intermediary company by the ownership or voting share held by such intermediary company in the original company.
2. An indirect holding through an intermediary company shall not be taken into account for the above-specified calculation if the direct and indirect share in the intermediary company on the aggregate does not reach the extent of a qualifying interest.
3. All of the ownership shares and voting rights controlled by the close relatives of natural persons shall be added up.
4. Voting rights shall be taken into account the same as ownership shares.

Schedule No. 4 of Act LX of 2003

***Insurance Product Plan***

Each insurance product must be accompanied by a product plan that is to contain the following:

- 1) Terms and conditions of the insurance contract
- 2) Premium calculation

The premium calculation shall contain the following defined clearly in sufficient detail:

- 2) 1. For products covering risks under the life assurance branch
  - 2) 1.1. mortality tables,
  - 2) 1.2. formula for premium calculation, premium tables,
  - 2) 1.3. formula for the calculation of life assurance premium provisions,
  - 2) 1.4. formula for the calculation of premium-free reduction,
  - 2) 1.5. formula for the calculation of the cash surrender value,
  - 2) 1.6. calculation of the yield on investment, calculation of surplus yield and the measure and manner of refunding.
- 2) 2. For products covering risks under the non-life insurance branch,
  - 2) 2.1. loss and risk ratios or other statistics,
  - 2) 2.2. description of the premium calculation principle,
  - 2) 2.3. description of the components and planned parameters of premium calculation, including premium tables.
- 2) 3. Inflation escalation, when applicable.

The premium calculation referred to in Point 2.2 shall illustrate the data included in those gathered for the subsequent control of calculation.

3) Auxiliary data

Auxiliary data shall contain the following estimated figures for the next three years, broken down per year:

- 3) 1. number of policies planned for a portfolio and the premium of the portfolio,
- 3) 2. expected costs of the product, including costs of solicitation, claim settlement and administration costs,
- 3) 3. estimated premium revenues,
- 3) 4. estimated settlement payments.

Schedule No. 5 of Act LX of 2003

***Regulations Concerning the Register of Insurance Intermediaries and Insurance Consultants***

*1. The Commission's register shall comprise the following:*

- A) Register of natural persons engaged in insurance mediation
  - a) name, place and date of birth, mother's name, home address;
  - b) registration number and date of issue;
  - c) indication of the state or states in which the insurance intermediary operates;
  - d) whether the insurance intermediary is a natural person operating on behalf of a tied insurance intermediary economic operator;
    - da) name of this economic operator (including any changes),
    - db) registration number of the economic operator,
    - dc) date of entering into and terminating the legal relation with the economic operator, description of the relation (including any changes);
  - e) type of insurance mediating (independent, tied);
  - f) name of the insurance company or companies or independent insurance intermediary with whom the insurance intermediary is engaged by contract for mediating insurance (including any changes);
  - g) if the insurance mediator is engaged in mediating on behalf of insurance companies, classification of the products mediated according to Schedules Nos. 1 and 2 separately for each insurance company;

*b)* type of education (college or university degree or professional training specified in specific other legislation); if the person lacks the appropriate qualifications, an indication of the deadline for obtaining it.

B) Register of economic operators engaged in insurance mediation

*a)* name, abbreviated name, registered address, place of business and branch, tax number, name(s) and position(s) of authorized representative(s) of the economic operator engaged in insurance mediation;

*b)* registration number and date of issue;

*c)* indication of the state or states in which the insurance intermediary operates;

*d)* type of insurance mediating (independent, dependent);

*e)* name of insurance companies or independent insurance intermediaries (not including insurance brokers) who are engaged by contract for mediating insurance (including any changes);

*f)* for tied insurance intermediaries, classification of the products mediated according to Schedules Nos. 1 and 2 separately for each insurance company.

C) Register of natural persons who engage in insurance consulting or who direct the consulting activities in a consulting firm

*a)* name, place and date of birth, mother's name, home address of the natural person who engages in insurance consulting or who directs the consulting activities in a consulting firm;

*b)* registration number of the insurance consultant and the person directing operations of an insurance consulting company, and date of issue;

*c)* indication of the state or states in which the insurance consultant operates;

*d)* whether the natural person is employed by an economic operator to direct insurance consulting operations:

*da)* name of the economic operator at which the insurance consultant directs operations,

*db)* registration number of the economic operator,

*dc)* date on which the legal relation with the economic operator begins and ends, description of the relation.

D) Register of economic operators engaged in insurance consulting

*a)* name, abbreviated name, registered address, place of business and branch, tax number, name(s) and position(s) of authorized representative(s) of the economic operator engaged in insurance consulting;

*b)* registration number of the economic operator engaged in insurance consulting and the date of issue;

*c)* indication of the state or states in which the insurance consultant operates.

*2. The registers of insurance companies and independent insurance intermediaries on the insurance intermediaries they employ shall contain the following information (including any changes in the particulars of the insurance intermediaries during the life of their contract and documented records of such changes):*

A) Register of natural persons engaged in insurance mediation

*a)* name, place and date of birth, mother's name, home address of the natural persons engaged in insurance mediation;

*b)* registration number and date of issue,

*c)* indication of the state or states in which the insurance intermediary operates;

*d)* whether the insurance intermediary is a natural person operating on behalf of a tied insurance intermediary economic operator:

*da)* name of this economic operator,

*db)* registration number of the economic operator,

*dc)* date of entering into and terminating the legal relation with the economic operator, description of the relation;

- e) type of insurance mediating (independent, tied);
- f) regarding the insurance company or independent insurance intermediary:
  - fa) date of entering into and terminating the contract, and the description of the contract,
  - fb) detailed description of the activities performed on behalf of the insurance company or independent insurance intermediary under contract,
  - fc) description of any restrictions in the contract, reasons and circumstances for terminating the contract;
  - g) if the insurance mediator is engaged in mediating on behalf of insurance companies, classification of the products mediated according to Schedules Nos. 1 and 2;
  - h) type of education (college or university degree or professional training specified in specific other legislation) and a copy of the relevant certificate, if lacking the appropriate qualifications, an indication of the deadline for acquiring it;
  - i) the license revoked from a natural person following his termination of employment with the insurance company or independent insurance intermediary;
  - j) official certificate from the body operating the penal register.
- B) Register of economic operators engaged in insurance mediation
  - a) name, abbreviated name, registered address, place of business and branch, tax number, name(s) and position(s) of authorized representative(s) of the economic operator engaged in insurance mediation;
  - b) registration number and date of issue;
  - c) indication of the state or states in which the insurance intermediary operates;
  - d) type of insurance mediating (independent, tied);
  - e) for tied insurance intermediaries, classification of the products mediated according to Schedules Nos. 1 and 2.

Schedule No. 6 of Act LX of 2003

***Outsourcing Insurance Administrative Activities***

- I. The following activities cannot be outsourced:
  - 1) structural arrangements of the insurance company;
  - 2) underwriting risks;
  - 3) customer relations;
  - 4) internal control;
  - 5) balance sheet analysis and solvency margin calculation;
  - 6) staffing decisions;
  - 7) contracting reinsurance.
- II. Outsourced activities to be reported to the Commission:
  - 1) actuarial duties;
  - 2) electronic data processing;
  - 3) claim adjustment;
  - 4) asset management.

Schedule No. 7 of Act LX of 2003

***Other Contracting Obligations not Defined by Law***

- 1) Operation of motor vehicles

- 2) Operation of shooting ranges
- 3) Operation of nongovernmental welfare institutions
- 4) Operation of nongovernmental childcare institutions
- 5) Contract maintenance of elevators and escalators
- 6) Money processing operations
- 7) Testing, inspection and certification of technical equipment
- 8) Gas supply and marketing operations
- 9) Printing securities
- 10) Organization of race events for motor vehicles
- 11) Organization of consumer groups
- 12) Air traffic
- 13) Organization of sports events
- 14) Manufacture of pharmaceutical products for human consumption
- 15) Operation of nuclear facilities
- 16) Roadside services, operation of motor vehicles
- 17) Wholesale of pharmaceutical products
- 18) Actual service of volunteer reservists
- 19) Participating in clean-up operations
- 20) Employer loans
- 21) Activities of regular and volunteer fire brigades
- 22) Provisions for envoys commissioned by the minister in charge of defense
- 23) Temporary foreign (defense) service

Schedule No. 8 of Act LX of 2003

### ***Calculation of the Solvency Requirement***

A) Minimum solvency requirement for non-life insurance companies (annual)

1) The minimum solvency requirement for non-life insurance companies may not be reduced compared to the previous year by more than any reduction on the net claims reserve since the end of the previous year. Hence the solvency margin requirement for non-life insurance companies

where:

2)  $f_1$  is the net claims reserve (less reinsurance cessions) at the end of the year in the non-life insurance branch;

3)  $f_0$  is the net claims reserve (less the contracts ceded) at the beginning of the year in the non-life insurance branch;

4)  $S^*$  is the previous year's minimum solvency requirement in the non-life insurance branch;

5)  $S_0 = \max (E_1, E_2)$ , that is, the first result representing the revenue index and the second result representing the claim index, whichever is greater.

### **Calculation of the first result (revenue index)**

6) The first result is calculated by the following formula:

where the symbols have the following meanings:

7)  $a_1$  means the sum marked  $a$  under Point 9 that is not in excess of 57,500,000 euro;

8)  $a_2$  means the sum marked  $a$  under Point 9 that is in excess of 57,500,000 euro;

9) a means the aggregate adjusted amount of unearned premiums for the year or the aggregate adjusted amount of earned premiums for the year, whichever is greater, that is

where:

10)

and

11)

where the symbols have the following meanings:

12) aw1 means the gross amount of unearned premiums for health and medical insurance policies for the year, including reinsurance acceptances, with cancelled premiums subtracted if they satisfy the following conditions:

a) premiums determined on the basis of morbidity tables, under actuarial principles;

b) a mathematical reserve is set up for increasing age;

c) an additional premium is collected in order to set up a safety margin of an appropriate amount;

d) the insurer may only cancel the contract before the end of the third year of insurance at the latest;

e) the contract provides for the possibility of increasing premiums or reducing payments even for current contracts;

13) aw2 means the gross amount of unearned premiums for the year for classes 11, 12 and 13, including reinsurance acceptances, with cancelled premiums subtracted;

14) aw3 means the gross amount of unearned premiums for non-life insurance companies for the year, other than what is contained in Points 12 and 13, including reinsurance acceptances, with cancelled premiums subtracted;

15) ae1 means the gross amount of earned premiums for health and medical insurance policies for the year, including reinsurance acceptances, with cancelled premiums subtracted if they satisfy the conditions set out under Paragraphs a)-e) of Point 12;

16) ae2 means the gross amount of earned premiums for classes 11, 12 and 13 for the year, including reinsurance acceptances, with cancelled premiums subtracted;

17) ae3 means the gross amount of earned premiums for the year other than what is contained in Points 15 and 16, including reinsurance acceptances, with cancelled premiums subtracted;

and where

18) c means the gross amount of claims of the last three financial years remaining to be borne by the company, this ratio may not be less than 0.5, that is

where

19) dn means the amount of claims for the last three financial years remaining to be borne by the company, that is

and

20) db means the gross amount of claims paid out during the last three financial years without any deduction of amounts recoverable under reinsurance, that is

where

21) bn means the sum of the last three financial years of claims remaining to be borne by the company;

22) Fn3 means the net claims reserve at the end of the three-year period;

23) Fn0 means the net claims reserve at the beginning of the three-year period;

24) bb means the gross amount of claims paid out during the last three financial years;

25) Fb3 means the gross claims reserve at the end of the three-year period;

26) Fb0 means the gross claims reserve at the beginning of the three-year period.

### **Calculation of the second result (claims index)**



27) The second result is calculated by the following formula:

where the symbols have the following meanings:

28)  $b_1$  means the sum marked  $b$  under Point 30 that is not in excess of 40,300,000 euro;

29)  $b_2$  means the sum marked  $b$  under Point 30 that is in excess of 40,300,000 euro;

30)  $b$  means the sum of gross claims during the averaging period, that is where

31)  $k$  means the length of the averaging period in years: the averaging period is generally three years, unless more than 60 per cent of the premium revenues of the insurance company for the year results collectively from contracts for credit, frost, ice, storm, earthquake and flood risks, the averaging period shall be 7 years. For insurance companies who are in business for less than three years,  $k$  means the number of concluded financial years. The averaging period ends with the last concluded financial year.

32)  $b_j$  means the adjusted gross of settlements paid in year  $j$  in the averaging period, that is

$b_j = 1 \cdot b_{j1} + 1,5 \cdot b_{j2} + b_{j3}$ , where”3

33)  $b_{j1}$  means the gross sum of settlement payments made in year  $j$  in the averaging period in connection with the direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including reinsurance acceptances, reduced by ceded claims;

34)  $b_{j2}$  means the gross sum of settlement payments made in year  $j$  in the averaging period in connection with classes 11, 12 and 13 reduced by ceded claims, including reinsurance acceptances with ceded claims deducted;

35)  $b_{j3}$  means the gross sum of settlement payments made in year  $j$  in the averaging period for reasons other than what is contained in Points 33 and 34, reduced by ceded claims, including reinsurance acceptances with ceded claims deducted. For class 18, the assistance services performed shall be taken into account instead of settlement payments;

and where

36)  $F_k$  means the adjusted gross claims reserve at the end of the averaging period, that is

37)  $F_0$  means the adjusted gross claims reserve at the beginning of the averaging period, that is

where the symbols have the following meanings:

38)  $F_{k1}$  means gross claims reserve at the end of the averaging period in connection with direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including the gross claims reserve set aside for reinsurance acceptances;

39)  $F_{k2}$  means gross claims reserve at the end of the averaging period in connection with classes 11, 12 and 13, including the gross claims reserve set aside for reinsurance acceptances;

40)  $F_{k3}$  means gross claims reserve at the end of the averaging period for reasons other than what is contained in Points 38 and 39, including the gross claims reserve set aside for reinsurance acceptances;

41)  $F_{01}$  means gross claims reserve at the beginning of the averaging period in connection with the direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including the gross claims reserve set aside for reinsurance acceptances;

42)  $F_{02}$  means gross claims reserve at the beginning of the averaging period in connection with classes 11, 12 and 13, including the gross claims reserve set aside for reinsurance acceptances;

43)  $F_{03}$  means gross claims reserve at the beginning of the averaging period for reasons other than what is contained in Points 41 and 42, including the gross claims reserve set aside for reinsurance acceptances;

and where

44)  $c$  in Point 27 is the same as  $c$  in Point 18.

## B) Minimum solvency requirement for life assurance companies (annual)

1) The solvency margin requirement for life assurance companies shall comprise the total of the minimum solvency margin for life assurance risks, the minimum solvency margin for supplementary non-life risks and the minimum solvency margin for unit-linked life assurance policies and managed pension funds, that is

$$L = L1 + L2 + L3,$$

where the individual classes are calculated according to the following:

### **Minimum solvency requirement for life assurance risks**

2) Minimum solvency requirement for life assurance risks

that is, the total of the first and the second result that are to be calculated for the classes of the life assurance branches illustrated in Schedule No. 2, namely I (Conventional life assurance policies), II (Marriage assurance, birth assurance) and V (Annuity insurance auxiliary to social security pension), not including non-life insurance risks auxiliary to life assurance contracts.

3) The first result is calculated by the following formula:  
where

4) V means the mathematical provisions relating to direct business and reinsurance acceptances gross, if not a negative figure, without deducting the provisions on reinsurance cessions;

5) d means the total mathematical provisions net of reinsurance cessions to the gross total mathematical provisions, this ratio may in no case be less than 0.85:

where

6)  $V_n$  means mathematical provisions relating to direct business and reinsurance acceptances gross, with the provisions on reinsurance cessions and the amounts recoverable from the special purpose vehicles authorized by the Commission deducted.

7) The second result is calculated by the following formula:  
where

8)  $s_1$  means the gross total of capital at risk, if not a negative figure, under life assurance contracts (calculated without reinsurance and the amounts recoverable from the special purpose vehicles authorized by the Commission), excluding the contracts mentioned under Points 9 and 10;

9)  $s_2$  means the gross total of capital at risk, if not a negative figure, under life assurance contracts covering the risk of death for terms of a minimum of 3 years and a maximum of 5 years (calculated without reinsurance and the amounts recoverable from the special purpose vehicles authorized by the Commission);

10)  $s_3$  means the gross total of capital at risk, if not a negative figure, under life assurance contracts covering the risk of death for terms of less than 3 years (calculated without reinsurance and the amounts recoverable from the special purpose vehicles authorized by the Commission);

11) e means the total capital at risk retained, this ratio may in no case be less than 0.5:

12)  $s_n$  means the gross total of capital at risk, if not a negative figure, under life assurance contracts (adjusted with reinsurance); and

13)  $s = s_1 + s_2 + s_3$ , where definitions are identical to Points 8-10.

### **Minimum solvency requirement for non-life insurance risks auxiliary to life assurance contracts**

14) L2 means the minimum solvency requirement for non-life insurance risks auxiliary to life assurance contracts is calculated by the same procedure contained under Part A), on the basis of data pertaining to non-life insurance risks auxiliary to life assurance contracts.

### **Minimum solvency requirement for unit-linked life assurance policies and managed pension funds**

15) The minimum solvency requirement for unit-linked life assurance policies and managed pension funds is calculated by the following formula:

that is, the total of the first and the second result, that are to be calculated for the classes of the life assurance branch illustrated in Schedule No. 2, namely III (Unit-linked life assurance) and IV (Individual and group retirement plans: management of pension funds and individual retirement accounts), with the exception of non-life insurance risks auxiliary to life assurance contracts.

16) The first result is calculated by the following formula:

where

17) V1 means the technical provisions relating to direct business and reinsurance acceptances gross, without deducting the provisions on reinsurance cessions in so far as the assurance company bears an investment risk regarding the investment of such provisions;

18) V2 means the technical provisions relating to direct business and reinsurance acceptances gross, without deducting the provisions on reinsurance cessions in so far as the assurance company bears no investment risk regarding the investment of such provisions but the allocation to cover management expenses is fixed for a period exceeding five years;

19) C3 means the net management expenses relating to direct business and reinsurance acceptances, in so far as the assurance company bears no investment risk regarding the investment of such provisions and the allocation to cover management expenses is not fixed for a period exceeding five years;

20)

and

21)

where

22) V1n means the V1 provisions under Point 17 with the provisions on reinsurance cessions deducted;

23) V2n means the V2 provisions under Point 18 with the provisions on reinsurance cessions deducted.

24) The second result is calculated by the following formula:

where

25) s' means the gross total of capital at risk, if not a negative figure, relating to direct business and reinsurance acceptances (calculated without reinsurance), for contracts covering the risk of death;

26) e' means the total capital at risk retained, which ratio may in no case be less than 0.5:

where

27) s'n means the net capital at risk (adjusted by reinsurance), if not a negative figure, for contracts included in the calculation of s'.

### **C) Minimum solvency requirement for non-life insurance companies (quarterly)**

1) The minimum solvency requirement for non-life insurance companies may not be reduced compared to the previous four quarters by more than any reduction on the net claims reserve four quarters prior. Hence the solvency margin requirement for non-life insurance companies

where:

2)  $f_1$  is the net claims reserve (less reinsurance cessions) at the end of the quarter in the non-life insurance branch;

3)  $f_0$  is the net claims reserve (less reinsurance cessions) for the four quarters prior in the non-life insurance branch;

4)  $S^*$  the minimum solvency requirement for the quarter for the four quarters prior in the non-life insurance branch;

5)  $S_0 = \max(E_1, E_2)$ , that is, the first result representing the revenue index or the second result representing the claim index, whichever is greater.

### Calculation of the first result (revenue index)

6) The first result is calculated by the following formula:

where the symbols have the following meanings:

7)  $a_1$  means the sum marked  $a$  under Point 9 that is not in excess of 57,500,000 euro;

8)  $a_2$  means the sum marked  $a$  under Point 9 that is in excess of 57,500,000 euro;

9)  $a$  means the aggregate adjusted amount of unearned premiums for the last four quarters or the aggregate adjusted amount of earned premiums for the last four quarters, whichever is greater, that is,

where:

10)

and

11)

where the symbols have the following meanings:

12)  $aw_1$  means the gross amount of unearned premiums for the last four quarters, including reinsurance acceptances, with cancelled premiums subtracted, for health and medical insurance policies that satisfy the following conditions:

a) premiums determined on the basis of morbidity tables, under actuarial principles;

b) a mathematical reserve is set up for increasing age;

c) an additional premium is collected in order to set up a safety margin of an appropriate amount;

d) the insurer may only cancel the contract before the end of the third year of insurance at the latest;

e) the contract provides for the possibility of increasing premiums or reducing payments even for current contracts;

13)  $aw_2$  means the gross amount of unearned premiums for the last four quarters for classes 11, 12 and 13, including reinsurance acceptances, with cancelled premiums subtracted;

14)  $aw_3$  means the gross amount of unearned premiums for non-life insurance companies for the last four quarters, other than what is contained in Points 12 and 13, including reinsurance acceptances, with cancelled premiums subtracted;

15)  $ae_1$  means the gross amount of earned premiums for the last four quarters, including reinsurance acceptances, with cancelled premiums subtracted, for health and medical insurance policies that satisfy the conditions set out under Paragraphs a)-e) of Point 12;

16)  $ae_2$  means the gross amount of earned premiums for classes 11, 12 and 13 for the last four quarters, including reinsurance acceptances, with cancelled premiums subtracted;

17)  $ae_3$  means the gross amount of earned premiums for the last four quarters other than what is contained in Points 15 and 16, including reinsurance acceptances, with cancelled premiums subtracted;

and where

18)  $c$  means the gross amount of claims of the last three financial years remaining to be borne by the company that is to be calculated by the procedure under Points 18-26 of Part A) based on the data of the last three financial years. If no financial year has been completed, this ratio shall be 1.

### Calculation of the second result (claims index)

19) The second result is calculated by the following formula:

where the symbols have the following meanings:

20)  $b_1$  means the sum marked  $b$  under Point 22 that is not in excess of 40,300,000 euro;

21)  $b_2$  means the sum marked  $b$  under Point 22 that is in excess of 40,300,000 euro;

22)  $b$  means the sum of gross claims during the averaging period, that is, where

23)  $m$  means the length of the averaging period in quarters: the averaging period is generally 12 quarters unless more than 60 per cent of the premium revenues of the insurance company for the last four quarters results collectively from contracts for credit, frost, ice, storm, earthquake and flood risks, in which case the averaging period shall be 28 quarters. For insurance companies that have been in business for less than three years,  $m$  means the number of concluded quarters. The averaging period ends with the last concluded quarter.

24)  $b_j$  means the adjusted gross of settlements paid in quarter  $j$  in the averaging period, that is, where

25)  $b_{j1}$  means the gross sum of settlement payments made in quarter  $j$  in the averaging period in connection with direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including reinsurance acceptances, reduced by ceded claims;

26)  $b_{j2}$  means the gross sum of settlement payments made in quarter  $j$  in the averaging period in connection with classes 11, 12 and 13 reduced by ceded claims, including reinsurance acceptances with ceded claims deducted;

27)  $b_{j3}$  means the gross sum of settlement payments made in quarter  $j$  in the averaging period for reasons other than what is contained in Points 25 and 26, reduced by ceded claims, including reinsurance acceptances with ceded claims deducted. For class 18, the assistance services performed shall be taken into account instead of settlement payments;

and where

28)  $F_m$  means the adjusted gross claims reserve at the end of the averaging period, that is,

29)  $F_0$  means the adjusted gross claims reserve at the beginning of the averaging period, that is, where the symbols have the following meanings:

30)  $F_{m1}$  means gross claims reserve at the end of the averaging period in connection with direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including the gross claims reserve set aside for reinsurance acceptances;

31)  $F_{m2}$  means gross claims reserve at the end of the averaging period in connection with classes 11, 12 and 13, including the gross claims reserve set aside for reinsurance acceptances;

32)  $F_{m3}$  means gross claims reserve at the end of the averaging period for reasons other than what is contained in Points 30 and 31, including the gross claims reserve set aside for reinsurance acceptances;

33)  $F_{01}$  means gross claims reserve at the beginning of the averaging period in connection with direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including the gross claims reserve set aside for reinsurance acceptances;

34) F02 means gross claims reserve at the beginning of the averaging period in connection with classes 11, 12 and 13, including the gross claims reserve set aside for reinsurance acceptances;

35) F03 means gross claims reserve at the beginning of the averaging period for reasons other than what is contained in Points 33 and 34, including the gross claims reserve set aside for reinsurance acceptances;

and where

36) c in Point 19 is the same as c in Point 18.

### **Estimation of missing figures**

37) Any data pertaining to a quarter preceding the date on which this Act enters into force may be replaced in the calculations by reasonable estimates.

#### **D) Minimum solvency requirement for life assurance companies (quarterly)**

1) The solvency margin requirement for life assurance companies shall comprise the total of the minimum solvency margin for life assurance risks, the minimum solvency margin for supplementary non-life risks and the minimum solvency margin for unit-linked life assurance policies and managed pension funds, that is,

$$L = L1 + L2 + L3,$$

where the individual classes are calculated according to the following:

2) L1 means minimum solvency requirement for life assurance companies, which is to be calculated for the classes of the life assurance branches illustrated in Schedule No. 2, namely I (Conventional life assurance policies), II (Marriage assurance, birth assurance) and V (Annuity insurance auxiliary to social security pension), not including non-life insurance risks auxiliary to life assurance contracts. It is calculated by the same procedure contained under Points 1-13 of Part B) on the basis of quarterly data.

3) L2 means the minimum solvency requirement for non-life insurance risks auxiliary to life assurance contracts, which is calculated by the same procedure contained under Part C) on the basis of data pertaining to non-life insurance risks auxiliary to life assurance contracts;

4) L3 means the minimum solvency requirement for unit-linked life assurance policies and managed pension funds, which is to be calculated for the classes of the life assurance branch illustrated in Schedule No. 2, namely III (Unit-linked life assurance), and IV (Individual and group retirement plans: management of pension funds and individual retirement accounts), with the exception of non-life insurance risks auxiliary to life assurance contracts. It is calculated by the same procedure contained under Points 15-27 of Part B) based on quarterly data, or on the basis of the last four quarters for calculation of C3 under Point 19 of Part B).

#### Schedule No. 9 of Act LX of 2003

### **Rules of Compliance**

The type of currency in which the insurance company is to satisfy its liabilities shall be specified in accordance with the foreign exchange regulations in force and with the following provisions:

1) If coverage is expressed in a contract in a specific currency, then, for the purposes of compliance with foreign exchange regulations, the insurance company's liabilities shall be deemed to be in that currency.

2) The assets of technical provisions shall be placed in receivables expressed in the type of currency defined in Point 1 above.

3) Where non-life insurance is concerned, if the cover provided by a contract is not expressly stipulated in any currency, the insurance company's commitment shall be in the national currency of the country where the risk occurs.

4) Where non-life insurance is concerned, Point 2 notwithstanding, if it appears likely that a claim will be paid in the currency of the premium and not in the currency of the country in which the risk is situated, the insurance company may choose the currency in which the premium is expressed in compliance with the rules of matching assets. The insurance company shall be required to notify the Commission when deviating from the main rule under Point 2, including justification.

5) Where a non-life insurance claim has been reported to an insurance company and is payable in a specified currency other than the currency resulting from application of the above procedures, the insurance company's commitments shall be considered to be payable in that currency and in particular the currency in which the compensation to be paid by the insurance company has been determined by a court judgment or by agreement between the insurer and the insured.

6) Where a non-life insurance claim is assessed in a currency that is known to the insurance company in advance but is different from the currency resulting from application of the above procedures, the insurance company may consider its commitments to be payable in that currency in compliance with the rules of matching assets. The insurance company shall be required to notify the Commission of any deviation from this rule and the reasons therefor.

7) The insurance company may be granted exemption from the obligation stipulated in Point 2, if this obligation would compel the insurance company to keep less than 7 per cent of its assets in other currencies in the currency in question.

8) Insurance companies shall have the option to keep a maximum of 20 per cent of their liabilities in a specific type of currency in assets other than those defined in Point 2. However, the combined total of assets kept in various currencies cannot be less than the combined total of liabilities in various currencies.

*Schedule No. 10 of Act LX of 2003*

***Advice to clients***

A) The written information provided with insurance contracts shall contain at least the following:

- 1) the period and duration of coverage;
- 2) starting date of coverage;
- 3) description of the insured event;
- 4) terms of payment of premium and the manner by which to amend the premium, if allowed for the basic coverage and for supplementary risks;
- 5) description of the insurance company's services and the time of performance, the options available;
- 6) termination clauses;
- 7) conditions for cancellation;
- 8) conditions under which the insurance company is released from liability, exclusions;
- 9) mode and rate of inflation escalation;
- 10) extent and manner of refunding surplus yield;
- 11) the information referred to in Subsection (1) of Section 167/B, facilities for lodging complaints with the Authority or with the arbitration bodies, according to the nature of the complaint, and information about the judicial process;

12) in respect of the branch offices of third-county insurance companies, in addition to what is laid down in this Schedule, the country where legal disputes are settled, description of the material and procedural provisions and the language of such proceedings;

13) list of the organizations to which the insurance company is entitled to disclose client data pursuant to Sections 153-161 and Section 165 of the Insurance Act;

14) an indication of the governing law under which the contract is concluded;

15) for mutual associations, description of the cases serving grounds for calling up additional contributions, and/or the possibility of any cutback in services

16) for mutual associations covering risks in connection with compulsory motor vehicle liability, description of the cases serving as grounds for calling up additional contributions,

17) tax laws relating to life assurance contracts,

18) for life assurance contracts, the amount to be retained by the insurance company from the premium paid in by the policyholder if the contract is cancelled by the policyholder within thirty days,

19) whether the insurance company offers any capital or yield guarantees on life assurance contracts.

B) Minimum contents of the product information of life assurance policies:

1) Brief description of the reasons, as determined by an interview, for offering the type of policy for the particular

a) services,

b) term, and

c) amount.

2) An indication in the manner illustrated under Point 3 of the following applicable for the duration of the proposed life assurance policy - meaning the end of the term fixed for insurance policies under classes I and II of the life assurance branch or for at least 20 years if the term is not specified, or the end of the term fixed for insurance policies under class III of the life assurance branch or a maximum of five years - provided the policy features the option of surrender or premium-free reduction, for each year on the first day of the year insured:

a) cash surrender value,

b) discount value.

3) The following provisions shall be observed when determining the cash surrender value and the discount value:

3) 1. The contracting party shall be advised that the data shown in the manner expressed below are provided for information purposes only as they are, to some extent, based on assumptions.

3) 2. In the case of unit-linked life assurance policies, the client shall be advised that the value of the underlying units may show a gain or loss. Furthermore, the client must also be notified as to who is to bear the risks from changes in the value of these units determined in accordance with the provisions of the insurance contract pertaining to capital guarantees or capital and yield guarantees.

3) 3. Where the premium is to be regular, at the beginning of the year the status before the premium is paid shall be taken into consideration.

3) 4. The contract shall be concluded under the assumption that the key figures of the policy (premium, sum insured, various deductions etc.) remain constant during the term of the contract unless otherwise prescribed in the contract.

3) 5. In addition to what is contained in Point 3.4, unit-linked life assurance policies shall be contracted under the assumption that the value of the underlying units remain unchanged. Where the insurance company offers capital guarantees or capital and yield guarantees, the cash surrender value shall be determined accordingly.



3) 6. In the case of insurance policies under classes I and II of the life assurance branch with no technical interest rate, the provisions of Point 3.5 shall apply as appropriate.

Schedule No. 11 of Act LX of 2003

***Methods for the calculation of the adjusted solvency of insurance companies***

1) Deduction and aggregation method

The adjusted solvency situation of the insurance company, if a parent or participating company, is the difference between Paragraph a) and Paragraph b):

a) the sum of the elements eligible for the solvency margin of the participating insurance company and the proportional share of the participating insurance company in the elements eligible for the solvency margin of the subsidiary or related insurance company,

b) the sum of the book value in the parent company or the participating insurance company of the subsidiary or related insurance company, the solvency requirement of the parent company or the participating insurance company, and the proportional share of the solvency requirement of the subsidiary or related insurance company.

The solvency margin and the solvency requirement of subsidiary insurance companies or related insurance companies shall include the corresponding proportional shares of the elements eligible for the solvency margin and of the solvency requirement. Calculating the solvency margin and the solvency requirement shall take into account any indirect ownership.

2) Requirement deduction method

The adjusted solvency situation of the insurance company, if a parent company or participating company, is the difference between Paragraph a) and Paragraph b):

a) the sum of the elements eligible for the solvency margin of the parent or participating insurance company,

b) the sum of the solvency requirement of the parent company or participating insurance company and the proportional share of the solvency requirement of the subsidiary or related insurance company.

When calculating the solvency margin, the investments shall be included according to the provisions of the Accounting Act relating to the consolidation of associated companies.

3) Accounting consolidation-based method

Any insurance company that is a parent company or a participating company shall calculate its adjusted solvency margin on the basis of consolidated accounts prepared in compliance with the provisions of the Accounting Act on consolidated annual reports.

The adjusted solvency situation of the insurance company, if a parent company or participating company, is the difference between Paragraph a) and Paragraph b):

a) the elements eligible for the solvency margin calculated on the basis of consolidated data,

b) either the sum of the solvency requirement of the parent company or the participating insurance company and of the proportional shares of the solvency requirements of the parent company or the related insurance company, based on the percentages used for the establishment of the consolidated accounts, or the solvency requirement calculated on the basis of consolidated data.

Schedule No. 12 of Act LX of 2003

***Compliance with the Acquis***

This Act contains regulations that may be approximated with the following legal regulations of the European Communities:

1. Council Directive 64/225/EEC of 25 February 1964 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 of 24 April 1972 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 of 19 December 1972 amending Council Directive 72/166/EEC of 24 April 1972 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 of 24 July 1973 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 of 24 July 1973 abolishing restrictions on freedom of establishment in the business of direct insurance other than life assurance.

6. Council Directive 76/580/EEC of 29 June 1976 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 77/92/EEC of 13 December 1976 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of the activities of insurance agents and brokers (ex ISIC Group 630) and, in particular, transitional measures in respect of those activities.

8. Council Directive 78/473/EEC of 30 May 1978 on the coordination of laws, regulations and administrative provisions relating to Community co-insurance.

9. First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct life assurance.

10. Second Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles.

11. Council Directive 84/641/EEC of 10 December 1984 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.

12. Council Directive 87/343/EEC of 22 June 1987 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.

13. Council Directive 87/344/EEC of 22 June 1987 on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance.

14. Second Council Directive 88/357/EEC of 22 June 1988 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.

15. Third Council Directive 90/232/EEC of 14 May 1990 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles.

16. Council Directive 90/618/EEC of 8 November 1990 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.

17. Council Directive 90/619/EEC of 8 November 1990 on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/267/EEC.

18. Commission Decision 91/323/EEC of 30 May 1991 relating to the application of 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.

19. Commission Recommendation 92/48/EEC of 18 December 1991 on insurance intermediaries.

20. Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (Third Non-Life Insurance Directive).

21. Council Directive 92/96/EEC of 8 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (Third Life Assurance Directive).

22. Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group.

23. Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 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).

24. Directive 2001/17/EC of the European Parliament and of the Council of 19 March 2001 on the reorganization and winding-up of insurance undertakings.

25. Directive 2002/12/EC of the European Parliament and of the Council of 5 March 2002 amending Council Directive 79/267/EEC as regards the solvency margin requirements for life assurance undertakings.

26. Directive 2002/13/EC of the European Parliament and of the Council of 5 March 2002 amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings.

27. Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (consolidated).

28. Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council.

29. Council Directive 91/371/EEC of 20 June 1991 on the implementation of the Agreement between the European Economic Community and the Swiss Confederation concerning direct insurance other than life assurance.

30. Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 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.

31. Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation.

32. Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 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.

33. Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

34. Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC.

35. 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.

36. Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).

Schedule No. 13 of Act LX of 2003

1. The natural persons engaged in tied insurance intermediary (agency, principal agency) activities as specified in Subsection (4) of Section 33 must have:

- a) “insurance intermediary” professional qualification; or
- b) “tied insurance intermediary” professional qualification; or
- c) “independent insurance intermediary” professional qualification; or
- d) “insurance consultant” professional qualification; or
- e) a “tied insurance intermediary” certificate issued upon completion of an official training program according to specific other legislation; or
- f) an “independent insurance intermediary” certificate issued upon completion of an official training program to specific other legislation.

2. Any tied insurance intermediary who is engaged solely in the mediation of insurance products for the “Legal expenses” insurance sector under Point 17 of Part A) of Schedule No. 1 must have:

- a) “insurance intermediary” professional qualification; or
- b) “legal expenses insurance intermediary” professional qualification; or
- c) “tied insurance intermediary” professional qualification; or
- d) “independent insurance intermediary” professional qualification; or
- e) “insurance consultant” professional qualification; or
- f) a “tied insurance intermediary” certificate issued upon completion of an official training program according to specific other legislation; or
- g) an “independent insurance intermediary” certificate issued upon completion of an official training program according to specific other legislation.

3. Any natural person engaged in independent insurance intermediary (brokering or multiple insurance agency) activity specified in Section 45 must have:

- a) “insurance intermediary” professional qualification; or
- b) “tied insurance intermediary” professional qualification; or
- c) “insurance consultant” professional qualification; or

d) an “independent insurance intermediary” certificate issued upon completion of an official training program according to specific other legislation.

4. Any natural person engaged in independent consulting activities specified in Section Subsection (1) of Section 51 must have:

- a) “insurance consultant” professional qualification; or
- b) “insurance lawyer” professional qualification; or
- c) “actuary” professional qualification.

Schedule No. 14 of Act LX of 2003

***Rules and principles for the assessment, documentation and disclosure of earnings achieved in a portfolio managed by a body providing portfolio management services***

1. All data and information, which are necessary to demonstrate the results achieved in a portfolio and to perform the prescribed calculations must be compiled and kept on file.

2. All source information for portfolio assessment and the methods employed must be made available to the investors.

3. All portfolios must be evaluated at least monthly.

4. Portfolios must be evaluated on a market value basis.

5. For the evaluation of interest-bearing bonds and all other instruments on which any interest is paid the amount of interest accrued for a given period must be taken into consideration.

6. Yields from moneys and other similar instruments must be included in total earnings.

7. Yields shall be computed on each trading day.

8. Unless otherwise prescribed by legal regulation, the yield of portfolios shall be calculated on a capital-weighted monthly average or time-weighted daily average.

9. Return must be assessed on the whole, including any and all capital gains and profits, if realized or not.

10. The earnings of the various periods must be shown in a geometrical sequence.

11. The return achieved in periods of less than one year cannot be computed on an annual basis.

12. Every yield figure must have an indication as to which period it pertains.

13. The costs and expenses of trading shall not be included when rating the efficiency of management.

14. Non-refundable withholding tax on dividends, interest income and capital gains must be deducted from the yield amount. Withholding tax that can be refunded shall be taken into consideration.

15. It shall be indicated whether the yield calculated is net or gross, namely, whether it includes the fees paid by the investor to the portfolio manager or to its affiliated company.

16. Any fact and additional information that may be of importance for making an informed judgement of a portfolio’s performance, or to offer an explanation for the yield calculated shall also be indicated.

17. In terms of efficiency rating, any diversification of capital or use of derivative instruments, and the extent of such, shall be demonstrated in a yield calculation so as to permit the identification of risks.

18. Where a reference index has been made part of a portfolio, in line with the underlying investment policy, the yield of such a reference index is to be shown for the same period or periods to which the yield of a portfolio pertains using the same yield calculation methods.

19. When rating the efficiency of an investment fund manager or portfolio manager, the yield figures shall cover the past five years or, if less than five years, the full period of their activities, broken down by calendar year.