

INSURANCE LAW

(Revised text)¹

I. I. BASIC PROVISIONS

Subject of the Law

Article 1

This Law regulates insurance conditions and methods as well as supervision of insurance activities.

Insurance Activities

Article 2

Insurance activities include insurance, coinsurance and reinsurance as well as activities directly related to insurance.

Insurance activities are considered to be concluding insurance contracts, executing insurance contract obligations and undertaking the measures for prevention and curb of the risks jeopardizing the insured property and persons.

Coinurance activities are considered to be concluding and executing insurance contracts with several insurers who have agreed upon joint coverage and risk sharing.

Reinsurance activities are considered to be concluding and executing reinsurance contract obligations on reinsurance of the insured surplus risks exceeding the self retention insurance amount of one insurance company with another insurance company licensed to conduct reinsurance activities (hereinafter: reinsurance company).

Activities directly connected to the insurance business are insurance brokerage and agency, determining and assessment of risks and claims, brokerage in sale and the sale of the remains of the insured damaged objects and rendering other intellectual and technical services relating to insurance activities.

Companies Engaging In Insurance Activities

Article 3

An insurance company licensed for such activities by the competent body engages in insurance activities, **as well as a branch of a foreign insurance company licensed by the competent body for performance of such activity²**.

An insurance company is incorporated as a joint stock or mutual insurance company.

An insurance company shall engage solely in insurance activities.

Persons Engaged In Insurance Brokerage and Agency Activities

Article 4

Brokerage companies licensed for such activities by the competent body engage in brokerage activities.

Insurance agencies or agents licensed to perform such activities by the competent body perform agency activities.

Insurance brokerage companies and agencies are incorporated in the form of a joint stock or limited liability companies.

Companies Engaging in Other Activities Directly Connected to Insurance

Article 5

Activities directly connected to insurance, except the activities in Article 4 herein, are conducted by agencies specialized in the provision of other insurance services, and other companies and legal entities with a specially organized department specialized in engaging in such activities, licensed by the competent body.

Insurance on a Voluntary Basis

Article 6

Property and personal insurance are voluntary.

As an exception from the provision of paragraph 1 of this Article, the insurance of property and persons is compulsory in cases regulated by the law.

Territoriality

Article 7

Property and persons in the Republic of Serbia (hereinafter Republic) can only be insured with the insurance companies founded in compliance with this Law.

Insurance contracts concluded in breach of the terms defined in paragraph 1 of this Article are null and void.

As an exception from paragraph 1 of this Article, property and persons can be insured against risk with a foreign insurance company if insurance against that kind of risk is not conducted in the Republic, and other property and persons prescribed by the Government of the Republic of Serbia (hereinafter: Government).

¹ Revised text of the Law was drafted based on the text of the Law published in the RS Official Gazette no. 55/04 and 70/04 – and amendments published in the RS Official Gazette no. 61/05, 61/05 – other law, 85/05 – other law, 101/07 and 63/2009 – decision of CC

² This provision is implemented after 5 years have elapsed since the day of accession of the Republic of Serbia to the World Trade Organization

Groups of Insurance Activities

Article 8

The insurance operations, pursuant to this Law, are life and non-life insurance activities.

Classes of Life Insurance

Article 9

Classes of life insurance are:

- Life insurance;
- Annuity insurance;
- Additional insurance along with life insurance;
- 4) Voluntary pension insurance;
- 5) Other classes of life insurance.

Classes of Non-Life Insurance

Article 10

Classes of non-life insurance are:

- 1) Accident insurance including workers' compensation and professional illness insurance, covering:
 - (1) Payment of the agreed insured amounts, partial payments of the insured amounts, and/or settlement of agreed expenses,
 - (2) Payment for injuries or impairment of health or death of passengers;
- 2) Voluntary health insurance, covering:
 - (1) One time payment for disability for work,
 - (2) Settlement of the agreed medical costs,
 - (3) Combination of settlements of (1) and (2) of this item; (1) and (2) of this item;
- 3) Motor liability insurance covering the damage to self-propelled vehicles, except for rail vehicles and vehicles that are not self-propelled, and/or the loss of such vehicles;
- 4) Rail vehicles insurance covering the damage to rail vehicles and/or loss of such vehicles;
- 5) Aircraft insurance covering the damage and/or loss of aircraft;
- 6) Marine insurance covering the damage and/or loss of marine vessels (sea, river and lake);
- 7) Insurance of goods in transport covering the damages of goods and/or loss of goods, regardless of the kind of transportation;
- 8) Property insurance against fire or other perils, covering the damage to property caused by fire, explosion, storm or other natural disasters, nuclear power, land slides and land settling, except for the damages covered by the insurance as defined in items 3) to 7) of this Article;
- 9) Other property insurance, covering the damage to property caused by machine breakdown, burglary, glass shattering, hail, frost or other perils, except for the damages covered by the insurance as defined in item 3) to item 8) of this Article;
- 10) Motor liability insurance covering all kinds of liabilities using self-propelled land vehicles, including the liability during transport;
- 11) Aircraft liability insurance covering all kinds of liabilities when using an aircraft including the liability during transport;
- 12) Marine liability insurance covering all kinds of liabilities when using marine vessels, including the liability during transport;
- 13) General damage liability covering other kinds of liabilities except the liabilities from items 10) to 12) of this Article;
- 14) Credit insurance, covering:
 - (1) Risk of no and/or delayed payment due to insolvency or other events or activities,
 - (2) Export credits and other risks connected to export, trade and investment both in domestic and foreign markets,
 - (3) Installment credits,
 - (4) Mortgage and Lombard credits,
 - (5) Agricultural credits,
 - (6) Other credits and loans;
- 15) Guarantee insurance, guaranteeing the direct or indirect fulfillment of the debtor's obligations;
- 16) Financial loss insurance covering the financial losses due to:
 - (1) Loss of employment,
 - (2) Insufficient income,
 - (3) Bad weather,
 - (4) Loss of profit,
 - (5) Unplanned general expenses,
 - (6) Unplanned business expenses,
 - (7) Loss of market value,
 - (8) Loss of rent and/or income,
 - (9) Indirect business loss except for losses covered in (1) to (8) of this item,
 - (10) Other non-business losses,
 - (11) Other financial losses;
- 17) Legal protection losses, covering court expenses, legal expenses and other court proceeding expenses;
- 18) Travel assistance insurance covering persons facing problems while traveling and/or other cases when not in the country of residence;
- 19) Other classes of non-life insurance.

Compulsory Traffic Insurance

Article 11

A special law specifies and regulates compulsory traffic insurance.

Voluntary Pension Insurance

Article 12

Voluntary pension insurance is the insurance which, based on contract, can provide entitlements in case of old age, disability, death or other insurance risks within the limits determined by the law regulating the compulsory pension and disability insurance or to a greater extent.

Voluntary Health Insurance

Article 13

Voluntary health insurance is the insurance which, based on contract, can provide health insurance entitlements to individuals not insured under the law regulating compulsory health insurance. It also covers individuals insured by that law, who are provided with the extent of entitlements greater than the one set by the law, and other types of entitlements from the health insurance not provided by the law.

Impossibility of Simultaneous Engagement in Life And Non-Life Insurance Activities

Article 14

One and the same insurance company cannot engage in life and non-life insurance simultaneously, except in the cases defined by Article 25 of this Law.

Reinsurance Activities

Article 15

Insurance companies are obliged to reinsure contractual obligations exceeding the amount of self insured retention.
The self insured retention of the insurance company is the amount of the risks undertaken by the contract, which the company itself keeps at all times, and which it can cover by its own means.
Insurance companies are obliged to keep a part of the risk in self insured retention.
Insurance companies are obliged to reinsure the risk exceeding the self insured retention **with a reinsurance company**.
Reinsurance companies are obliged to reinsure with a foreign reinsurer the portion of the risk they are not able to cover from their own means or with a reinsurance company within the country³.

Pecuniary Part of the Core Capital

Article 16

Founders of insurance companies or other legal entities engaging in activities directly related to insurance shall provide the pecuniary part of initial capital in the amount provided by this law.

Guarantee For the Obligations

Article 17

An Insurance company as defined in Articles 3 and 4 of this law guarantees for its obligations with its entire ownership.

Supervision Over the Insurance Business

Article 18

The National Bank of Serbia conducts the supervision over the insurance business and conducts other tasks regulated by this Law.

Prohibition of the Use of Term “Insurance”

Article 19

The term “insurance” or any term derived from the term insurance cannot be used by a legal entity or a contractor in the name of their company or their name and/or in the name of a product or service, except in cases where such words are used according to the provisions of this Law or a special law.

Application of the Law Regulating the Legal Status of Companies and Contractors

Article 20

Insurance companies, insurance brokerage companies, insurance agencies, and agencies providing other insurance services are subject to the law regulating the legal status of companies, unless certain issues are regulated differently by this law.

Physical persons engaged in insurance agency activities are subject to the law which regulates the legal status of contractors, unless certain issues are regulated differently by this law.

³ This provisions cease to be valid after 5 years have elapsed since the day of accession of the Republic of Serbia to the World Trade Organization

Application of Other Laws

Article 21

Insurance contracts and insurance brokerage contracts and agency contracts are subject of the Law on Contracts and Torts and other laws regulating contracts in certain classes of insurance.

Application of the Rules of the Insurance Profession, Sound Business Practices and Business Ethics

Article 22

Insurance companies and other persons conducting activities directly connected to insurance are obliged to exercise their activities in compliance with the rules of the insurance profession, respecting sound business practices and business ethics.

II. II INSURANCE COMPANY

1. Common Provisions

Engagement in Insurance Activities

Article 23

Insurance companies located in the territory of the Republic can engage in insurance activities.

Insurance companies defined in paragraph 1 of this Article can only conduct those insurance activities which they have been licensed for by the National Bank of Serbia.

No other entity except for the insurance companies specified in paragraph 1 of this Article shall be entitled to engage in insurance operations.

Prohibition of Concluding Contracts on Insurance Brokerage and Agency

Article 24

Insurance companies can conclude brokerage or agency contracts solely with entities licensed to engage in such activities according to the provisions of this Law.

Except for the provision of paragraph 1 of this Article, insurance companies can conclude brokerage or agency contracts with a legal entity engaged in brokerage activities according to a special law and approval of the National bank of Serbia that it meets the conditions on human resource and technical capacity prescribed by the present law, for carrying out of these activities and registered according to Article 147 paragraph 2 of this Law.

The operations of legal entities specified in paragraph 2 of this Article are subject to the provisions of this Law which regulate reporting to the National Bank of Serbia and supervision over their operations.

Additional Clause for Life Insurance Activities

Article 25

Insurance companies operating in life insurance can exceptionally carry out activities of insurance from connected damage and voluntary health insurance covering the costs of medical treatment, provided they already cover the individuals who have signed life insurance contracts.

The National Bank of Serbia keeps a separate file on the contracts specified in paragraph 1 of this Article.

Insurance company carrying out activities referred to in Article 10, item 10) of this law, may exceptionally perform driver and passenger insurance activities from the consequences of an accident provided this insurance pertains to the driver and persons in an insured vehicle.

2. Joint Stock Insurance Company

Incorporation of an Insurance Company

Article 26

A joint stock insurance company is incorporated by at least two legal entities and/or physical persons (hereinafter: founders).

Foreign legal entities or persons may, **based on the reciprocity principle**⁴, incorporate a joint stock insurance company, or invest funds in a joint stock insurance company.

Foreign investments defined in paragraph 2 of this Article are the subject of the law regulating foreign investments, unless certain issues are regulated differently by this law.

Insurance Company Activities

Article 27

A joint stock insurance company may engage only in activities in one or more classes of insurance within the same insurance group or only reinsurance activities.

Joint stock insurance companies may engage in activities directly connected with insurance activities in compliance with this Law.

Reinsurance activities may only be performed by insurance companies licensed for reinsurance activities.

⁴ This provision ceases to be valid since the day of accession of the Republic of Serbia to the World Trade Organization

The Amount of Pecuniary Part of the Core Capital

Article 28

On incorporation, the pecuniary part of the core capital of joint stock insurance companies cannot amount to less than the CSD equivalent of the following amounts, calculated by the median exchange rate on the day of payment:

1) Life insurance:

	Amount in Euro
(1) Life insurance, except voluntary pension insurance	2.000.000
(2) Voluntary pension insurance	3.000.000
(3) All classes of life insurance	4.000.000

2) Non-life insurance:

(1) Accident insurance and voluntary health insurance	1.000.000
(2) Motor comprehensive insurance, rail vehicle – comprehensive and traffic liability insurance	2.500.000
(3) Other property insurance, other liability insurance and other classes of non-life insurance	2.000.000
(4) All classes of non-life insurance	4.500.000

3) Reinsurance

4.500.000

Joint stock insurance companies are obliged to provide the initial capital at all times in an amount not lower than the amount specified in paragraph 1 of this Article.

Shares

Article 29

Shares of a joint stock insurance company are only registered shares.

Stake in Capital and Qualified Stake in Capital

Article 30

In the sense of this Law, an entity shall be deemed to have a stake in capital in another entity, provided it is a direct or indirect holder of the shares and/or other rights under which it has acquired up to 10% of the stake in the capital of the other entity, or of the stake in the voting rights of the other entity.

In the sense of this Law, an entity shall be deemed to have a qualified stake in capital in another entity, provided it is a direct or indirect holder of the shares and/or other rights by which it exceeds 10% of the stake in the capital of the other entity, or of the stake in the voting rights of the other entity.

Prohibited Cross-Ownership of Stake In Capital and/or Voting Rights

Article 31

Joint stock insurance and reinsurance companies, insurance brokerage companies, insurance agencies, agencies for other insurance services, and companies and other legal entities with special purpose departments for providing other insurance services cannot have cross-ownership of stake in capital and/or voting rights.

Qualified Stake Acquisition Approval

Article 32

For acquiring shares of an insurance company on the basis of which an entity directly or indirectly acquires a qualified stake (hereinafter: qualified stakeholder) in the insurance company, the approval of the National Bank of Serbia is required.

An entity which acquired the approval defined in paragraph 1 of this Article is obliged to obtain the approval of the National Bank of Serbia for each subsequent acquisition of shares of the insurance company when the new acquisition exceeds the amount of 20%, 33%, 50% and 66% of the stake in capital of another entity and/or voting rights of another entity.

When a shareholder's stake in capital of an insurance company decreases by 10%, the company is obliged to inform the National Bank of Serbia on that.

Related Parties

Article 33

In the sense of this Law, related parties are considered to be the legal entities mutually related through management, capital or in any other way to achieve joint business goals, so that the business activities or results of one party may significantly affect the business activities and/or results of the other party.

In the sense of this Law, the term "related parties" shall also include parties related as follows:

1) As family members;
2) In such a way that a party, and/or parties considered to be related in the sense of this Article, together, directly or indirectly, have a stake in the other party;
3) In such a way that in both related parties there is a stake of one and the same party and/or parties considered to be related parties in compliance with this Article;
4) Related in a manner prescribed for related parties according to the law regulating the legal status of companies;
5) Related as members of management or members of the supervisory board, or their family members.

According to this Law, family members are considered to be:

1) Spouse, and/or a person he/she has been living in a common law union;
2) Children and/or foster children;
3) Other relatives up to the third kinship level including the in-laws;
4) Other persons who do not have full working ability and have been awarded custody of that individual.

Provided this Law determines that the insurance company is not entitled to invest in a certain legal entity and/or legal entity in an insurance company, the prohibition relates both to direct and indirect investments.

Insurance company shall not enter into business operations with related legal entities which directly or indirectly provide funds for these entities, such as a loan, surety, pledge, special-purpose deposits, etc.

Related legal parties shall be considered as one entity during assessment of participation in capital i.e., acquiring qualifying holdings and participation in management.

Application for Obtaining Qualified Stake Acquisition Approval

Article 34

The entity wishing to acquire a qualified stake is obliged to submit the documents defined in Article 39, paragraph 2 of this Law with the application for obtaining approval for acquiring the qualified stake.

The National Bank of Serbia decides on the application by a resolution within 30 days from the receipt of the application.

Provided an entity has submitted the application for the license to engage in insurance activities, the decision on granting the approval defined in paragraph 1 of this Article shall be rendered within the procedure of rendering a decision on the application for obtaining approval for engaging in insurance activities.

Rejection of the Application for Obtaining the Qualified Stake Acquisition Approval

Article 35

The National Bank of Serbia shall reject the application for obtaining the qualified stake approval if the documents and available information mean:

- 1) That, due to the activities currently or already conducted by the applicant and/or by the related party, the activities of the joint stock insurance company might be jeopardized;
- 2) That, due to the activities conducted by the applicant and/or by the related party, or due to the nature of their relationship, the supervision over the joint stock insurance company might be hampered and/or made unfeasible;
- 3) If the applicant and/or the related party has, over the past three years, been a management member or member of the supervisory board, or individual endowed with special authorizations within a legal entity which is subject of initiated liquidation and/or bankruptcy proceedings, or which has undergone forced liquidation and/or bankruptcy proceedings;
- 4) If the acquisition of the qualifying holdings would be against the provisions of the law regulating the securities market.
- 5) If the company is managed in such a manner as to deteriorate the financial condition of the company or if the company operates in the manner in contravention to the regulations.

Voting Rights Loss

Article 36

If an entity acquires shares in a joint stock company based on which they acquire qualified stake in the joint stock insurance company without the approval of the National Bank of Serbia, the entity does not have any voting rights in the management of the joint stock insurance company, on the basis of the shares so obtained.

Withdrawal of the Qualified Stake Acquisition Approval

Article 37

The National Bank of Serbia shall withdraw the granted qualified stake approval, by resolution, in the following cases:

- 1) If the approval has been granted on grounds of false and inaccurate information;
- 2) If the business activities of the joint stock insurance company are jeopardized due to the activities conducted by the qualified stakeholder and/or related party;
- 3) If, due to the activities conducted by a qualified stakeholder and/or related party, or due to the nature of their relationship, the supervision over the joint stock insurance company is made unfeasible and/or hampered;
- 4) If the qualified stakeholder does not obtain the approval for qualified stake and/or for the increase of the stake, or disturbs the supervision over the joint stock insurance company in any other way.

By way of the resolution specified in paragraph 1 of this Article, the qualified stakeholder loses the voting rights arising from the shares on the basis of which shares the stake in voting rights of the stakeholder exceeds 10%.

Decisions without Validity

Article 38

Decisions rendered by the corporate bodies of the joint stock insurance company with participation of the votes of the qualified stakeholders without the qualified stake acquisition approval, shall have no validity.

Application for a License to Engage in Insurance Activities and Reinsurance Activities

Article 39

The application for obtaining a license to engage in insurance activities and reinsurance activities shall be submitted by the founders of the joint stock insurance company, or by the persons they so authorize.

The following documents shall be attached to the application as defined in paragraph 1 herein:

- 1) Memorandum of Incorporation;
 - 2) Draft Articles of Association
 - 3) Evidence that the pecuniary part of the core capital as defined in Article 28 of this Law has been deposited in the temporary account;
 - 4) Joint stock insurance company Business Plan;
 - 5) Draft of the business policy acts as defined in Article 58, paragraph 2, items 1) – 12) herein, with the opinion of the certified actuary;
 - 6) List of shareholders with their family name, name and address, and/or name of the company and its head office address, total nominal value of the shares and percentages of stake in the core capital of the joint stock insurance company;
 - 7) For shareholders – the legal entities which are qualified stakeholders:
 - (1) Resolution on Register entry,
 - (2) Transcript of shareholders from the shareholder register and/or the evidence from any other appropriate public register provided the shareholder is the joint stock insurance company,
 - (3) Financial reports with the certified auditor's opinion, for the last three years,
 - (4) Evidence from the competent administration body of tax payment, not older than six months,
 - (5) Certified photocopy of the resolution of the competent administration body on determination of the tax amount and collection of the tax for the current and/or previous year;
 - (6) And other proofs of significance for the appraisal of shareholders' safety and soundness.
 - 8) For shareholders – physical persons who are qualified stakeholders:
 - (1) Evidence that the person has not been a member of management or of the supervisory board, or an individual endowed with special authorizations in a legal entity which is subject of initiated liquidation and/or bankruptcy proceedings, or which has undergone forced liquidation and/or bankruptcy proceedings, for the past three years,
 - (2) Evidence that the person has not been unconditionally sentenced to imprisonment for more than three months due to criminal offenses against industry, property, official capacity, and corruption,
 - (3) Evidence from the competent administration body on the tax payment, not older than six months,
 - (4) Certified photocopy of the decision of the competent administration body on tax amount determination and payment of the tax for the current and/or previous year;
 - 9) List of entities related to the qualified stakeholders with the evidence of the nature of such relationships as defined in Article 33 herein;
 - 10) For the persons proposed to be nominated members of management (members of the board of directors and general manager) and supervisory board:
 - (1) Evidence they meet the requirements in terms of their education, skills and professional experience,
 - (2) Evidence that the person has not been a member of management or of the supervisory board, or an individual endowed with special authorizations in a legal entity which is subject of initiated liquidation and/or bankruptcy proceedings, or which has undergone forced liquidation and/or bankruptcy proceedings, for the past three years,
 - (3) Evidence that the person is not subject to limitations according to this Law, regarding elections of the members of the management and supervisory board of a joint stock insurance company,
 - (4) Evidence that the person has not been unconditionally sentenced to imprisonment for more than three months,
 - (5) Evidence, not more than 6 months old, from the competent administration body on the amount of paid property and income taxes,
 - (6) Certified photocopy of the resolution of the competent administration body on tax amount determination and payment of the tax for the current and/or previous year;
 - 11) Name and family name of the person nominated as the certified actuary with the information as defined in item 10) of this paragraph, or a preliminary contract with a legal entity licensed for engagement in actuarial activities, and the evidence of the insurance against liability for the damage a certified actuary can cause by the given opinion;
 - 12) Evidence that the joint stock insurance company has the prescribed organization, personnel and technical equipment allowing it to fulfill the tasks defined in Memorandum of Incorporation and business policy acts.
- For the foreign founders, the documents defined in item 2 of this Article shall be submitted in a certified translation into Serbian.
- The National Bank of Serbia prescribes the detailed conditions and modes to prove that certain conditions as defined in paragraph 2 of this Article are met, as well as the necessary organization, personnel and technical equipment capacities for the joint stock insurance company.

Business Plan of the Company

Article 40

The business plan of the joint stock insurance company as defined in Article 39, paragraph 2, item 4) herein, consists of:

- 1) Business policy basics;
- 2) Insurance group or classes for which it is licensed;
- 3) Reinsurance program;
- 4) Amount of the expected solvency margin as determined by the provisions herein;
- 5) Projected amount of incorporation costs and methods of coverage of these costs;
- 6) Company's liquidity plan;
- 7) Study on the expected operating results with the certified actuary's opinion for a three year period, and specifically the expected profits from premiums, expected claim settlement expenditures and the amount of technical reserves and the reserves as defined by this Law, expected value of assets and their sources and a preliminary estimate of the costs of insurance activity, with the assessment of the financial justification for the incorporation of the company relative to the size and structure of the market.

Issuing a License to Engage in Insurance Activities

Article 41

A license is granted to a joint stock insurance company to engage in one or several classes of insurance.

The National Bank of Serbia decides on the application to engage in insurance activities by a resolution based on an assessment of the fulfillment of legal conditions and justifiability of incorporation of the joint stock insurance company, in the course of 60 days from the date of receiving the application.

Classes of insurance for which license is issued are explicitly stated in the main part of the NBS resolution. If the resolution is issued for all classes of insurance within one group, only the group of insurance activities is stated in the main part of the resolution.

Register Entry

Article 42

The founders of a joint stock insurance company are obliged to submit the application for the register entry to the competent body within 30 days from the date of obtaining the license to engage in insurance activities.

The license to engage in insurance activities is submitted with the application for register entry.

Insurance companies must submit the registration to the National Bank of Serbia within 7 days from the receipt date.

Change of a License to Engage in Insurance Activities

Article 43

For the purpose of engaging in certain classes of insurance not listed in the license, and/or for the purpose of terminating engagement in certain classes of insurance for which it is licensed, the joint stock insurance company shall submit the application to the National Bank of Serbia to change the license to engage in insurance activities.

Issuing the license as defined in paragraph 1 of this Article shall be subject to Articles 39 to 42 of this Law.

Rejection of an Application for a License to Engage in Insurance Activities

Article 44

The National Bank of Serbia shall reject an application for obtaining a license to engage in insurance activities in the following cases:

- 1) If the joint stock insurance company does not submit the evidence of fulfillment of the requirements as defined in Article 39 of this Law;
- 2) If qualified shareholders do not possess the approval as defined in Article 32 of this Law;
- 3) If the provisions of the Memorandum of Incorporation and/or Articles of Association of the joint stock insurance company are not in legal compliance;
- 4) If the members of management or of the supervisory board fail to submit the required evidence that they are capable of acting as members of management or of the supervisory board, and/or if they do not meet the prescribed conditions;
- 5) If, on the basis of the Articles of Association of the joint stock insurance company and other submitted documents, it is evident that the joint stock insurance company does not fulfill the prescribed requirements prescribed for insurance activities;
- 6) If on the basis of the Articles of Association of the joint stock insurance company, other submitted documents, and data it is evident that the joint stock insurance company does not have the capacity, in terms of organization, personnel and technical equipment to engage in insurance activities in the scope foreseen by the business plan;
- 7) If incorporation of the joint stock insurance company is not justified;
- 8) If the joint stock insurance company does not fulfill other requirements prescribed by the law.

Should the National Bank of Serbia reject the application to issue a license to engage in insurance activities, it shall be obliged to state the reasons for so doing.

The founder whose request to be issued a license to engage in insurance operations is rejected or denied may not reapply with the same request within one year after the day of rejection or denial of the request.

Termination of the Validity of a License to Engage in Insurance Activities

Article 45

A license to engage in insurance activities shall be terminated in the following cases:

- 1) If the company does not apply for entry into the court register within 30 days from the day of issuing a license;
- 2) If the company fails to commence its business activities within six months from the date of registration;
- 3) If the company ceases to engage in insurance activities for an uninterrupted period of one year;
- 4) If the insurance portfolio has been transferred to another insurance company;
- 5) If liquidation proceedings have been initiated;
- 6) If bankruptcy proceedings have been initiated.

In the cases as defined in paragraph 1 of this Article, the National Bank of Serbia shall render a decision on termination of the license to engage in insurance activities.

The joint stock insurance company whose license to engage in insurance activities has been terminated can no longer conclude new insurance contracts in cases:

- 1) Defined in paragraph 1 items 2) and 3) herein from the date of receipt of the resolution from paragraph 2 herein;
- 2) Defined in paragraph 1 item 4) herein from the date of receiving the approval of the National Bank of Serbia for the portfolio transfer;
- 3) Defined in paragraph 1 item 5) herein from the date of initiating the liquidation proceedings;
- 4) Defined in paragraph 1 item 6) herein from the date of initiating the bankruptcy proceedings.

Issuing a License to Engage in Reinsurance Activities

Article 46

A license to engage in reinsurance activities is issued according to the provisions of this Law applicable to issuing a license to engage in insurance activities.

The Bodies of the Company

Article 47

Bodies of joint stock insurance companies shall be subject to provisions of the law regulating business companies, unless otherwise stipulated by this Law.

Director of a joint stock insurance company shall be an employee of the company, and if the company has no director, then president of the board of directors has to be an employee of the company.

Approval for Carrying out of Management or Supervisory Board Member Function

Article 48

The joint stock insurance company shall submit a request to the National Bank of Serbia for getting the approval for the proposal of the resolution on the management members and/or members of the supervisory board nomination.

If a management member and/or member of the supervisory board of the joint stock insurance company has been nominated without the approval of the National Bank of Serbia, the nomination is considered invalid.

The applications for the approval as defined in paragraph 1 of this Article are submitted with the evidence defined in Article 39 paragraph 2 item 10) herein.

Besides the evidence defined in paragraph 3 of this Article, person applying for the position of the joint stock insurance company general manager shall submit their program for managing the company.

The National Bank of Serbia decides on the application as defined in paragraph 1 of this Article within 30 days from the date of receipt of the application.

The National Bank of Serbia shall reject the application for the getting the approval for carrying out management member function and/or supervisory board member of the joint stock insurance company function if the candidate does not fulfill conditions determined by this Law or if it is evident, based on the available data, that due to the activities the candidate is and/or has been engaged in, the activities of the insurance company can be jeopardized, according to the rules on risk management.

If the application for the license to engage in insurance activities is submitted, the decision on the application as defined in paragraph 1 of this Article shall be rendered within the within the procedure for decision making on a license to engage in insurance activities.

Withdrawal of the Approval for Carrying out of Management Member or Supervisory Board Member Function

Article 49

The National Bank of Serbia shall withdraw the given approval for carrying out the function of member of management and/or member of the supervisory board of the joint stock insurance company by resolution:

- 1) If the approval has been granted based on false and inaccurate data;
- 2) If a management member and/or supervisory board member no longer fulfills the conditions as defined in Article 39 herein;
- 3) If a member of management and/or a member of the supervisory board violates their obligations as defined herein.

The National Bank of Serbia can order the joint stock insurance company to dismiss a member and/or members of management or the supervisory board, and to nominate a new member and/or members:

- 1) If the company does not act in accordance with an order to eliminate ascertained irregularities and illegalities;
- 2) If the company's management does not implement the special measures determined by this Law;
- 3) If the company repeatedly violates the duty to provide accurate and timely reporting to the National Bank of Serbia after being given a written warning by the National Bank of Serbia, or in any other way obstructs the supervision over its business activities.

If a license withdrawal process is initiated for a joint stock insurance company, the National Bank of Serbia shall decide in the process on the withdrawal of the approval for carrying out of the function of a management and/or supervisory board member.

Nomination Limitation

Article 50

In addition to the persons specified by the law defining the legal status of companies, the following persons cannot be nominated as members of management:

- 1) A person related to the legal entity in which the insurance company holds more than 5% of stake in capital or stake in voting rights;
- 2) A person who is a management or the supervisory board member in another joint stock insurance company.

The Obligations and Responsibilities of Management Members

Article 51

In addition to the obligations prescribed by the law defining the legal status of companies, management members in a joint stock insurance company are obliged to ensure:

- 1) That the business activities of the company are in compliance with the risk management rules prescribed by this Law and the regulations rendered on the basis of this Law;
- 2) That risk is monitored and that appropriate measures are taken to ensure proper risk management;

3) That business books and other books, business documents, accounting documents, financial and other reports are kept and written according to the law;

4) That the reports and other documents submitted to the National Bank of Serbia are written in accordance with the Law;

5) That internal audit is performed according to the Law;

6) That legal operations concluded with shareholders, related parties and other persons in obligation to the company are not less favorable for the company compared to the same type of business activities concluded in accordance with the market conditions.

Management members of the joint stock insurance company are jointly liable to the company for any damage caused by the failure to fulfill the prescribed obligations.

Mandatory Disclosure of Information to the Supervisory Board and the National Bank of Serbia

Article 52

In the following cases, the management of a joint stock insurance company is obliged to immediately inform the supervisory board in writing:

1) If the liquidity and/or solvency of the joint stock insurance company is jeopardized;

2) If conditions occur causing the termination or withdrawal of the license to engage in insurance activities, and/or if reasons exist for prohibiting engagement in certain classes of insurance activities;

3) If the company guarantee fund decreases below the solvency margin level.

The general manager of the joint stock insurance company shall inform the National Bank of Serbia when the conditions as defined in paragraph 1 of this Article occur.

A member of the management of the joint stock insurance company must immediately inform the supervisory board and the National Bank of Serbia in writing of the following:

1) Of their nomination to and/or termination from the position in management and/or supervisory board of other legal entities;

2) Of all legal transactions on the grounds of which they, and/or a member of their immediate family, has directly or indirectly acquired shares and/or stake in equity of a legal entity, based on which the management member has acquired the qualified stake solely or with the members of their immediate family, and/or if their stake has been reduced below the minimum level of qualified stake according to this Law.

The Supervisory Board Scope of Competence

Article 53

In addition to the activities prescribed by the law on the legal status of companies, the supervisory board of a joint stock insurance company, carries out the following tasks:

1) Follows the activities of the internal audit;

2) Discusses the company management report as defined in the Article 52 herein and informs the company's management and the National Bank of Serbia of its position;

3) Discusses the findings of the National Bank of Serbia and other supervisory and investigative bodies in the course of supervision and control over the conduct of insurance activities;

4) Discusses the financial reports and annual operating report with the opinion of a certified actuary and gives an opinion with explanation to the general assembly of the company and the National Bank of Serbia;

5) Discusses the report on the enforcement of coinsurance and reinsurance policies, with the opinion of a certified actuary;

6) Gives comments on the report on the completed audit to the general assembly of the company.

The Supervisory Board Members' Obligations and Responsibilities

Article 54

A member of the joint stock insurance company supervisory board is obliged to immediately inform in writing the National Bank of Serbia on the following:

1) Their nomination and/or termination from the position in the management bodies, and/or the supervisory board of other legal entities;

2) Legal transactions on the grounds of which they, and/or a member of their immediate family, has directly or indirectly acquired the shares and/or stake in a legal entity, based on which the supervisory board member, solely or with the members of their immediate family, has acquired the qualified stake in that legal entity, and/or if their stake has been reduced below the minimum level of qualified stake according to this Law.

Supervisory board members of a joint stock insurance company are jointly liable to the company for the damage caused by failure to fulfill the prescribed obligations.

Nomination Limitation

Article 55

The nomination of the joint stock insurance company's supervisory board members is conducted according to the provisions of Article 50 of this Law.

Name of the Company

Article 56

The name of the joint stock insurance company shall contain the letters "a.d.o." (standing for "joint stock insurance company").

Approval for Change of Name and Address

Article 57

The joint stock insurance company is obliged to request from the National Bank of Serbia the approval regarding a proposed decision to change its name and address.

The National Bank of Serbia decides on the application as defined in paragraph 1 of this Article within 30 days from the date of receipt of the application.

Acts rendered and/or actions performed as defined in paragraph 1 of this Article, without prior approval of the National Bank of Serbia, shall be considered null and void.

General and Business Policy Regulations and Annual Business Plan

Article 58

A joint stock insurance company shall adopt the Articles of Association, other general regulations, annual business plan, and business policy acts.

The business policy acts of a joint stock insurance company as defined in paragraph 1 of this Article are considered to be:

- 1) General and special conditions for insurance and premium tariffs;
- 2) Decision on the technical bases of insurance;
- 3) Decision on the criteria, methods of establishing and the table of maximum self-insured retention in the total amount of self-insured retention;
- 4) Regulations on the conditions and methods of placing deposits and investing the assets of the company;
- 5) Regulations on the maximum rates for loading for management expenses;
- 6) Regulations on the formation and methods of calculating and amount of unearned premiums;
- 7) Regulations on formation and methods of calculating mathematical reserves;
- 8) Regulations on formation and usage of bonus reserves (only for life insurance);
- 9) Regulations on methods of establishing the part of net premium used for payment of incurred but unpaid claims (outstanding claims);
- 10) Regulations on formation and usage of risk equalization reserves (only for non-life insurance);
- 11) Regulations on conditions and methods of coinsurance and reinsurance;
- 12) Regulations on conditions and methods of realizing recourse claims;
- 12a) Rulebook on processing of policy register forms;
- 13) Other business policy regulations.

Approval of Investment in Other Legal Entities

Article 59

A joint stock insurance company is obliged to request the approval from the National Bank of Serbia for all investments by which the company directly or indirectly acquires the qualified stake in another legal entity, as well as in the case of each subsequent investment into that legal entity.

The National Bank of Serbia shall render the decision on the request in paragraph 1 of this Article within 30 days from the date of receipt, pursuant to the provisions of this law relating to granting, or revoking approval for investment into insurance joint stock company.

Acts rendered and/or actions performed as defined in paragraph 1 of this Article, without prior approval of the National Bank of Serbia, shall be considered null and void.

3. Mutual Insurance Company

Insurance Company Activities

Article 60

A mutual insurance company is a legal entity engaging in insurance activities in the interest of its members (the insured), abiding by the principles of reciprocity and solidarity.

A mutual insurance company can engage in all insurance activities, except reinsurance activities.

Company Founders

Article 61

A mutual insurance company may be founded by both legal entities and physical persons.

Name of the Company

Article 62

The name of the mutual insurance company shall contain the letters "d.u.o." (that is "mutual insurance company")

Company Types

Article 63

A mutual insurance company is incorporated as an unlimited contribution company or as a limited contribution company.

A mutual insurance company incorporated as an unlimited contribution company is entitled to require from each member (the insured) a payment of additional contribution for settlement of unpaid claims and other expenditures without any limitation.

A mutual insurance company incorporated as a limited contribution company is entitled to require from each member (the insured), payment of additional contributions that do not exceed the total amount of their previous contribution from the same year, in case the claims and other expenditures exceed the contributions previously paid and other revenues of the company.

If a mutual insurance company is engaged in several classes of insurance, its Articles of Association may provide for payment of additional contributions for each class of insurance separately.

The Amount of Pecuniary Part of the Core Capital

Article 64

The pecuniary part of the core capital of a mutual insurance company cannot be less than the amount defined in Article 28 herein.

Application for Issuing a License to Engage in Insurance Activities

Article 65

An application for issuing a license to engage in insurance activities shall be submitted by the founders of the mutual insurance company or by the person they so authorize.

The following documents shall be attached to the application as defined in paragraph 1 herein:

- 1) Memorandum of Incorporation;
- 2) Draft Articles of Association
- 3) Evidence that the pecuniary part of the core capital as defined in Article 28 of this Law has been deposited in the temporary account;
- 4) Draft business policy regulations as defined in Article 58, paragraph 2 herein with the opinion of the certified actuary;
- 5) Evidence of contribution (premium) payment by the members (the insured) and a list of the members;
- 6) Evidence that the founders fulfill the conditions as defined in Article 39 of this Law;
- 7) Business plan of the company.

The list of the members as defined in paragraph 2 item 5), of this Article must contain at least 250 physical persons, if the mutual insurance company is founded to engage in life insurance, and/or at least 300 physical persons or legal entities, if the mutual insurance company is founded to engage in non-life insurance.

Memorandum of Incorporation of a Company

Article 66

The Memorandum of Incorporation of a mutual insurance company contains the following provisions:

- 1) Company name and head office address;
- 2) Name and address i.e. company name and head office address of the founder;
- 3) Insurance activities, i.e. classes of insurance and number of the same risks;
- 4) Amount of the pecuniary part of the core capital and other funds;
- 5) Number of founders and the amount of the deposit for each founder;
- 6) Conditions, terms and methods of refund of the founders' investments, with interest from surplus profit over the expenditures (hereinafter: surplus);
- 7) Consequences of the modification of the Articles of Association, modification of general conditions of insurance, and the decision on company termination to the concluded insurance contracts;
- 8) Consequences of failure to effect payments, consequences of failure to make minimum contributions, and mutual relations in case of failure to satisfy the prescribed conditions regarding minimum number of members (the insured), and/or the same risks.

The Memorandum of Incorporation of a mutual insurance company may also include other provisions significant to the incorporation and operation of the company.

Articles of Association of the Company

Article 67

The Articles of Association of a mutual insurance company shall contain the following provisions:

- 1) Company name and head office address;
- 2) Licensed insurance activities and classes of insurance the company shall engage in;
- 3) The amount of the pecuniary part of the core capital and other means and contributions paid by members (the insured);
- 4) Number and amount of the initial capital contributed by certain members (the insured);
- 5) The method of calculating the members' (the insured) contributions and the conditions and deadlines for payments of the contributions;
- 6) Members' (the insured) compensation rights;
- 7) Limited and/or unlimited contributions;
- 8) Additional contribution payment obligation to cover the losses, or the possibility to cover the company's deficits by proportionately reducing the compensation to all members (the insured);
- 9) The commencement and termination of membership in a company;
- 10) The rights and obligations of members (the insured) that leave the company;
- 11) The method of signing on behalf of company and representing the company;
- 12) Company's bodies and their composition, nominations, dismissals, scope and method of work and decision making;
- 13) Funds and reserves;
- 14) Conditions and methods of using the surplus and/or covering deficits;
- 15) The method of amending the Articles of Association;
- 16) The method of changing the form of the company;
- 17) The termination of the company;
- 18) Other issues significant to the company's activities.

Reserves from Surplus

Article 68

The Articles of Association of a mutual insurance company shall define the method of forming the reserves for covering the deficit in the business operations of the company, as well as which contributions (premiums) within the year shall be used for reserves formation and the minimum amount of the reserves.

Company Members Rights and Obligations

Article 69

The insured gain the right to be members of the mutual insurance company upon signing an insurance contract.

A member of a mutual insurance company is not liable for the company's obligations.

A member of a mutual insurance company is not entitled to offset their obligations to the company regarding contributions and additional payments against their receivables from the company.

The payment of contributions and allocation of surplus shall be made under equal conditions for all members of the mutual insurance company.

General Assembly of the Company

Article 70

The general assembly of the mutual insurance company consists of founders and members (the insured).

Founders and members (the insured) participate in the management of the mutual insurance company in proportion to their respective investments and contributions.

Founders participate in the management of the company until the total repayment of their respective investment.

Application of the Provisions for a Joint Stock Insurance Company

Article 71

Provisions of Articles 26, 39-55 and 57-59 herein also apply to a mutual insurance company.

III. III INSURANCE BROKERS AND AGENTS

1. Brokerage In Insurance

Insurance Brokerage Activities

Article 72

Insurance brokerage activities include activities related to connecting the insured and/or policyholder with an insurance company, in order to negotiate the conclusion of an insurance contract, based on the order of the insurance company established in compliance with the provisions of this Law or based on the order of the insured, and/or policyholder.

Insurance Brokerage Company

Article 73

Insurance brokerage activities, as the sole type of activity, are conducted by an insurance brokerage company licensed by the National Bank of Serbia to carry out those activities.

In addition to the brokerage activities as defined in Article 72 herein, an insurance brokerage company can conduct consultancy activities and assist in processing claims and assessing risks and claims.

Brokers in insurance shall not be entitled to engage in insurance agency activities.

Notwithstanding paragraph 3 herein, insurance brokerage company can engage in insurance agency activities for certain class of insurance, provided that it meets the conditions as defined in Article 93 paragraph 2 items 5), 7) and 8) herein and is licensed by the National Bank of Serbia to engage in the activities, with the proviso that it cannot represent one and broker the other contracting party in the same legal proceeding.

Insurance Brokerage Prohibition

Article 74

The insurance brokerage company cannot act as a broker in concluding an insurance contract with an insurance company if the conclusion of the insurance contract would collide with the provisions of Article 23 herein.

Name of the Company

Article 75

The name of the insurance brokerage company must also include "insurance brokerage" as the indication of the type of activity.

Incorporation of an Insurance Company

Article 76

An insurance brokerage company is incorporated as a joint stock company or a limited liability company, subject to the law determining the legal status of companies, if not otherwise provided herein regarding certain issues.

If the insurance brokerage company is incorporated as a joint stock company, the pecuniary part of the core capital cannot be less than the CSD equivalent of EUR 25,000 calculated by the National Bank of Serbia median exchange rate on the day of the payment.

If the insurance brokerage company is incorporated as a limited liability company, the pecuniary part of the core capital cannot be less than the CSD equivalent of EUR 12,500 calculated by the National Bank of Serbia median exchange rate on the day of the payment.

If the insurance brokerage company is engaged in agency activities, then the amount of core capital as defined in paragraphs 2 and 3 herein is increased by 30%.

The insurance brokerage company is obliged to ensure that its core capital remains at all times during its operations at a level not lower than the amount defined in paragraphs 2 and 3 herein, with at least 50% of the total amount of the core capital being pecuniary part, short-term securities and short-term investments.

Shares

Article 77

The shares of a joint stock insurance brokerage company are registered shares solely.

Application for an Insurance Brokerage Activities License

Article 78

The founders, or the persons they so authorize, submit the application for a license to conduct insurance brokerage activities.

The following documents shall be attached to the application as defined in paragraph 1 herein:

- 1) Incorporation Act;
- 2) *(erased)*;
- 3) Evidence that the pecuniary part of the core capital as defined in Article 76 of this Law has been deposited in the temporary account;
- 4) List of shareholders and/or stake owners with the data as defined in Article 39, paragraph 2 items 7) and 8) herein;
- 5) Business plan of the company;
- 6) Evidence that persons proposed for management members and members of the supervisory board meet the conditions as defined in Article 39 herein;
- 7) Evidence of adequate personnel and technical equipment capacity of the company;
- 8) Insurance preliminary contract or contract against liability for the damages arising from activities or unconditional financial bank guarantees accepted by the National Bank of Serbia for the insured sum and/or the sum not less than the CSD equivalent of EUR 100,000 calculated by the National Bank of Serbia median exchange rate on the day of payment;
- 9) Evidence of relatedness based on capital or in another way with the insurance companies, insurance agencies or insurance brokerage companies.

The National Bank of Serbia specifies detailed conditions and methods of proving the conditions are met for the persons as defined in paragraph 2 item 6) herein and the necessary personnel and technical equipment capacity of the company.

Granting a License to Engage in Insurance Brokerage Activities

Article 79

The National Bank of Serbia decides on the request to issue a license to engage in insurance brokerage activities within 60 days from the date of receipt.

Register Entry

Article 80

The founders of insurance brokerage companies must submit application for the registration with the competent body within 30 days from the date of obtaining the license to engage in insurance brokerage activities.

The license to engage in insurance brokerage activities is submitted with the application for the registration.

The insurance brokerage company must submit the proof of registration to the National Bank of Serbia within seven days from the date of receiving the proof of registration.

Withdrawing a License for Engagement in Insurance Brokerage Activities

Article 81

The National Bank of Serbia shall withdraw the license to engage in insurance brokerage activities in the following cases:

- 1) If the insurance brokerage company no longer meets one of the requirements defined in Article 78 herein;
- 2) If the business activities of the insurance brokerage company jeopardize the interest of the insured, or it is determined that the company failed to abide by the law and other regulations;
- 3) If the insurance brokerage company renders brokerage services to an insurance company not licensed to engage in insurance activities.

Authorization to Engage in Insurance Brokerage Activities

Article 82

Insurance brokerage operations shall be conducted only by the employees of the company who are authorized by the National Bank of Serbia (hereinafter referred to as: authorized brokers).

The National Bank of Serbia shall issue an authorization for an individual to engage in insurance brokerage activities provided they fulfill the following conditions:

- 1) They reside in the territory of the Republic;
- 2) They are of age and fully capable of conducting business;
- 3) They have passed the expert examination for engaging in insurance brokerage activities;

4) A safety measure or a protective measure of prohibition from engagement in the activities has not been declared against them by a valid court decision.

5) (*erased*);

The National Bank of Serbia prescribes in detail the content and method of passing the examination defined in paragraph 2 item 3) of this Article.

A foreign physical person meeting the requirements of their country of residence law to engage in insurance brokerage activities can engage in such activities **under the condition of reciprocity**⁵.

Withdrawing the Authorization

Article 83

The National Bank of Serbia shall withdraw the authorization to engage in insurance brokerage activities from the person who:

- 1) Has obtained the authorization on grounds of false and inaccurate information;
- 2) Ceases to fulfill the conditions as defined in Article 82 paragraph 2 herein;
- 3) Violates the provisions of this Law.

Special Obligation of an Insurance Brokerage Company

Article 84

Insurance brokerage company engaging in conducting insurance brokerage activities on behalf of the insured must explain to and advise the insured of the circumstances relevant to the conclusion of the insurance contract.

Acting according to paragraph 1 herein, the insurance brokerage company is specifically obliged to:

- 1) Draft an appropriate risks analysis and suggest appropriate coverage;
- 2) Draft a solvency analysis of the insurance company based on information from the company's business activities;
- 3) Mediate in the execution of insurance contracts with the insurance company, which, in terms of the circumstances in certain cases, offer the most favorable protection to the insured;
- 4) Inform the insurance company that the insured wants to conclude the insurance contract, offer to the insured the insurance conditions and provide them with information on the method for calculating the premium;
- 5) Check the wording of the insurance policy;
- 6) Offer assistance to the insured during the validity term of the insurance contract, both prior and after the occurrence of the insured case, and specifically ensure that the insured undertakes all relevant actions to maintain and/or exercise the rights specified in the insurance contract;
- 7) Monitor the execution of the insurance contract by the insured concluded through his/her brokerage;
- 8) Draft proposal to amend the closed insurance contract for the purpose of ensuring a higher level of safety to the insured.

Conflict Of Interest

Article 85

The insurance brokerage company is obliged to inform the insured of all legal and economic relationships with the insurance company affecting the impartiality of the insurance brokerage company while fulfilling its obligations to the insured.

Legal and economic relationships defined in paragraph 1 herein specifically cover the provisions of the brokerage contract concluded between the insurance brokerage company and the insurance company according to which the insurance brokerage company:

- 1) Is obliged to mediate solely for the conclusion of the insurance contract with the particular insurance company;
- 2) Has contracted the right to higher than regular commission for mediating in certain classes of insurance.

Application of the Provisions for a Joint Stock Insurance Company

Article 86

The provisions of this Law regarding joint stock insurance companies shall appropriately apply to the issues relating to licensing and approval granted to the insurance brokerage company by the National Bank of Serbia, that are not defined by this section of the Law.

2. Insurance Agency

Insurance Agency Activities

Article 87

Insurance agency activities are conducted by a legal entity or physical person engaged in insurance agency activities according to a contract on insurance agency activities, on behalf and for an insurance company which is incorporated according to the provisions of this Law.

Insurance Agencies And Agents

Article 88

Insurance agency activities, as the sole type of activity, are conducted by an insurance agency and physical person – contractor (hereinafter: insurance agent) licensed to engage in insurance agency activities in accordance with this Law.

In addition to the agency activities, the insurance agency and/or agent can engage in the activities of consultancy and assistance in processing claims and assessing risk and damages.

The insurance company keeps a list of insurance agencies and insurance agents that provide insurance agency services for this insurance company.

⁵ This provision ceases to be valid since the day of accession of the Republic of Serbia to the World Trade Organization

The National Bank of Serbia is entitled to inspect the list defined in paragraph 3 herein.

Limitation to Insurance Agency

Article 89

Insurance agencies and/or agents can engage in agency activities for one insurance company only.

Notwithstanding paragraph 1 herein, insurance agencies and/or agents can represent more than one insurance company based on their written consent.

Insurance agencies and/or agents are obliged to have the name of the insurance company they represent placed in a prominent position in their office.

Company Name of the Insurance Agencies and Agents

Article 90

The company name of the insurance agencies and/or agents must also include an indication of the type of activity - "insurance agency".

Insurance Agencies Incorporation

Article 91

The insurance agency is incorporated as a joint stock company or a limited liability company, subject to the law determining the legal status of companies, unless certain issues are regulated differently herein.

If the insurance agency is incorporated as a joint stock company, the pecuniary part of the core capital cannot be less than the CSD equivalent of EUR 25,000 calculated by the National Bank of Serbia median exchange rate on the day of payment.

If the insurance agency is incorporated as a limited liability company the pecuniary part of the core capital cannot be less than the CSD equivalent EUR 12,500 calculated by the National Bank of Serbia median exchange rate on the day of payment.

The insurance agency is obliged to ensure that its core capital remains at all times during its operations at a level not lower than the amount defined in paragraphs 2 and 3 herein, with at least 50% of the total amount of the core capital being pecuniary part, short-term securities and short-term investments.

The insurance agent must have at least the CSD equivalent of EUR 1,500 calculated by the National Bank of Serbia median exchange rate on the day of payment.

Shares

Article 92

Shares of the joint stock insurance agency are solely registered shares.

Application for an Insurance Agency License

Article 93

The founders or the persons they so authorize submit an application for a license to engage in insurance agency activities.

The following documents shall be attached to the application as defined in paragraph 1 herein:

- 1) Incorporation Act;
- 2) (*erased*);
- 3) Evidence that the pecuniary part of the core capital as defined in Article 91 of this Law has been deposited in the temporary account;
- 4) List of shareholders and/or stake owners with the data as defined in Article 39, paragraph 2 items 7) and 8) herein;
- 5) Business plan of the company;
- 6) Evidence that persons proposed for management members and members of the supervisory board meet the conditions as defined in Article 39 herein;
- 7) Evidence of adequate personnel and technical equipment capacity of the insurance agency;
- 8) Insurance preliminary contract or contract on representing the insurance company with the provision of the insurance company's right to consistent monitoring of the execution of the contract;
- 9) Evidence of relatedness based on capital or in another way with the insurance companies, insurance agencies or insurance brokerage companies.

The National Bank of Serbia specifies detailed conditions and methods of proving the conditions are met for the persons as defined in paragraph 2 item 6) herein and the necessary personnel and technical equipment capacity of the company.

Request for Granting a License to an Insurance Agent

Article 94

An insurance agent registers with the competent administration body based on a license to engage in insurance agency activities granted by the National Bank of Serbia and at their own request and/or at the request of an individual so authorized by them.

The following documents shall be attached to the application as defined in paragraph 1 herein:

- 1) Incorporation Act;
- 2) Evidence of the identity of the insurance agent (name, ID number and personal identification);
- 3) Evidence of the residency of the agent;
- 4) Evidence of the bank account with paid in amounts as defined in Article 91 paragraph 5 herein;
- 5) Evidence of agent's qualifications;

- 6) Evidence that for the past three years the agent has not been a management member, member of the supervisory board or individual endowed with special authorizations in a legal entity which is subject of initiated liquidation and/or bankruptcy proceedings, or which has undergone forced liquidation and/or bankruptcy proceedings;
 - 7) Evidence that the agent has not been unconditionally sentenced to imprisonment for more than three months;
 - 8) Evidence from the competent administration body on the amount of paid taxes, not more than 6 months old;
 - 9) Certified photocopy of the resolution of the competent administration body on tax amount determination and payment of taxes for the current and/or previous year;
 - 10) Evidence that the insurance agent is authorized for insurance agency;
 - 11) Business plan;
 - 12) Preliminary contract or contract on representing the insurance company with the provision of the company's right to consistently monitor the execution of the contract;
 - 13) Evidence of personnel and technical equipment capacity of the insurance agent;
 - 14) Evidence of relatedness, based on capital or in any other way with the insurance companies or insurance agencies or brokerage companies.
- The insurance agent must submit the registration with the competent administration body to the National Bank of Serbia in the course of seven days from the date of receipt of the registration.

Authorization to Conduct Insurance Agency Activities

Article 95

Insurance agency activities through insurance agencies and through insurance agents may be performed only by individuals employed at these entities, who are authorized by the National Bank of Serbia (hereinafter: authorized agents).

The National Bank of Serbia authorizes an individual to engage in insurance agency activities provided they fulfill the following conditions:

- 1) They reside in the territory of the Republic;
- 2) They are of age and fully capable of conducting business;
- 3) They have passed the examination for engaging in insurance agency activities;
- 4) A safety measure or a protective measure of prohibition from engagement in the activities has not been declared against them by a valid court decision;
- 5) *(erased)*;

The National Bank of Serbia prescribes the content and method of passing the examination defined in paragraph 2 item 3) of this Article.

A foreign physical person who meets the requirements of the law of their country of residence to engage in insurance agency activities can engage in such activities **under the condition of reciprocity**⁶.

The Right to Inspect the Insurance Agency Contract

Article 96

The agency contract is kept in the offices of the contracting parties.
The National Bank of Serbia is entitled to inspect the contract defined in paragraph 1 herein.

Monies And Payment Instruments

Article 97

The insurance agency and/or agent must remit to the insurance company monies and other payment instruments and collateral collected and/or taken over from the insured and/or the insurance contractor on behalf of the insurance company, not later than the following business day from the date of collecting or taking over, and/or to do so with other instruments of payment or collateral within the same deadline.

The insurance agency and/or agent collect insurance premiums according to the regulations and acts of the insurance company.

The insurance agency and/or agent are obliged to keep in a safe place the monies and payment instruments and collateral defined in paragraph 1 herein until the day of payment and/or remittance to the insurance company.

Responsibility for the Insurance Agency

Article 98

The insurance company shall be liable for the actions performed within the insurance agency activities.

The insurance agency or agent is liable to the insured for any damage caused by false representation or negligence of the insurance agency or agent, or for the damage caused due to the fact that the insurance agency or agent did not disclose their acting as an agency or agent.

The general manager of the insurance company and/or the individual endowed with special authorizations who signed the contract on agency is liable to the insurance company for the damage to the company arising from such contract.

Application of the Provisions on Insurance Brokerage Company

Article 99

The provisions of this Law on an insurance brokerage company are appropriately applicable to the issuing and revoking of the license and approval of the insurance agency and agent, to the authorization for conducting insurance agency activities, as well as the evidence of registration.

⁶ This provision ceases to be valid since the day of accession of the Republic of Serbia to the World Trade Organization

IV. AGENCY FOR PROVIDING OTHER INSURANCE SERVICES

Agency Activities

Article 100

An agency for other insurance services (hereinafter: Agency) is a legal entity conducting activities of determination and assessment of risks and damages, brokerage for the purpose of sale and the selling of the remains of insured damaged objects and conducting activities of providing other intellectual and technical services regarding insurance activities.

The agency is incorporated as a joint stock company or a limited liability company according to the law regulating the legal status of enterprises unless certain issues are differently defined by this Law for.

Prohibition of Conducting Insurance Activities and Insurance Brokerage and Agency Activities

Article 101

An agency cannot engage in insurance activities, brokerage activities, and agency activities.

Incorporation of an Agency

Article 102

If an agency is incorporated as a joint stock company, the pecuniary part of the core capital cannot be less than the CSD equivalent of EUR 25,000, calculated by the National Bank of Serbia median exchange rate on the day of payment.

Provided that the insurance agency is incorporated as a limited liability company the pecuniary part of the core capital cannot be less than the CSD equivalent of EUR 12,500 calculated by the National Bank of Serbia median exchange rate on the day of payment.

The agency shall ensure that its core capital at all times remains at a level not less than the amount as defined in paragraphs 1 and 2 herein, with at least 50% of the core capital in pecuniary part, short-term securities and short-term placements.

Application for a License for Providing Other Insurance Services

Article 103

The founders or the person so authorized by them submit the application for a license to engage in other insurance agency activities.

The following documents shall be attached to the application as defined in paragraph 1 herein:

- 1) Incorporation Act;
- 2) *(erased)*;
- 3) Evidence that the pecuniary part of the core capital as defined in Article 102 of this Law has been deposited in the temporary account;
- 4) Business plan of the agency;
- 5) List of shareholders and/or stake owners with the data as defined in Article 39 paragraph 2 items 7) and 8) herein;
- 6) Evidence that persons, candidates for management membership and members of the supervisory board meet the conditions as defined in Article 39 herein;
- 7) Evidence of adequate personnel and technical equipment capability of the agency;
- 8) Evidence that it is not related to other insurance companies or other insurance brokerage companies or insurance agencies according to the provisions of this Law and the law regulating the legal status of enterprises;

Special Purpose Department

Article 104

The activities as defined in Article 100 herein can be performed by the companies or other legal entities on the condition that they have a separately set up department with developed capacity in terms of personnel and technical equipment of providing other insurance services, and to place and maintain in a special account the amount in CSD equivalent to EUR 12,500, calculated by the National Bank of Serbia median exchange rate on the day of payment.

Application of the Provisions on Insurance Brokerage Company

Article 105

Issues of licensing, withdrawal of the license, and approval and evidence of entering into the agency register, register of companies and other legal entities as defined in Article 104 herein which are not regulated by the provisions in this section, shall be subject to the provisions of this Law regarding the issues of insurance brokerage companies.

V. ASSETS AND BUSINESS ACTIVITIES OF AN INSURANCE COMPANY

Insurance Premium

Article 106

An insurance premium consists of "functional" premium plus loading for management expenses.

“Functional” premium consists of technical premium and can contain the loss prevention loading if the loading is incorporated in the insurance premium.

Types of Technical Reserves

Article 107

An insurance company must determine technical reserves at the end of an accounting period for the purpose of settling obligations arising from insurance activities.

An insurance company engaged in one or more types of life insurance determines technical reserves for the following:

- 1) Unearned premiums;
- 2) Claims outstanding;
- 3) Bonus;
- 4) Mathematical reserve.

An insurance company engaging in one or more classes of non-life insurance determines technical reserves for the following:

- 1) Unearned premiums;
- 2) Claims outstanding;
- 3) Equalization of risks.

Technical reserves defined in paragraphs 2 and 3 of this Article are formed by the use of the principles of actuarial mathematics, insurance business practices rules and appropriate statistical data.

The National Bank of Serbia determines the detailed criteria and methods for calculating the technical reserves as defined in paragraph 4 herein.

Unearned Premiums

Article 108

Unearned premiums are formed by setting aside from the insurance premium total at the end of the current accounting period separately for each class of insurance, in proportion to the period of insurance.

Unearned premiums are a part of the premium used to cover the insurance obligations arising during the following accounting period.

Claims Outstanding

Article 109

Claims outstanding are formed in the estimated amount for incurred, reported but unpaid claims and incurred and unreported claims in the current period.

Provided that claims for certain classes of insurance are paid in monthly annuities, the claims outstanding are calculated in the capitalized amount of all future payments.

Bonus Reserves

Article 110

Bonus reserves are formed in the amount the insured are entitled to, based on bonus from a life insurance contract, provided that the insured have agreed to participate in the risk of the depositing and the investing of the technical reserve assets.

Mathematical Reserve

Article 111

The mathematical reserve is a technical reserve of an insurance company for payment of future obligations regarding life insurance.

The mathematical reserve is calculated for each life insurance contract by determining the obligation values at the time of calculating mathematical reserve.

Risk Equalization Reserves

Article 112

Risk equalization reserves are calculated from the expense of the insurance company, separately for each class of non-life insurance and are used for the temporal equalization of the course of damages in certain classes of insurance.

The reserves as defined in paragraph 1 herein are calculated on the basis of the standard deviation of the valid technical results during the current business year from the average realized technical result for each class of non-life insurance conducted by the insurance company during the relevant time period.

Liquidity Maintenance

Article 113

An insurance company is obliged to secure liquidity and timely settle claims and other company obligations.

An insurance company can deposit and invest its free assets, provided it maintains permanent liquidity and provides timely settlement of claims and other company obligations.

The insurance company is obliged to take the necessary measures while conducting financial activities with insurance assets to ensure safety of depositing and/or investing with the aim to prevent jeopardizing their market value and liquidity of the company while fulfilling its insurance contract and other obligations.

The National Bank of Serbia prescribes in detail the method of determining and monitoring the company's liquidity.

Deposit and Investment of Technical Reserves Assets

Article 114

The technical reserves assets can be deposited and invested in:

1) Securities issued by a state, the central bank, international financial organizations, and/or securities guaranteed for by one of such entities;

2) Bonds and/or other debt securities traded with in the organized stock market in the country;

3) Bonds and/or other debt securities not traded with in the organized stock market, provided that they are issued by a legal entity established in the country;

4) Stocks traded with in the organized stock market in the country;

5) Stocks not traded with in the organized stock market, provided that they are issued by a domestic legal entity, and provided that they are issued according to the law which regulates the stock market;

6) Deposits and investments in banks in the country;

7) Real estate and other real legal rights to real estate if they are registered in land books and/or in any other public books, provided they bring income and/or an income can be expected from them, and provided their purchase price is calculated according to the valuation given by a certified appraiser.

Technical reserves can be kept as cash in currency and coin or in bank accounts.

Notwithstanding paragraphs 1 and 2 herein, the National Bank of Serbia can determine other methods of deposits and investments, which are appropriate for depositing and investing in terms of safety, yield and market value.

Limitations for Specific Technical Reserves Investments and Deposits

Article 115

The National Bank of Serbia prescribes limitations to certain forms of deposits and investments referred to in Article 114 herein.

The insurance company is obliged to report quarterly to the National Bank of Serbia on the depositing and investing of assets as defined in item 1 herein.

Guarantee Reserve

Article 116

An insurance company must have a guarantee reserve in order to ensure the constant fulfillment of its obligations.

The guarantee reserve includes:

1) Core capital;

2) Reserves from bonus and reserves established by the Acts of the company;

3) Retained earnings from previous years up to 50%;

4) A portion of retained earnings from the current year, maximum 50% provided that the determined amount does not exceed the average value of the gross profit over the past three years and provided it does not exceed 25% of the guarantee reserve;

5) Revaluation reserve.

The National Bank of Serbia may also prescribe some other forms of assets comprising the guarantee reserve, as well as the amount of the stake of these assets in the guarantee reserve.

Reserves as defined in paragraph 2 items 2) and 5) herein cannot exceed 20% of the guarantee reserves.

Guarantee reserve is reduced for own share purchase, for loss from the previous years and loss from the current year.

The total amount of the guarantee reserve cannot be below the amount defined in Article 28 herein.

Article 117

(Erased)

Limitations to Certain Depositing and Investing of Guarantee Reserves Assets

Article 118

Insurance company shall deposit and invest guarantee reserve assets into forms prescribed by Article 114 of this law and into other forms determined by the company business policy.

The National Bank of Serbia may prescribe the highest amounts of certain depositing and investing referred to in paragraph 1 of this Article.

The insurance company is obliged to report quarterly to the National Bank of Serbia on the depositing and investing of assets as defined in item 1 herein.

Depositing and Investing of Insurance Funds

Article 119

Assets of the insurance company are deposited and invested within the republic.

An insurance company can deposit and invest abroad the assets defined in paragraph 1 herein in the amount up to 20% of the core capital, with prior approval of the National Bank of Serbia.

Solvency Margin

Article 120

The solvency margin of the insurance company is equivalent to the total assets reduced by intangible investment, prepayments and accrued income, loss, obligations (including life insurance mathematical reserves) and unearned positions (unearned premiums and claims outstanding).

An insurance company calculates the solvency margin separately for life insurance and non-life insurance.

Application of Premium Basis

Article 121

For the first year of operations, an insurance company shall calculate the solvency margin by application of the premium basis.

Guarantee of the Solvency Margin

Article 122

An insurance company is obliged to ensure that the solvency margin in its operation is constantly at the level calculated by the method specified by the National Bank of Serbia.

Amount of the Guarantee Reserve

Article 123

The guarantee reserve of an insurance company must always exceed the calculated solvency margin.

Measures for Ensuring Solvency

Article 124

If the guarantee reserve of an insurance company does not reach the calculated solvency margin, the insurance company must render a program of measures to balance the guarantee reserve and the solvency margin within 30 days from the date of determining the mismatch between the guarantee reserve and the solvency margin, and submit it to the National Bank of Serbia.

Rules on Risk Management

Article 125

An insurance company shall operate according to the rules of risk management if in its operations it provides:

- 1) Coinsurance and reinsurance of the excess of risk above the maximum self insured retention as defined in Article 15 herein;
- 2) The settlement of claims, contracted insured sums and fulfillment of other obligations from the basis of insurance as defined in Articles 21 and 22 herein;
- 3) Core capital is not less than the amount defined in Article 28 herein;
- 4) Technical reserves as defined in Article 107 herein;
- 5) Liquidity of the company as defined in Article 113 herein;
- 6) Depositing and investing of the technical reserves as defined in Articles 114 and 115 herein;
- 7) Guarantee reserves as defined in Article 116 herein;
- 8) Depositing and investing of the guarantee reserves as defined in Article 118 herein;
- 9) Solvency margin as defined in Articles 120 and 122 herein;
- 10) Other activities to fulfill the obligations as defined in items 1) to 9) herein as well as other obligations prescribed by this Law regarding the risk management.

Income

Article 126

Insurance company income includes insurance premiums and active reinsurance operations premiums and other insurance activities income, income from financing, and non-operational and extraordinary income.

Expense

Article 127

Insurance company expenses are expenses for damages and contracted insured sums, expenses for the damages on the basis of active reinsurance operations, expenses for premiums on the basis of passive reinsurance operations and other expenses arising from insurance activities, expenses for insurance and reinsurance activities (expenses for conducting insurance and reinsurance activities) as well as the expenses of financing, non-operational expenses and extraordinary expenses.

Expenses for damages defined in paragraph 1 herein include the costs of determining and assessing the damage, the costs of realizing recourse claims, court fees and commissions in proceedings related to the obligations arising from insurance, court expertise costs and other costs related to claim settlement.

Insurance company expenses are also:

- 1) Reserves for insurance, coinsurance and reinsurance claims;
- 2) Setting aside from the life insurance premium for the mathematical reserve;
- 3) Setting aside for the insured contribution in order to increase the insured sums and similar life insurance payments, according to life insurance terms and conditions;

- 4) Setting aside for risk equalization reserves.

Separation of Insurance Acquisitions Costs

Article 128

The insurance acquisition costs can be separated in proportion with the unearned premium and premium total in compliance with the law.

Determining of Operating Results

Article 129

The operating result of a joint stock insurance company is the realized profit or loss.
The mutual insurance company identifies the realized surplus or deficit.

Disposition of the Realized Profit and/or Surplus

Article 130

An insurance company pays income i.e. surplus taxes from the realized profit and/or surplus. The remaining profit and/or surplus presents retained earnings and/or surplus.

An insurance company allocates the retained earnings and/or surplus from previous years in the following sequence:

- 1) For covering the loss and/or deficit from previous years;
- 2) For setting aside for the reserves;
- 3) For other purposes as defined by the company's Articles of Association.

Loss and/or Deficit Coverage Sequence

Article 131

An insurance company covers the loss and/or deficit from the previous years in the following order from:

- 1) Retained earnings and/or surplus;
- 2) Reserves;
- 3) Core capital.

Before using the core capital, a mutual insurance company shall cover the deficit from the additional contribution of the members (the insured) or by the proportional reduction of claim compensation to all members (the insured), and/or simultaneously from the additional contribution and proportional reduction of claim compensation.

Program of Measures for Loss and/or Deficit Coverage

Article 132

An insurance company is obliged to cover the previous year's uncovered loss and/or deficit in the current business year, as well as to provide the amount of core capital used to cover the loss and/or deficit if the core capital has been reduced below the amount as defined in Article 28 herein.

The insurance company informs the National Bank of Serbia on the accrued loss and/or deficit and submits the program of measures to cover the loss and/or deficit on the date of establishing the loss and/or deficit, and at the latest within 15 days from the date for submission of the financial report to the legal entity authorized to keep the register of safety and soundness of the legal entities according to the law.

Except for paragraph 2 of this Article, the insurance company covering the loss and/or deficit from the retained earnings and/or surplus or from the core capital exceeding the amount as defined in Article 28 herein, is not obliged to make and submit the program of measures to cover the accrued loss and/or deficit.

At the expense of the insurance company, the National Bank of Serbia shall nominate an expert who shall control the implementation of the program of measures to cover the loss and/or deficit and inform the company thereon.

Upon expert proposal, the National Bank of Serbia may order undertaking of measures to cover the loss and/or deficit.

Determining Profit and/or Surplus and Loss and/or Deficit Per Class of Insurance

Article 133

An insurance company engaged in life insurance activities shall define the profit and/or surplus and loss and/or deficit separately for the voluntary pension insurance, separately for other types of life insurance and separately for reinsurance activities.

An insurance company conducting non-life insurance is obliged to define separately the profit and/or surplus and loss and/or deficit for insurance referred to in Article 28, paragraph 1, item 2) sub item (1) to (3) and separately for the reinsurance activities.

The Obligation to Draft Financial and Annual Operational Report

Article 134

An insurance company is obliged to draft financial and annual operating reports according to the law.

The chart of accounts and contents of certain accounts in the chart of accounts for the insurance company is prescribed by the National Bank of Serbia.

Forms for financial reports needed for uniform information and statistical processing, and/or minimum contents and the form of data within are prescribed by the National Bank of Serbia.

VI. INTERNAL AUDIT

Internal Audit

Article 135

An insurance company is obliged to organize an independent internal audit which is autonomous and independent in carrying out its tasks.

A special purpose department within the company specified in the Articles of Association conducts the internal audit of the insurance company.

The internal audit unit of the insurance company reports directly to the supervisory board of the insurance company.

Insurance company bodies and the employees in the insurance company must not prevent, limit or impede the reporting on the findings and assessments of the persons in charge of internal audit activities in the insurance company.

Internal Audit Rules of Procedure

Article 136

Internal audit activities of an insurance company are defined by the rules of procedure on internal audit rendered by the board of directors of the company.

Internal Audit Tasks

Article 137

Internal audit of the insurance company shall continuously and comprehensively control all activities of the company with special attention to:

- 1) Continuous monitoring, checking and improvement of the company system of operation;
- 2) Identification of the risks the company is exposed to or can be expected to be exposed to;
- 3) Assessment and evaluation of the established internal control system;
- 4) Issuing the appropriate recommendations for elimination of the observed irregularities and deficiencies and for improving the applied procedures and operation systems.

The system of internal control defined in paragraph 1 item 3) herein implies specific procedures, acts and actions which the insurance company's management is obliged to organize in a way that suits the nature, complexity and risk of the business as well as changes in the conditions of insurance company's activities that can be predicted aimed to prevent irregularities and illegalities in the company's activities.

Internal audit controls and assesses:

- 1) Adequacy and application of prescribed policies and procedures for risk control;
- 2) Accounting procedures and organization of conducting accounting activities;
- 3) Reliability and timeliness of financial and management information.

An insurance company is obliged to regulate the internal audit function according to the rules of procedure of the internal audit and the internal audit business program, according to the professional principles and internal audit practices, international standards for internal audit and ethical principles of internal audit.

Internal Auditors

Article 138

For internal audit activities the insurance company must have at least one employee.

An insurance company shall define the conditions for the nomination and dismissal of an internal auditor as well as the organizational position of other internal audit department employees.

The persons in charge of internal audit cannot conduct any other activity in the insurance company, are not authorized nor liable for preparing acts or other documentation which can be a subject for the internal audit, nor can they be members of the management or the supervisory board of the company.

The internal auditor drafts a report on each completed internal audit.

The internal auditor is in charge of the internal audit in the manner prescribed by this Law.

Internal Audit Program And Annual Plan

Article 139

The supervisory board of the insurance company adopts the program and annual plan for the internal audit of an insurance company.

The business plan for the internal audit specifically regulates: risks defined clearly and with great detail, business areas in which the risks could arise, the goals and tasks of the internal audit, as well as the priorities in performing the function of internal audit, frequency of the internal audit activities, manner of conducting the program of internal audit and the liability of the internal auditor along with the realization of the program and the degree of comprehensiveness and detail of the internal audit in certain fields of the insurance company's activities.

The annual business plan for the internal audit determines the planned activities for the internal audit, and specifically the business activities in which the internal auditor shall perform business control and the deadlines for executing the planned activities.

Apart from the internal audit as defined by the program and plan in paragraph 1 herein, the internal audit performs a single audit upon the request of the supervisory board and/or the company's management.

Internal Audit Reporting

Article 140

The internal audit of the insurance company shall issue semiannual and annual reports on internal audit.

Semiannual reports on the internal audit include:

- 1) A description of the conducted controls of business activities (audit subject);
- 2) An evaluation of the method of processing documents and the procedure for concluding insurance contracts and issuing insurance policies and claim settlements;
- 3) Illegal actions or other irregularities determined by the internal audit during the process of audit with an explanations and the observed irregularities consequences and indication of persons accountable;
- 4) Proposed measures and deadlines for the elimination of the determined irregularities;
- 5) Other findings, assessments and proposals related to the elimination of the irregularities identified by the internal audit.

The annual internal audit report also includes:

- 1) A report on realization of the program and annual plan for internal audit activities;
- 2) A summary of significant findings of the conducted audit;
- 3) An evaluation of measures taken to eliminate the defined irregularities.

The internal audit simultaneously submits the report defined in paragraph 1 herein to the supervisory board and to the management of the insurance company.

The board of directors of the insurance company reviews the annual report on the internal audit with the supervisory board opinion, together with the financial statements of the company.

The board of directors of the insurance company is obliged to deliver to the general assembly the annual report on internal audit, with the opinion of the supervisory board, as well as a report on the measures taken to eliminate the irregularities identified by the internal audit and supervisory board.

Providing Information to Company Management and Supervisory Boards

Article 141

Except for Article 140 herein, if the internal audit determines that the insurance company violates the rules on risk management and that is why the company is threatened by illiquidity or insolvency or determines that the safety of operations and/or the interests of the insured are jeopardized, the internal audit is obliged to immediately, and not later than 24 hours since the observation, inform the company's management and supervisory board of the insurance company.

If the internal audit determines that the management and/or key functionaries or persons endowed with special authorizations of the insurance company violate the rules on risk management, it shall immediately, not later than 24 hours since observation, inform the supervisory board of the company.

VII. SUPERVISION OF INSURANCE ACTIVITIES

1. Scope of Activities of the National Bank of Serbia

Tasks of the National Bank of Serbia

Article 142

The National Bank of Serbia supervises insurance activities primarily to protect the interests of the insured and other insurance product consumers.

Besides the supervision defined in paragraph 1 herein, the National Bank of Serbia licenses insurance, reinsurance, brokerage, agency, and other activities directly related to insurance, approves the regulations and activities regulated by this Law, renders regulations regulated by this Law, processes statistical data and other information, keeps records determined by this Law and examines complaints of the insured, insurance product consumers and third parties that suffered damage, for the business operation of insurance companies and other entities conducting insurance business.

The National Bank of Serbia cooperates with other supervisory bodies in the country and abroad and conducts other activities determined by this and other laws.

Regulations on Enforcement of the Law

Article 143

The National Bank of Serbia renders regulations to enforce the provisions of this Law.

Protection of the Rights of the Insured, Insurance Product Consumers and Third Parties that Suffered Damage

Article 144

The National Bank of Serbia mediates in settling claims for damages in order to prevent insurance disputes, discusses complaints of the insured, insurance product consumers and third parties that suffered damage and protects the rights and interests of these entities.

The National Bank of Serbia regulates the method of protection of the rights and interests of the entities defined in paragraph 1 herein.

Report on the Insurance Market Conditions

Article 145

The National Bank of Serbia shall submit a report on the insurance market to the Parliament of Serbia at least once a year, specifically including the following information: the scope of activities of the insurance companies according to the classes of insurance, level of efficiency in claim settlement, amount and capital structure, trends in realized liquidity and solvency, realized efficiency in activities (productivity, economic aspects and profitability) and other issues relevant to the evaluation of the insurance market.

Resolution of the National Bank of Serbia

Article 146

By resolution, the National Bank of Serbia renders decisions on issuing, changing and/or withdrawing the license, issuing and/or withdrawal of approvals, measures ordered while supervising, and on other issues within the competence of the National Bank of Serbia.

Resolutions are in writing.

Resolutions are final and not subject to complaint, but they are subject to the initiation of administrative proceedings.

The resolutions on issuing and withdrawing licenses as defined in paragraph 1 herein, are published in the "the Republic of Serbia Official Gazette".

Data Registry

Article 147

The National Bank of Serbia keeps the data registry of the insurance companies it licensed to engage in insurance activities, including the information about the founders, qualified stakeholder, management members and members of the supervisory board of the company as well as the business activities and measures taken while supervising the companies' activities.

In addition to the registry defined in paragraph 1 herein, the National Bank of Serbia keeps data records on insurance brokerage companies and insurance agencies and agents it licensed for engagement in insurance brokerage and agency, records of licenses granted to certified brokers and certified agents, records of licenses granted to provide other insurance services, records of legal entities which perform the activities of brokerage and agency according to a separate law, as well as records of licenses issued to certified actuaries.

The changes of the entered data shall be entered into registers defined in paragraphs 1 and 2 herein.

The National Bank of Serbia specifically defines the content and method of keeping registers defined in paragraphs 1 and 2 herein.

2. Supervision

Subjects of Supervision

Article 148

The National Bank of Serbia shall supervise the activities of the insurance companies as well as the activities of the insurance brokerage companies and insurance agencies and/or agents, companies providing other services in insurance, companies and other legal entities which have a separate department for providing other services in insurance and legal entities which perform the activities of insurance brokerage and agency in accordance with a separate law.

Except for paragraph 1 herein, the National Bank of Serbia is entitled to supervise the activities of the legal entities related to entities and persons as defined in paragraph 1 herein, or to inspect the books of all participants in the supervised activity, should this be necessary for the purpose of supervising the insurance companies.

If another supervisory authority is in charge of supervising the legal entities defined in paragraph 2 herein, the National Bank of Serbia shall supervise the activities of the entity in cooperation with that authority.

While conducting the supervision defined in paragraph 1 herein, the National Bank of Serbia cooperates with local and international supervisory and other competent authorities and with international organizations.

Subject of Supervision

Article 149

The supervision that the National Bank of Serbia conducts over business activities of insurance companies includes:

- 1) Conducting insurance activities in compliance with the granted license;
- 2) The conformity of the general regulations and business policy acts with the law and other regulations;
- 3) Supervision of the company legal compliance;
- 4) The liquidity and solvency in engaging in insurance activities;
- 5) The method of defining technical reserves;
- 6) The execution of the obligations arising from the insurance contracts;
- 7) The depositing and investing of insurance funds according to the law;
- 8) Drafting of accounting books and other documents and the maintenance of business books and drafting financial reports according to the law, other regulations, general acts and business policy acts of the company;
- 9) The implementation of the measures ordered by the National Bank of Serbia ;
- 10) The internal audit implementation methodology;
- 11) Meeting the conditions for the founders, qualified stakeholders, management members and supervisory board members according to this Law;
- 12) The personnel and technical equipment capacity of the company;
- 13) The commissions for brokerage and agency in insurance;
- 14) The management and supervisory board costs;
- 15) The uncollected premiums and company claims;
- 16) The coinsurance and reinsurance business policy;
- 17) Other issues defined by the law.

Method of Supervision

Article 150

The supervision over insurance companies is performed:

1) By off site control and/or by gathering and checking the reports and information of the insurance companies they must submit to the National Bank of Serbia according to the provisions of the law;

2) By on site control over the insurance companies' business activities;

Based on the conducted supervision defined in paragraph 1 herein, the National Bank of Serbia orders measures of supervision according to the provisions of this Law and files complaints to the competent authorities in the case of reasonable doubt that the determined irregularities and illegalities have characteristics of criminal acts, economic offenses or violations.

The National Bank of Serbia prescribes in detail the manner of supervision referred to in paragraph 1 of the present Article.

Insurance Inspectors

Article 151

The National Bank of Serbia's authorized person - insurance inspector - carries out supervision over the activities of insurance companies.

In addition to the general requirements specified in the law, an insurance inspector can be a person who also satisfies the following requirements:

- 1) Has a university degree in economics, or law;
- 2) Is an insurance expert;
- 3) Has at least three years working experience in financial-accounting, actuarial or other appropriate insurance activities;
- 4) Has not been sentenced unconditionally to imprisonment for more than six months;
- 5) No criminal charges are filed against them.

Official Identification

Article 152

When conducting the activities defined in Article 151 paragraph 1 herein, the insurance inspector must have an official identification identifying their official capacity.

The National Bank of Serbia defines the form of the insurance inspector's official ID, the method of issuance and usage of the identification.

Authorization of the Insurance Inspector

Article 153

While conducting supervision over the insurance company's business activities, the insurance inspector is authorized:

1) To have access to general acts, acts of business policy and the business books of the insurance company and all the other acts, documentation and data regarding the company's activities in the republic and abroad;

2) To request management members, and members of the supervisory board, internal auditor, certified actuary and key functionaries in the company to provide information and explanations within the scope of their activities related to the business operations of the company.

3) To temporarily confiscate IDs and case documents provided it is established they have been used and/or planned to be used to commit a criminal act, economic offense or violation.

Tasks of the Insurance Inspector

Article 154

As defined in Article 149 herein, while supervising the activities of insurance companies by a comprehensive examination, the insurance inspector must specifically ascertain:

- 1) The regularity of calculation of the technical reserves funds (Articles 107 to 112 herein);
- 2) The regularity of depositing and investing of technical reserves (Articles 114 and 115 herein);
- 3) The provision of the company guarantee reserve (Article 116 herein);
- 4) The regularity of depositing and investing of the guarantee reserves funds (Article 118 herein);
- 5) The provision of the solvency margin (Article 122 herein);
- 6) The regularity of damage estimates and timely claim settlement;
- 7) The regularity of the implementation of the insurance terms and premium tariffs and other business policy acts;
- 8) The accuracy of financial and other reports drafted by the insurance company according to the law.

The insurance inspector performs the supervision as defined in paragraph 1 herein as ordered by the Governor of the National Bank of Serbia or the person employed at the National Bank of Serbia, authorized by them.

While performing the supervision, the insurance inspector:

- 1) Drafts a report of the completed examination process;
- 2) Proposes measures to be taken in order to eliminate determined illegalities and irregularities.

The report defined in paragraph 3 item 1) herein is submitted to the insurance company subject of supervision not later than 8 days from the day of the performed supervision.

An insurance company can submit objections to the report in the course of 8 days from the date of receipt. The insurance inspector answers to the objections in writing and if the objections are justified, amends the report, i.e. official note.

Obligations of the Insurance Company

Article 155

Upon request from the insurance inspector, the insurance company, shall:

1) Enable the inspector to control the business activities at the head office and in any other premises where the insurance company and/or other entity, upon its authorization, conducts the activities being supervised by the National Bank of Serbia;

2) Enable the inspector to control the business and other documentation, the efficiency and accuracy of the business and other books and other records, the accuracy and preciseness of financial statements and annual reports of the company operations as well as reports and information submitted to the National Bank of Serbia;

3) Present the accounting and other documents, business books or certain parts of business books and other records;

4) Provide the excerpt of the information on the medium requested by the insurance inspector as well as provide comprehensive access to the electronic system of accounting information media.

The insurance inspector must make all efforts to cause as little disturbance of the company's regular activities as possible while performing the supervision.

3. Information Provided to the National Bank of Serbia by the Insurance Company

Regular Reporting by the Insurance Company

Article 156

The insurance company submits to the National Bank of Serbia:

- 1) The financial report and annual report, with the opinion of the certified actuary and supervisory board with explanation;
- 2) Copy of the report on performed audit, with comment on the report by the company's general assembly and supervisory board;
- 3) Report on implementation of coinsurance and reinsurance policy, with the opinion of the certified actuary;
- 4) Business policy plan;
- 5) Articles of Association and other general acts and their amendments;
- 6) Business policy acts and their amendments with the opinion of the certified actuary
- 7) Information on changes in the insurance company capital structure;
- 8) Information on change of certified actuary;
- 9) Evidence of changes of the data entered into register;
- 10) Information on summoning the general assembly meetings and minutes from the sessions;
- 11) Other information, reports and data defined by the law.

The insurance company shall submit the documents and data defined in paragraph 1 items 1) to 3) herein, within 15 days from the date of adoption and no later than April 30th of the current year for the previous year, and documents, data and information defined in paragraph 1 items 4) to 7) herein within 15 days from the date of rendering and/or changing, and other documents, data and information - within the prescribed deadlines.

Quarterly Report to the National Bank of Serbia

Article 157

The insurance company must report to the National Bank of Serbia quarterly on the following items:

- 1) Capital structure with changes of shareholders;
- 2) Coinsurance and reinsurance of the excess of risk over maximum self-retention with the opinion of the certified actuary;
- 3) Amount and structure of the collected premiums, by the classes of insurance;
- 4) Number and amount of reported and settled claims and court claims with the opinion of the certified actuary;
- 5) Technical reserves, depositing and investing of the technical reserves assets with the opinion of the certified actuary;
- 6) Condition and changes on other property;
- 7) Company liquidity with the opinion of the certified actuary;
- 8) Guarantee reserve, depositing and investing of the guarantee reserve with the opinion of the certified actuary;
- 9) Solvency margin with the opinion of the certified actuary;
- 10) Internal audit report with the evaluation of the supervisory board;
- 11) Other prescribed information.

Reporting Upon the Request of the National Bank of Serbia

Article 158

Upon the request of the National Bank of Serbia, insurance companies shall submit other reports, information and data significant for the supervision by the National Bank of Serbia.

Contents of the Reports and Information

Article 159

The National Bank of Serbia specifically defines the contents of information and data as defined in Articles 156 to 158 of this Law and the manner of their submission.

Statistical Data

Article 160

The insurance company provides the National Bank of Serbia with statistical and other data by groups and classes of insurance within deadlines and according to the manner defined by the National Bank of Serbia.

Processed information defined in paragraph 1 herein is used for calculating the technical bases and premium tariffs and for conducting actuarial activities.

The National Bank of Serbia makes the information defined in paragraph 2 herein public.

4. Measures of Supervision

4.1. Types of the Measures

Article 161

While performing the supervision over an insurance company the National Bank of Serbia may:

- 1) Order measures to eliminate illegalities and irregularities;
- 2) Order measures due to violating the rules on risk management;
- 3) Order the transfer of the insurance portfolio to another insurance company;
- 4) Take over control of the insurance company;
- 5) Withdraw the license to engage in certain or all licensed insurance activities;
- 6) Order interim measures;
- 7) Propose measures for the management members, members of the supervisory board, key functionaries and qualified stakeholders.

If it is determined by this Law that the National Bank of Serbia can render more than one measure it shall first render the measure which is least adverse for the company.

Except for paragraph 2 herein and if, due to the behavior of the supervised entity, irreparable damage can be inflicted, the National Bank of Serbia shall undertake another appropriate measure.

4.2. Measures for the Elimination of Irregularities and Illegalities

Conditions for Prescribing Measures

Article 162

The National Bank of Serbia shall order an insurance company to eliminate the illegalities and irregularities if it establishes that:

- 1) It ceases to fulfill one of the prescribed requirements for carrying out of insurance activities;
- 2) It carries out activities not permitted according to this Law;
- 3) It acts contrary to the rules on keeping business books and business reports, internal audits and/or financial report audits;
- 4) It violates the obligation of providing the information and reporting to the National Bank of Serbia;
- 5) A management member or a member of the supervisory board does not meet the requirements determined by this Law;
- 6) It acts against the provisions of law, other regulations and general acts regulating the insurance company's business activities;
- 7) It acts contrary to insurance professional standards, sound business practices and business ethics towards its insured and other consumers of insurance products;
- 8) It does not meet other obligations prescribed by the law.

The National Bank of Serbia prescribes the measures defined in paragraph 1 herein by a resolution, and sets the deadline within which the determined illegalities and irregularities must be eliminated.

Report on the Implementation of Measures

Article 163

An insurance company is obliged to eliminate the determined illegalities and irregularities and submit to the National Bank of Serbia a report on the implementation of the prescribed measures within the deadline defined in Article 162 paragraph 2 herein.

The report as defined in paragraph 1 herein is submitted with the documents and other evidence that illegalities and irregularities have been eliminated.

Based on the report from paragraph 1 herein, the National Bank of Serbia may perform another examination of the insurance company's business activities to the extent necessary to establish if the illegalities and irregularities have been eliminated.

Should the report on the implementation of the measures for eliminating illegalities and irregularities be incomplete, the National Bank of Serbia may order the insurance company to supplement the report and define the deadline for submitting it.

If, based on the report defined in paragraphs 1 and 4 herein, it is established that the illegalities and irregularities have not been eliminated, then the National Bank of Serbia shall prescribe other measures according to the law.

4.3. Measures for Breaching the Rules on Risk Management

Article 164

If the National Bank of Serbia establishes that an insurance company is in violation of the risk management rules defined in Article 125 herein, it shall order for the insurance company to provide:

- 1) Coinsurance and reinsurance for the excess of risk over the maximum self-insured retention;
- 2) Claim settlement and contracted sums and the fulfillment of other insurance obligations;
- 3) Prescribed amount of the core capital;
- 4) Prescribed technical reserves;
- 5) Company's liquidity;
- 6) Depositing and investing of technical reserves in the prescribed amount and structure;
- 7) Guarantee reserve;
- 8) Depositing and investing of guarantee reserves according to the prescribed amount and structure;
- 9) Solvency margin;
- 10) Other activities in order to fulfill the obligations as defined in items 1) to 9) of this paragraph as well as other obligations determined by this Law regarding risk management;

In addition to the measures defined in paragraph 1 herein, regarding the insurance company, the National Bank of Serbia may:

- 1) Prohibit concluding new insurance contracts for certain or all classes of insurance or expanding the obligations already undertaken;
- 2) Order the insurance company to cancel insurance, insurance brokerage and/or agency contracts if their further validity would cause damage to the company;

- 3) Limit the level of risk which it can take over in insurance;
 - 4) Prohibit certain payments;
 - 5) Prohibit transactions with certain shareholders, management members, members of the supervisory board, related parties or other legal entities;
 - 6) Order the nomination of an advisor for the areas of activity where the illegalities and irregularities have been determined;
 - 7) Order changes in organization of the business activities;
 - 8) Order collecting of the receivables;
 - 9) Temporarily prohibit and/or limit the disposal of property;
 - 10) Order the updating of the business books, list of property and obligations, adjustment of claims and obligations, assessment of the balance and off-balance positions;
 - 11) Order the improvement of the electronic data processing system;
 - 12) Order the improvement of the organization and the method of internal audit;
 - 13) Order other measures according to the law.
- The National Bank of Serbia prescribes the measures defined in paragraphs 1 and 2 herein by a resolution, and determines the deadline within which the irregularities related to risk management must be eliminated.
- The insurance company is obliged to eliminate the established irregularities within the prescribed deadline defined in paragraph 3 herein and submit to the National Bank of Serbia a report on implementing the prescribed measures.
- The report defined in paragraph 4 herein is subject to Article 163 herein.

4.4. Insurance Portfolio Transfer

Article 165

When the National Bank of Serbia determines illegalities and irregularities in the activities of an insurance company that might jeopardize, or already have jeopardized its ability to meet the obligations arising from insurance activities, the National Bank of Serbia may order the company to transfer its insurance portfolio to another insurance company.

The transfer of the insurance portfolio is conducted according to the provisions of Articles 209 to 213 herein.

4.5. Taking Over Control of Insurance Company Business Activities

Article 166

The National Bank of Serbia may take over the control of the business activities of an insurance company in the following cases:

- 1) The insurance company has failed to settle its obligations from the contracts on insurance or will not be able to settle the due obligations;
 - 2) The funds of the insurance company are not sufficient to ensure adequate protection for the insured or creditors;
 - 3) A portion of the assets on the books or records of the insurance company or a portion of the assets managed by the insurance company is not assessed or presented in a prescribed manner;
 - 4) The insurance company's capital is at such a level or has been decreasing to such an extent that this might adversely affect the insured or creditors;
 - 5) The insurance company determines or presents business results in an irregular or illegal way;
 - 5a) The operations of the company bodies are disabled due to the ordered measure from Article 37, paragraph 2 herein;
 - 6) The insurance company fails to operate according to the prescribed measures of the National Bank of Serbia;
- Taking over of the control of business activities of an insurance company cannot exceed one year.

Resolution on Taking Over Control of Insurance Company Business Activities

Article 167

The resolution of the National Bank of Serbia on assuming the control of business activities of an insurance company defines taking over of the control over business activities of the company and includes name, family name and the ID number of the receiver as well as the period of the control over the business activities of the company.

By the resolution defined in paragraph 1 herein, two or more receivers may be nominated and will comprise the receivership of the insurance company (hereinafter referred to as: receivers).

The Receivership Authorities And Responsibilities

Article 168

Upon rendering the resolution of the National Bank of Serbia on taking over the control of business activities of an insurance company, the authorities of the company's management shall pass onto the receivers and the authorities of the other bodies shall be suspended.

The decisions within the authorities of the insurance company's management are rendered by the receivers, based on the consent of the National Bank of Serbia.

The receiver shall undertake measures to ensure the reestablishment of the stability and liquidity of the insurance company.

Receivership Reports

Article 169

At least quarterly, the receiver shall report to the National Bank of Serbia on the financial status and business condition of the insurance company.

Within nine months from the nomination, the receiver shall submit to the National Bank of Serbia a report with an assessment of the economic stability of the insurance company and its future operating potential. The report shall include:

- 1) An assessment and the consequences of undertaking the loss coverage of the insurance company by its shareholders;
- 2) The possibility of eliminating the uncovered loss of the insurance company;

- 3) The unreported expenses that might affect the obligations of the insurance company;
- 4) An assessment of possible measures to eliminate the company's illiquidity, with an assessment of the costs of its implementation;
- 5) An assessment of the reasons for initiating the liquidation and/or bankruptcy proceedings in the insurance company.

Core Capital Increase to Ensure the Insurance Company Economic Stability

Article 170

Should the National Bank of Serbia, based on the receiver's report, estimate that, in order to ensure the solvency margin of the insurance company, and/or to eliminate the reasons for the company's illiquidity or insolvency, it is necessary to appropriately increase the core capital through new investments in monies, it may order the receiver to summon a session of the shareholders' General Meeting and propose a rendering of the decision on core capital increase.

The receiver shall announce the general assembly session to decide on the core capital increase defined in paragraph 1 herein no later than eight days starting from the day of receiving the National Bank of Serbia order.

When summoning the general assembly session, shareholders must be warned about the legal consequences defined in Article 169, paragraph 2, item 1) herein.

Assessment of the Receivership Results

Article 171

The National Bank of Serbia assesses the results of the receiver's activities at least quarterly.

The National Bank of Serbia passes the final assessment of the results of the receiver's activities no later than 60 days after receiving the report defined in Article 169 paragraph 2 herein.

If the National Bank of Serbia estimates that the economic position of the insurance company has improved during the receivership, in such a way as to allow the company to reach the solvency margin defined in Article 122 herein and that the company regularly settles its due obligations, it shall render a resolution on the termination of the receivership and the dismissal of the receiver.

If the National Bank of Serbia estimates that during the receivership the economic position of the insurance company has not improved, in such a way as to allow the company to reach the solvency margin defined in Article 122 herein and/or that the company is not able to regularly settle its due obligations, it shall render a resolution on withdrawal of the license to engage in insurance activities and initiate liquidation and/or bankruptcy proceedings against the insurance company.

Termination of Receivership

Article 172

The receivership of an insurance company shall terminate on the date:

- 1) When the insurance company receives the resolution on the termination of the receivership by the National Bank of Serbia;
- 2) After 12 months from the introduction of the receivership;
- 3) When the resolution on initiation of the liquidation and/or bankruptcy proceedings is rendered.

Registration of the Receivership

Article 173

The receiver is recorded in the register of the competent body, according to the law.

Information about the receiver recorded in the register defined in paragraph 1 herein shall include information on the receiver, their dismissal and the termination of the receivership.

4.6. License Revocation

Possibility of License Revocation to Engage in Insurance Activities

Article 174

The National Bank of Serbia is entitled to withdraw from an insurance company the license to engage in certain types or all insurance activities if:

- 1) Irregularities and illegalities are determined and further engagement in insurance activities would jeopardize the interest of the insured and other consumers of insurance products;
- 2) The company concludes an insurance brokerage and agency contract with an insurance brokerage company and/or insurance agency or insurance agent not licensed by the National Bank of Serbia ;
- 3) The insurance company does not engage in its activities according to the rules of the insurance profession, sound business standards and business ethics;
- 4) Reasons occur for withdrawal of the approval of company acts and operations;
- 5) The company is engaged in its activities in such a way as to violate the insured and insurance consumers' rights or the rights of the third parties that suffered damage and/or it does not pay claims or fulfill other obligations;
- 6) The company has presented false business information or information that might deceive the insured, insurance product consumers and/or third parties that suffered damage;
- 7) The company is insolvent based on the report by the certified actuary and/or certified auditor or the findings of the National Bank of Serbia.
- 8) The company adopts the financial statements and annual report and/or adopts the business policy acts without previously considering the opinion of the certified actuary;
- 9) The insurance company did not enable supervision in the prescribed manner;
- 10) The insurance company did not enable the certified auditor to perform the audit in the prescribed manner;
- 11) The insurance company did not provide the conduct of certified actuary activities in the prescribed manner;

12) The insurance company did not submit the reports, documents and other information in the manner and within the deadlines determined by this Law;

13) The insurance portfolio was transferred without the approval of the National Bank of Serbia;

14) The insurance company did not implement the measures prescribed by the National Bank of Serbia within the prescribed deadline and/or did not eliminate the reasons for undertaking such measures;

15) *ceased to be in effect.*⁷

The withdrawal of the license defined in paragraph 1 herein does not relieve the insurance company from settling its obligations under the concluded insurance contracts.

Revocation of License for Carrying out Insurance Activities

Article 175

The National Bank of Serbia shall withdraw the license for carrying out insurance activities:

- 1) If the license has been obtained on the grounds of false and inaccurate information;
- 2) If the insurance company ceases to meet the requirements for obtaining the license for carrying out of insurance activities;
- 3) If the number of shareholders of the joint stock insurance company and/or the number of members (the insured) of the mutual insurance company has decreased below the number defined in Articles 26 and/or 65 herein and has not increased up to the prescribed number within six months.
- 4) If the insurance company engages in activities not licensed by the National Bank of Serbia except for the Article 25 herein;
- 5) If the insurance company does not maintain the core capital at the prescribed amount, as defined in Article 28 herein;
- 6) If the insurance company does not set aside, accumulate and maintain technical reserves prescribed by the law;
- 7) If the insurance company does not ensure the safety of depositing and investment of the insurance assets and/or does not maintain their real value in accordance with Article 113 herein;
- 8) If the insurance company has failed to adopt or does not enforce the program of measures to cover the loss and/or deficit according to Article 132 herein;
- 9) If the insurance company has failed to implement the measures as defined in Article 164 paragraph 1 herein in due time;
- 10) If the insurance company has failed to pay its contribution to the guarantee fund or does not fulfill the obligations based on the international insurance card or does not fulfill other obligations determined by the law or international contracts;
- 11) If the receivership have failed to provide the stability and liquidity of the company.

The withdrawal of the license defined in paragraph 1 herein does not relieve the insurance company from settling its obligations under the concluded insurance contracts.

Proposal to Initiate Liquidation and/or Bankruptcy Proceedings

Article 176

Simultaneously with rendering the resolution on withdrawing the license to engage in insurance activities, the National Bank of Serbia initiates the liquidation or bankruptcy proceedings of the insurance company.

By a resolution on withdrawal of the license to engage in insurance activities, the National Bank of Serbia shall pass the measure to prohibit the company to manage its assets until the initiation of the bankruptcy and/or passing the decision on initiation of liquidation proceedings.

Article 177

(Ceased to be in effect)

4.7. Temporary measures

Article 178

Provided that the National Bank of Serbia determines during the insurance company supervision that it is necessary to pass a temporary measure guaranteeing the protection of the insured or other insurance consumers' interests or execution of the decision on insurance operations license revocation it shall prescribe the measure.

The temporary measure defined in paragraph 1 herein can order the insurance company to do the following:

- 1) Not to conclude new insurance contracts or to expand the obligations under the concluded insurance contracts;
- 2) Not to manage its property without the approval of the National Bank of Serbia;
- 3) Not to implement the decisions of the board of directors and general assembly of the company without the approval of the National Bank of Serbia.

The temporary measure lasts until the expiration of the reasons for its implementation but no longer than six months from the date of rendering therein.

4.8. Measures Prescribed to Management Members, Supervisory Board Members, Key Functionaries and Qualified Stakeholders

Article 179

If the National Bank of Serbia, while engaging in supervision, discovers that a member of management or a member of the supervisory board, individual endowed with special authorizations and qualified stakeholder violates the provisions of the law and other regulations and general acts and thus causes material damage to the company or illegally gains property or undertakes an operation which is deemed to be bad business practice, the National Bank of Serbia can propose to the insurance company to undertake appropriate measures against that person.

In the cases defined in paragraph 1 herein the National Bank of Serbia may propose:

- 1) Dismissal and/or termination of employment for the person in the insurance company;

⁷ This provision ceased to be in effect on August 7, 2009, pursuant to the Decision of the Constitutional Court IU no. 468/2004 dated July 16, 2009, published in the RS Official Gazette no. 63/2009 dated August 7, 2009

- 2) Temporary prohibition to engage in insurance activities, until rendering the decision by the competent body;
- 3) *(erased)*;
- 4) to the insurance company to cover the damage caused by such illegal actions from the person.

If there are ongoing criminal proceedings for activities defined in paragraph 1 herein against a member of management or the supervisory board, individual endowed with special authorizations and qualified stakeholder of the insurance company, the National Bank of Serbia may propose the suspension of such a person from the position in the insurance company and the suspension of voting rights on the grounds of stake in the company's capital, until the criminal proceedings are over.

If a person is suspended or if their employment in the insurance company is terminated subject to the measure of the National Bank of Serbia defined in paragraphs 1 and 2 herein, such person shall not be entitled to be a member of management and/or of the supervisory board nor be entitled to participate in the activities of an entity related to the insurance company, in the course of five years from the date of prescribing the measure.

4.9. Application of the Provisions for Conducting the Supervision

Article 180

The provisions of this Law regarding the procedure and supervision conducted by the National Bank of Serbia shall also apply to the insurance brokerage companies, insurance agencies and/or agents, and agencies for providing other insurance services, companies and other legal entities which have a special department for providing other services in insurance as well as to the legal entities which conduct brokerage and agency activities according to the separate law.

4.10. Responsibility for the Damage Caused by the Execution of Duties Established by this Law

Article 180a

The National Bank of Serbia, employees of the National Bank of Serbia, as well as the person executing duties upon the direction of the National Bank of Serbia in compliance with this Law, shall not be held responsible for the damage that arises by the execution of such duty, unless it has been proven that such damage was caused intentionally or by extreme negligence.

The persons specified in paragraph 1 of this Article shall not be held responsible for the damage specified in that paragraph even after the termination of employment in the National Bank of Serbia, and/or the termination of execution of duties.

The National Bank of Serbia shall reimburse the expenses of representation of the employees of the National Bank of Serbia in court and administrative proceedings initiated in relation to the duties that such employees exercise or exercised pursuant to this Law.

The National Bank of Serbia shall reimburse the expenses specified in paragraph 3 of this Article also to the persons whose employment with the National Bank of Serbia has ceased."

VIII ACTUARY ACTIVITIES AND AUDITING

1. Actuary Activities

Certified Actuary

Article 181

According to this Law, certified actuaries perform actuary activities.

A certified actuary is a person licensed by the National Bank of Serbia to conduct actuarial activities.

The National Bank of Serbia determines terms and conditions for acquiring the title of certified actuary.

The general manager of the insurance company nominates the certified actuary.

Certified Actuary Tasks

Article 182

A certified actuary issues opinions on:

- 1) The method of calculation of premium tariffs;
- 2) Whether the technical reserves are formed in accordance with this Law;
- 3) The business policy acts in the process of their rendering, and/or in the process of amending and implementation of the business policy acts;
- 4) Financial statements and annual report of the company;
- 5) Report on carrying out the policy of coinsurance and reinsurance;
- 6) Whether the mathematical reserve is calculated according to the law;
- 7) Insurance portfolio transfer;

The certified actuary calculates the solvency margin, and/or gives opinion on the solvency margin, and conducts other actuarial activities according to the law.

The insurance company's competent bodies are obliged to discuss the opinion of the certified actuary when rendering and/or establishing the regulations as defined in paragraph 1 herein.

The opinion of the certified actuary is submitted to the internal audit and the supervisory board of the company.

The content of the authorized actuary's opinion is prescribed in detail by the National Bank of Serbia.

Independence and Autonomy of the Certified Actuary

Article 183

The certified actuary is independent and autonomous in conducting their activities.

The certified actuary conducts his/her activities according to the law, the actuarial profession, sound business practices and business ethics.

Measures to Eliminate Irregularities

Article 184

If the authorized actuary observes irregularities in insurance activities, they are obliged to propose to the management and supervisory board of the company measures to eliminate the established irregularities.

Obligations of the Insurance Company

Article 185

The insurance company is obliged to ensure that the certified actuary has permanent and undisturbed access to the data on business activities, which are necessary to them and which the certified actuary may request in compliance with the conduct of actuarial activities defined in Article 182 herein.

Task Incompatibility Principle

Article 186

An individual acting in the capacity of a member of management and/or of the supervisory board and internal auditor in the insurance company, is not entitled to be nominated as the certified actuary.

Certified Actuary's Activities Supervision

Article 187

The National Bank of Serbia supervises the certified actuary's activities.

If the certified actuary conducting the activities within his/her scope of competence fails to meet the obligations provided herein, the National Bank of Serbia is entitled to pass the following measures:

- 1) Warning measure;
- 2) Withdrawal of the certificate.

Warning Measure

Article 188

The National Bank of Serbia may pass the warning measure to the certified actuary if they violate the provisions in paragraph 2, Article 183 herein.

Withdrawing the Authorization

Article 189

The National Bank of Serbia may withdraw the certification for engagement in activities of a certified actuary in the following cases:

- 1) If the certificate has been granted on the grounds of false and inaccurate information;
- 2) If the certified actuary has been unconditionally sentenced for criminal acts deeming them unworthy of the conduct of actuarial activities;
- 3) If despite the warning measure the certified actuary has severely violated the provisions defined in Article 183 paragraph 2 herein.

New Certified Actuary Nomination

Article 190

If, following the nomination of a certified actuary, the National Bank of Serbia withdraws the certificate from the nominated person, and/or if circumstances defined in Article 186 herein occur regarding the nominated person, the general manager of the insurance company shall nominate a new certified actuary within 30 days from the date of receipt of the resolution on withdrawal of the certificate for engagement in activities of a certified actuary and/or the date of occurrence of the circumstances defined in Article 186 herein.

Informing the National Bank of Serbia on the Rejection of the Certified Actuary's Opinion

Article 191

If a competent body of the insurance company does not accept the opinion of the certified actuary, the insurance company is obliged to inform the National Bank of Serbia therein within 15 days, and provide the reasons for the rejection of the certified actuary's opinion by the body.

In the case defined in paragraph 1 herein, the National Bank of Serbia may render a resolution instructing the undertaking of appropriate measures.

Reconsideration of the Certified Actuary's Opinion

Article 192

If a certified auditor determines that the financial statements of the insurance company do not present the true and objective status of the assets as well as the results of business activities, the insurance company shall submit the report within five days to the certified actuary who provided the opinion on the insurance company financial statements.

The certified actuary shall reconsider the opinion within 30 days from the date of the submitting the report defined in paragraph 1 herein and inform the competent body of the insurance company that had adopted the financial statement.

Reconsideration of the Certified Auditor's Report

Article 193

If the certified actuary does not approve of the report on the performed audit, the insurance company shall inform the National Bank of Serbia accordingly within seven days from the date of receipt of the certified actuary's opinion.

The National Bank of Serbia Measures

Article 194

The National Bank of Serbia may agree with the certified actuary's opinion or the auditor's report or have its own opinion and informs the insurance company accordingly.

The National Bank of Serbia renders a resolution ordering the insurance company to eliminate the established irregularities and the insurance company shall act accordingly and inform the National Bank of Serbia therein in writing within 30 days from the date of the rendering of the resolution.

Verification of the Certified Actuary's Opinion

Article 195

While supervising, the National Bank of Serbia may request an examination of the certified actuary's opinion by the certified actuary it appoints, should there be reasons to doubt the accuracy of the certified actuary's opinion.

The cost of the procedure defined in paragraph 1 herein is covered by the insurance company except for the case when the certified actuary appointed by the National Bank of Serbia confirms the accuracy of the certified actuary's opinion appointed by the insurance company, in which case the National Bank of Serbia shall cover the costs.

2. Auditing

Carrying out of Audit Activities

Article 196

The audit of the financial statements of the insurance company is carried out according to the law regulating the auditing of financial statements, unless otherwise provided herein.

The National Bank of Serbia defines the content of the audit report of the financial statements of the insurance company.

Notification on the Auditor's Nomination

Article 197

The insurance company shall notify the National Bank of Serbia of its choice of the auditor within seven days from the date of the nomination.

The National Bank of Serbia approves the auditor nomination in the course of 15 days from the date of receipt of the information defined in paragraph 1 of this Article.

While deciding on granting approvals referred to in paragraph 2 of this Article the National Bank of Serbia begins with the professional capability of the auditor and truthfulness and objectivity of their previous reports, i.e. whether the previous reports of the auditor were drafted in accordance with the international audit standards.

Additional Explanations Provided by the Auditor

Article 198

The National Bank of Serbia may request the auditor to provide additional explanations on the audit they conducted.

Verification of the Certified Auditor's Report

Article 199

While performing supervision, the National Bank of Serbia may request a verification of the certified auditor's opinion by a certified auditor it appoints, should there be reasons to doubt the accuracy of the certified auditor's opinion.

The cost of the procedure defined in paragraph 1 herein is covered by the originally authorized auditor except in case when the certified auditor appointed by the National Bank of Serbia confirms the reasons due to which the National Bank of Serbia had examined the correctness of the original opinion, in which case the National Bank of Serbia shall cover the costs.

Informing the Body Competent for Supervising the Activities of an Audit Company

Article 200

The National Bank of Serbia shall inform the body competent for supervision over audit companies of determined omissions and irregularities in the report on performed audit and in the certified auditor's activities on the occasion of auditing within the insurance company.

The National Bank of Serbia specifically informs the body defined in paragraph 1 herein on audit companies that provided auditing services to the insurance companies who have had their license revoked by the National Bank of Serbia, as well as of the reasons for revoking the license.

Financial Statement and a Short Version of the Financial Statement

Article 201

The insurance companies submit the financial statements, together with the certified audit's opinion, to the National Bank of Serbia.

Together with the statement defined in paragraph 1 herein, the insurance company submits the short version of the financial statement which is disclosed by the National Bank of Serbia.

IX TERMINATION OF INSURANCE COMPANIES AND INSURANCE BROKERAGE COMPANY AND INSURANCE AGENCY AND AGENCIES FOR PROVIDING OTHER INSURANCE SERVICES⁸

Termination Reasons

Article 202

In case of the termination of an insurance company, insurance brokerage company and insurance agency, and agencies for providing other insurance services, the law regulating the legal status of companies is applied, if not otherwise provided herein.

A joint stock insurance company is terminated if the number of shareholders is reduced to one, and within six months no new shareholders are registered at the authority which keeps records, and the mutual insurance company - if the number of members (the insured) is reduced to a number below the number defined in Article 65 herein, and is not increased up to the number within six months.

An insurance company defined in paragraph 1 herein is terminated by being removed from the register.

The resolution on removal of an insurance company from the register is published in the "Official Gazette of the Republic of Serbia" and in the media.

Articles 203 to 207

(Ceased to be in effect)

Application of the Law on Liquidation and Bankruptcy Proceedings

Article 208

The liquidation and bankruptcy proceedings against the insurance companies, brokerage companies and insurance agencies and agencies for providing other services in insurance, are subject to the provisions of the law regulating liquidation and bankruptcy, if not otherwise provided herein.

X INSURANCE PORTFOLIO TRANSFER

Application for Acquiring Approval of the Insurance Portfolio Transfer

Article 209

Upon obtaining the approval of the National Bank of Serbia, the insurance company may transfer the entire insurance portfolio or a portion of it to one or more insurance companies licensed to engage in insurance activities transferred with their consent.

The following documents are attached to the application submitted to the National Bank of Serbia for the transfer of the insurance portfolio:

1) A contract on the transfer of the insurance portfolio which must contain the established type and amount of the technical reserves which are, together with the portfolio, assigned to the insurance company which takes over the portfolio, as well as the deadline for the transfer of the portfolio;

2) A list of insurance contracts by class of insurance that are subject of the transfer, with general conditions for the particular insurance;

3) An explanation of the reasons for the transfer of the insurance portfolio and the statement on the expected effects of the transfer of the portfolio;

4) An amendment to the business plan of the insurance company to which the insurance portfolio is transferred which is necessary for the transfer of the portfolio;

5) A report on the financial operation of the company transferring the insurance portfolio and of the insurance company to which the portfolio is transferred, together with the opinion of the certified actuary;

6) The opinion of the actuary certified for the transfer of the insurance portfolio.

No approval of the insured is necessary for the transfer of the insurance portfolio.

Deciding on the Application for Acquiring the Approval for Insurance Portfolio Transfer

Article 210

The National Bank of Serbia shall decide by a resolution on the application specified in [Article 209 paragraph 2](#) herein within 60 days from the date of receipt of the application.

The resolution from paragraph 1 herein is published in the "Republic of Serbia Official Gazette".

The transfer of the insurance portfolio is effective on the date of rendering the resolution approving the transfer of the insurance portfolio.

⁸ The provisions of this section pertaining to insurance companies have ceased to be in effect

The insurance portfolio cannot be transferred to the insurance company prior to the expiry of the terms defined in paragraph 1 herein.

By the resolution on granting approval for transfer of the insurance portfolio, the National Bank of Serbia also decides on the change of the license for engaging in insurance activities for the insurance company which is transferring the portfolio.

Obligations of the Company During the Insurance Portfolio Transfer Procedure

Article 211

The insurance company which transferred the insurance portfolio shall, within 15 days from the receipt of the resolution approving the insurance portfolio transfer, inform the contracting parties whose insurance contracts are included in the insurance portfolio transfer directly in writing or by other media, of the name and address of the insurance company that took over the insurance portfolio and of the date by which the insurance portfolio transfer must be completed.

The insured is entitled to terminate the contract in writing, by informing the insurance company that took over the portfolio within 30 days from the date of receipt of the notice as defined in paragraph 1 herein.

The insured with the non-life insurance, in the case defined in paragraph 2 herein, are entitled to the portion of the premium equivalent to the remaining period of insurance, whereas the insured with the life insurance are entitled to the amount of the mathematical reserve calculated on the date of the transfer of the insurance portfolio, provided the life insurance funds are sufficient to cover the amount or up to the amount reduced in proportion to the reduction of life insurance funds.

Rejection of an Application for Approval of the Insurance Portfolio Transfer

Article 212

The National Bank of Serbia may reject the application for approval of the insurance portfolio transfer if it assesses that such transfer would jeopardize the capacity of the company taking over the insurance portfolio to meet the obligations arising from the insurance contracts that are the subject of the insurance portfolio transfer, or if the liquidity and solvency of the company transferring the insurance portfolio would be jeopardized by the portfolio transfer.

Legal Consequences of the Insurance Portfolio Transfer

Article 213

On the date of the insurance portfolio transfer, the insurance company which took over the portfolio becomes a party in the insurance contracts transferred to it by the portfolio transfer and takes over all the rights and obligations thereunder, and the company transferring the portfolio is relieved from its obligations towards the insured. A transfer of the insurance portfolio which was not approved by the National Bank of Serbia has no legal effect.

XI STATUS CHANGES OF AN INSURANCE COMPANY, ORGANIZATIONAL CHANGES AND INSURANCE COMPANY ASSOCIATIONS

Types of Status Changes

Article 214

An insurance company may merge with another insurance company, or split into two or more insurance companies solely upon the approval of the National Bank of Serbia.

Insurance brokerage companies, and/or insurance agencies or agencies providing other insurance services can merge with other brokerage companies, and/or insurance agencies or agencies providing other insurance services or split into two or more brokerage companies, and/or insurance agencies or agencies providing other insurance services, solely upon the approval of the National Bank of Serbia.

Application of the Provisions on Incorporation of an Insurance Company, Insurance Brokerage Company, Insurance Agency and Agency Providing Other Insurance Services

Article 215

Status changes of the insurance companies specified in Article 214 are governed by the provisions of this Law regarding the incorporation of such companies.

Organizational Changes

Article 216

Insurance companies, brokerage companies, and/or insurance agencies and agencies providing other insurance services may change their organizational form solely upon the approval of the National Bank of Serbia, in accordance to the law.

Special Rules for Mutual Insurance Companies

Article 217

A mutual insurance company can change its organizational form to joint stock insurance company provided it meets the requirements for such incorporation, according to the law.

The organization form change of the mutual insurance company to joint stock insurance company is subject to the provisions of the law which regulates legal status of enterprises regarding the organizational form change unless otherwise provided herein.

The general assembly of the company renders the decision on the form change of the mutual insurance company.

The decision defined in paragraph 3 herein is rendered by a three-quarter-majority of the total number of the present general assembly's members, provided no larger qualified majority is determined by the Articles of Association of the mutual insurance company.

A mutual insurance company's management is obliged to, together with the invitation to the general assembly's meeting, submit to all general assembly members the draft decision on the organizational form change with the explanation of their right to object to the organizational form change and the information on legal consequences of such an objection.

Each member of the mutual insurance general assembly can, at the latest three days prior to the date determined for the meeting, submit a written objection to the organizational form change.

The National Bank of Serbia approves the decision on the change of form of the mutual insurance company.

The National Bank of Serbia rejects the approval if it determines that the organizational form change of a mutual insurance company may jeopardize the members' interests.

Decision on Form Change of a Mutual Insurance Company

Article 218

The decision on the organization form change of a mutual insurance company includes the nominal amount of core capital, share amount and the method of determining the individual contribution of some members in the capital and other elements from the incorporation act of the joint stock insurance company.

The nominal amount of the core capital cannot exceed the value of the assets of the mutual insurance company, reduced by the liabilities of the company on the date of calculation.

If the decision defined in paragraph 1 herein does not specify otherwise, all mutual insurance company members participate in the core capital of the joint stock insurance company.

The stake of an individual mutual insurance company member in the joint stock insurance company capital, provided members do not participate with the same amount, can be determined on the basis of the insured amounts, the amount of contributions (premiums) and the amount of required coverage in case of life insurance, criteria for allocation of surplus, and period of membership in the company.

Each mutual insurance company member objecting to the decision on organizational form change is entitled to a refund of his/her stake in the capital.

Application of the Provisions on Incorporation of an Insurance Company, Insurance Brokerage Company, Insurance Agency and Agency Providing Other Insurance Services

Article 219

Organizational form changes of the companies defined in Article 216 herein are regulated by the provisions of this Law regarding the incorporation of such companies.

Associations of Insurance Companies

Article 220

Insurance companies can join insurance company associations.

The associations as defined in paragraph 1 herein operate according to the law determining the legal status of a company.

XII PENALTIES

1. Criminal Offenses

Article 221

(Ceased to be in effect)

Unauthorized Engagement in Insurance Activities

Article 222

Authorized persons in an insurance companies, insurance brokerage companies, insurance agencies, agencies providing other insurance services, enterprises or other legal entities with a special purpose department for providing other insurance services as well as insurance agents, who engage in insurance activities without being licensed by the National Bank of Serbia, shall be sentenced for a criminal offense to imprisonment of three to six years.

Submission of False Opinions and Reports

Article 223

Certified actuaries or certified auditors, who, against the provisions of this Law, draft a false opinion and/or report, shall be sentenced for a criminal offense to imprisonment of one to three years.

Submission of False Assessment

Article 224

Authorized persons in an insurance company, insurance brokerage company, insurance agencies, agencies providing other insurance services, enterprises or other legal entities with special purpose departments for providing other insurance services, as well as insurance agents, who on the occasion of risk and claims assessment draft a false assessment and statement shall be sentenced for a criminal offense to a fine or imprisonment of up to three years.

2. Offences

Article 225

A fine in the amount of CSD 100,000 to 1,000,000 shall be charged to the insurance company, reinsurance company, insurance brokerage company, insurance agency, agency providing other insurance services, enterprises or other legal entities with a special purpose department for providing other insurance services or a legal entity which conducts insurance brokerage and agency activities in accordance to a special law:

If it does not reinsure the obligations from the insurance or reinsurance contract over the self insured retention or does not retain a portion of the risk in self insured retention (Article 15, paragraphs 1, 3, 4 and 5);

2) If it conducts insurance brokerage and agency activities without being previously registered by the National Bank of Serbia (Article 24, paragraph 2)

3) If it has a cross-ownership of stake in capital or voting rights with another joint stock insurance company, joint stock reinsurance company, insurance brokerage company, insurance agency, agency providing other insurance services, enterprise or other legal entity with a special purpose department for providing other insurance services (Article 31);

4) If it gains the qualified stake in an insurance company without the approval of the National Bank of Serbia, and/or if it does not inform the National Bank of Serbia of a decrease in ownership in the company's capital (Article 32);

5) If it does not submit or does not submit timely the evidence of register entry to the National Bank of Serbia (Article 42 paragraph 3, Article 71, Article 80 paragraph 3, Article 99 and Article 105);

6) If it nominates members of the management and members of the supervisory board without the approval of the National Bank of Serbia (Article 48, paragraph 1);

7) If it enables members of management or of the supervisory board to continue with the function after the National Bank of Serbia has withdrawn the approval of the nomination, and/or if it does not dismiss the member, and/or members of the management or of the supervisory board when ordered to do so by the National Bank of Serbia and if it does not nominate new ones (Article 49, paragraphs 1 and 2)

8) If it does not seek the approval of the National Bank of Serbia on the draft decision to change the name and address (Article 57 paragraph 1)

9) If it does not seek the approval of the National Bank of Serbia for the investment providing the direct or indirect qualified stake in another entity, as well as for any further investments in such a legal entity (Article 59, paragraph 1);

10) If it does not inform the insured of all legal and economic relationships with the insurance company which may affect the impartiality of the insurance brokerage company in fulfilling its obligations towards the insured (Article 85 paragraph 1);

11) If it does not keep the agency contract in its office (Article 96 paragraph 1);

12) If it does not pay and/or deliver financial resources and other payment instruments and collateral (Article 97, paragraph 1)

13) If it does not calculate technical reserves or does not calculate them as prescribed (Article 107);

14) If it does not deposit or invest technical reserves according to the prescribed methodology and does not inform the National Bank of Serbia of that within a specified time period (Articles 113-115 and Article 117);

15) If it does not deposit or invest the guarantee reserves according to the prescribed methodology and does not inform the National Bank of Serbia of that within a specified time period (Article 118);

16) If it does not invest and deposit insurance assets according to the prescribed methodology (Article 119);

17) If it does not calculate the solvency margin according to the prescribed methodology and does not maintain it in the prescribed amount (Articles 120 to 122);

18) If it does not enact the program of measures to equalize the guarantee reserves and solvency margin and/or does not submit it to the National Bank of Serbia within the prescribed time periods (Article 124);

19) If it does not inform the National Bank of Serbia of loss and/or deficit and does not submit the program for loss and/or deficit coverage to the National Bank of Serbia within the prescribed time periods (Article 132, paragraph 2);

20) If it does not calculate the profit and/or surplus, and loss and/or deficit according to the prescribed methodology (Article 133);

21) If it does not organize internal auditing, or does not organize it according to the prescribed methodology (Articles 135 and 136);

22) If it does not report to the National Bank of Serbia in accordance with the prescribed methods or time periods (Articles 156 to 160);

23) If it does not eliminate established illegalities and irregularities within the prescribed deadline and does not inform the National Bank of Serbia of the matter within the prescribed time period (Articles 162 and 163);

24) If it does not implement the resolution of the National Bank of Serbia on temporary measure (Article 178);

25) If it does not provide to the certified actuary constant and unobstructed access to business information necessary to conduct the actuarial activities and which the certified actuary requests (Article 185);

26) If it does not inform or does not promptly inform the National Bank of Serbia that its competent body did not adopt the opinion of the certified actuary (Article 191 paragraph 1);

27) If it does not submit the report of the certified auditor to the certified actuary or if it does not submit the report within the prescribed time period (Article 192 paragraph 1);

28) If it does not inform the National Bank of Serbia, within the prescribed time period, that the certified actuary did not agree with the report on the performed audit (Article 193);

29) If it does not inform the National Bank of Serbia, within the prescribed time period, on the nomination of the auditor (Article 197, paragraph 1);

30) If it does not submit the financial statement or the short version of the financial statement (Article 201);

31) If it did not start the process of life insurance contracts transfer to another insurance company (Article 203);

32) If, without the consent of the National Bank of Serbia, it transfers the insurance portfolio or a portion of the insurance portfolio to another insurance company (Article 209, paragraph 1);

33) If it does not inform the policyholders of the insurance portfolio transfer in accordance with the prescribed methodology and time period (Article 211, paragraph 1);

34) If it does not obtain the consent of the National Bank of Serbia to change the organizational form of the company and/or the agency (Article 216);

The authorized person in the legal entity shall be fined from CSD 10,000 to 50,000 for each of the offenses defined in paragraph 1 herein.

Article 226

A violation fine in the amount of CSD 10,000 to 50,000 shall be charged:

- 1) To the member of management of the insurance joint stock company if he/she does not inform the supervisory board or the National Bank of Serbia within the prescribed time period on the prescribed facts (Article 52 paragraph 3);
- 2) To the member of the supervisory board of the joint stock insurance company if he/she does not inform the National Bank of Serbia within the prescribed time period on the prescribed facts (Article 54 paragraph 1);
- 3) To the insurance agent if they do not submit to the National Bank of Serbia or do not timely submit the resolution on registering with the competent administration body (Article 94, paragraph 3) and/or if within the prescribed time period it does not pay and/or submit pecuniary assets and other instruments of payment and collateral (Article 97, paragraph 1);
- 4) The person engaged in the activities of internal audit, if he/she does not conduct the internal audit according to the prescribed methodology (Article 138 paragraph 5);
- 5) The receiver, if the receivership does not submit the report to the National Bank of Serbia or does not submit it promptly (Article 169);
- 6) The receiver, if the receivership does not summon or does not timely summon the general assembly of the insurance company (Article 170, paragraph 2);
- 7) The certified actuary if they do not propose to the management or the supervisory board of the insurance company the measures to eliminate the observer irregularities (Article 184) or do not review their opinion or do not do so within the prescribed period or do not inform the competent body of the insurance company which had adopted the financial report of their opinion (Article 192, paragraph 2);
- 8) The general manager of the joint stock insurance company if they do not inform the National Bank of Serbia of the circumstances defined in Article 52 paragraph 2 herein or do not nominate the certified actuary or a new certified actuary in the prescribed time period (Article 181, paragraph 4 and Article 190).

Article 227

A fine in the amount of CSD 10,000 to 50,000 shall be charged to the legal entity for the offense of using the term "insurance" or the term derived from the term "insurance" in the name of the company and/or in the name of its products or service in breach of the terms defined in this Law (Article 19).

A contractor using the term "insurance" or a term derived from the term "insurance" in the name of the company and/or in the name of its product or service in breach of the terms defined in this Law shall be charged for the offense (Article 19).

XIII. TRANSITORY AND CLOSING PROVISIONS

The National Bank of Serbia

Article 228

The National Bank of Serbia shall employ the ministry personnel competent for finance related tasks (hereinafter: Ministry) who were in charge of the property and personal insurance business in the Ministry on the effective date of this Law, and it shall take over the equipment, archives and other documents and resources used in conducting insurance business.

In conduct of supervision of insurance activities set out by this Law, the National Bank of Serbia may also control business activities of the person subject to supervision which has been initiated before the day of coming into force of the Law, if such operation is in process during the conduct of control.

Current Insurance Companies and Other Legal Entities

Article 229

Insurance companies, reinsurance companies, and agencies providing other insurance services and other legal entities with special purpose departments for providing other insurance services established by the effective date of this Law shall continue to operate according to the methodology and conditions from their registration and they shall continue to engage in the activities they were licensed for by the competent federal financial authority.

The insurance companies and other organizations defined in paragraph 1 herein are obliged to organize and adjust their Articles of Association and other general regulations and business policy acts according to the provisions of this Law within one year as of the effective date of this Law, if the deadlines for the adjustment are not otherwise regulated.

The entities defined in paragraph 2 of this Article are obliged to submit to the National Bank of Serbia the documents defined in the paragraph within 15 days from the date of their adoption.

Approval for the Position of a Management and Supervisory Board Member

Article 230

The members of management and of the supervisory board of the insurance companies and other entities defined in Article 229 paragraph 1 herein are obliged to obtain approval to engage in the activities of members of the management and/or of the supervisory board, according to the provision of this Law, within one year from the effective date of this Law.

Harmonizing the License to Engage in Insurance, Brokerage and Agency Activities

Article 231

Prior to changing the registration information, the insurance companies and other entities defined in Article 229, paragraph 1 herein are obliged to submit to the National Bank of Serbia evidence that the conditions prescribed by this Law have been fulfilled regarding the issues of the harmonization of their organization, Articles of Association and other general regulations and business policy acts with the provisions of this Law.

The National Bank of Serbia shall render a resolution stating whether the conditions on the incorporation of the entities as defined in paragraph 1 herein have been fulfilled as prescribed by this Law, within 60 days from the date of receiving the necessary documents.

Special Purpose Department for Providing Other Insurance Services

Article 232

Companies and other entities with a special purpose department for providing other insurance services defined in Article 43 of the Property and Personal Insurance Law (FRY Official Gazette no. 30/96, 57/98, 53/99 and 55/99) are obliged to harmonize their status, organization and regulations within the provisions of this Law within one year from the effective date of this Law.

If the entities defined in paragraph 1 herein do not act in accordance with the provisions defined in that paragraph, their license for engagement in providing other insurance activities shall be withdrawn.

In case defined in paragraph 2 herein, the National Bank of Serbia shall propose the removal of such activities from the registration of the entities.

Pecuniary Part of the Core Capital

Article 233

Insurance and reinsurance companies and other entities defined in Article 229 herein incorporated prior to the effective date of this Law are obliged to provide the pecuniary part of the core capital as defined in Articles 28, 76, 91, 102 and 104 herein and according to the following method; two thirds in the course of six months from the effective date of this Law and the total prescribed amount by December 31, 2005.

Prior to registering the change in the core capital, the insurance companies and other entities as defined in paragraph 1 herein are obliged to submit to the National Bank of Serbia evidence of fulfilling the conditions determined by this Law regarding the pecuniary part of the core capital and its structure.

Based on the documents submitted by the entities as defined in paragraph 1 herein, the National Bank of Serbia is obliged to evaluate whether the conditions determined by this Law have been fulfilled in the course of 30 days from the date of receipt of the necessary documents.

The Obligation of Separation of Life and Non-life Insurance

Article 234

Insurance companies which on the effective date of this Law possess a license to engage in insurance activities are obliged to perform appropriate changes in their status and business activities by December 31, 2009 according to Article 14 of this Law.

Within the deadline defined in paragraph 1 herein Insurance organizations and/or companies shall submit to the National Bank of Serbia the evidence of the separation of life and non-life insurance activities.

Based on the evidence defined in paragraph 2 herein the National Bank of Serbia assesses whether the conditions prescribed by this Law have been fulfilled within 30 days from the date of receipt of the evidence.

The Obligation of Separation of Insurance and Reinsurance

Article 235

Insurance companies which on the effective date of this Law possess a license to engage in reinsurance activities are obliged to separate insurance and reinsurance activities by December 31, 2009.

Insurance and/or reinsurance companies shall submit evidence of the separation of insurance and reinsurance activities to the National Bank of Serbia within the time limit defined in paragraph 1 herein.

Based on the documents submitted by the entities defined in paragraph 2 herein the National Bank of Serbia shall evaluate whether the conditions prescribed by this Law have been fulfilled within 30 days from the date of receipt of the evidence.

Engaging in Health and Pension Insurance Activities

Article 236

Insurance organizations that were licensed to engage in health and pension insurance activities up to the effective date of this Law shall continue to act according to the provisions of this Law until the special law is passed regulating the voluntary pension and disability insurance and/or voluntary health insurance.

Obligation of Harmonizing Assets and Activities

Article 237

Insurance companies shall harmonize their activities with the provisions of Articles 30 to 33 of this Law by 31 December 2004 and/or with the provisions of Articles 114 to 118, 120 and 122 herein by December 31, 2005.

Insurance companies shall submit to the National Bank of Serbia the evidence of the harmonization of assets and activities within the time limit as defined in paragraph 1 herein.

Based on the documents submitted by the entities defined in paragraph 2 herein the National Bank of Serbia shall evaluate whether the conditions prescribed by this Law have been fulfilled within 30 days from the date of receipt of the evidence.

License Revocation

Article 238

If an insurance company and other entities defined in Article 229 herein do not abide by the provisions defined in Articles 229 to 237 herein, their license shall be revoked.

In the case defined in paragraph 1 herein, the entities defined in Article 229 herein, except for the legal entities which have a special department for providing other insurance services, cease to operate, and the competent court shall delete them from the register, after liquidation proceedings are complete.

Deadline for Passing the Regulations to Implement this Law

Article 239

The regulations to implement this Law shall be passed in the course of six months from the effective date of this Law except for the regulation defined in Article 39 herein that shall be passed within 60 days from the effective date of this Law.

Until passing the regulations as defined in paragraph 1 herein, the regulations passed according to the Property and Personal Insurance Law ("FRY Official Gazette" No. 30/96, 57/98, 53/99 and 55/99) shall be in effect, except for the provisions contrary to the provisions of this Law.

Until passing the regulations as defined in Article 134, paragraphs 2 and 3 herein, the following regulations shall be applied:

- 1) Regulation on Chart of Accounts and Contents of the Accounts within the Chart of Accounts for Insurance Organizations ("FRY Official Gazette", No. 19/97);
- 2) Regulation on Schedules and Contents of Items in the Balance Sheet and Income Statement Schedules for Insurance Organizations ("FRY Official Gazette", No. 19/97);
- 3) Regulation on Report on Distribution of Results and Covering the Loss ("FRY Official Gazette", No. 5/02);
- 4) Regulation on Additional Accounting Report – Annex ("FRY Official Gazette", No. 28/97, 3/98 and 5/02);
- 5) Regulation on Schedule and Contents of Items in the Cash Flow Balance Schedule for Insurance Organizations ("FRY Official Gazette", No. 64/98)

Certified Actuaries

Article 240

Persons licensed as certified actuaries prior to the effective date of this Law and according to the provisions and regulations effective at the time, shall be considered certified actuaries according to the provisions of this Law.

Certified Brokers and Certified Agents

Article 241

Based on their request and submitted evidence, the National Bank of Serbia shall grant the title of certified brokers and/or certified agents in insurance for persons with at least three years' experience as brokers and agents in insurance prior to the implementation of this Law and enter them into the register of certified insurance brokers and/or agents.

The requests defined in paragraph 1 herein can be submitted within one year since the effective date of this Law.

Apart from the conditions defined in paragraph 1 herein, the persons who are certified as brokers and agents in insurance must fulfill the conditions defined in Articles 82 and 95 herein.

Upon the request from the persons defined in paragraph 1 herein, insurance organizations and agencies providing other insurance services and other legal entities shall issue the relevant certificates proving work experience with the appropriate documents on activities relevant to the conclusion of insurance contracts, claim settlements and other insurance activities and/or activities directly related to insurance contract conclusions and executions.

Initiated Procedures

Article 242

Procedures for licenses and approvals initiated prior to the effective date of this Law shall be completed according to the provisions of this Law.

Privatization of Insurance Companies

Article 243

The subject of privatization is the socially owned and/or state capital in insurance companies stated in shares (hereinafter: capital). Insurance companies shall convert the capital referred to in paragraph 1 of this Article into shares and have the shares entered into the register of Central Securities Depository and Clearing House.

Assets or part of assets of an insurance company may be sold in the privatization process, in the manner and under conditions prescribed by the present law.

Capital privatization process referred to in paragraph 1 of this Article shall be initiated by the decision of the Ministry.

Deposit Insurance Agency established by a special law (hereinafter: the Agency) organizes and implements the capital privatization process referred to in paragraph 1 of this Article.

The Ministry shall oversee the implementation of the process referred to in paragraph 5 of this Article.

Article 243a

During the privatization process 70% of the insurance company socially owned capital being privatized shall be sold (hereinafter: privatization subject).

The Agency shall have the competence to implement the process of selling parts of property of an insurance company doing business by means of socially owned capital, if it estimates that thus the privatization process would be conducted in a more efficacious manner.

The real estate or movables directly used in the conduct of privatization subject's business activities may not be the subject of sale in the sense of paragraph 2 of this Article.

The sale of capital, assets or part of the assets referred to in paragraph 1 and 2 of this Article shall be conducted by means of a public tender.

The Government prescribes the process of capital and assets sale referred to in paragraph 4 of this Article.

Article 243b

The Agency shall conclude an agreement with a buyer on capital sale referred to in Article 243a of this law. The contract shall be considered concluded when signed by the Agency and the buyer.

The buyer shall have the ownership title on the capital referred to in Article 243a, paragraph 1 of this law in accordance with the provisions of the contract on the capital sale.

Article 243c

Purchasing and selling price from the contract on the capital sale referred to in Article 243b, paragraph 1 of this law shall be paid to the account of the Agency.

The assets referred to in paragraph 1 of this Article shall be used in settlement of sale expenditures in the privatization process and a special fee arising from conclusion of contract on sale of capital i.e., assets (commission).

Sale expenditures in the sense of paragraph 2 of this Article, shall consist of expenditures for engagement of financial and legal advisors in the process of privatization process, costs of public invitations and other information of importance for the privatization process, as well as other expenditures in the privatization process.

The amount of the commission under paragraph 2 of this Article shall be determined by the minister of finance.

Article 243d

(Erased)

Article 243e

The profit realized by sale of capital, after deduction of expenses in accordance with Article 243c, paragraph 2 of the Law and appropriation of 10 % of purchase and sale price realized, for the needs of the insurance guarantee fund, the Agency shall pay to the account of the Republic of Serbia.

The assets referred to in paragraph 1 of this Article, paid to the account of the budget of the Republic of Serbia shall be distributed according to the appropriate provisions of the law regulating privatization.

Article 243f

The Agency shall organize and implement the sale of shares of insurance companies which are the property of the Republic of Serbia, Development Fund of the Republic of Serbia and the Republic Fund for Pension and Disability Insurance.

The Agency shall organize and implement the sale of shares of insurance companies when the legal owners of those shares have authorized the agency through a written contract to carry out the sale of those shares on their behalf.

The Agency shall conclude a contract on the sale of shares referred to in paragraph 1 of this Article. The contract shall be considered concluded when signed by the Agency and the share buyer.

The shares referred to in paragraphs 1 and 2 of this Article shall be sold through a public tender in accordance with the regulation referred to in Article 243a, paragraph 5 of this law.

Article 243g

Without a prior consent granted by the Agency, the insurance company doing business using social and/or state capital cannot make decisions regarding decrease or increase of the capital, reorganization or restructuring, investments, sale of a part of the assets, encumbrance of the assets by putting in pledge, by mortgage, long-term lease, settling creditors and taking or granting a credit or issuing guarantees, outside of the regular business.

Decisions brought in contravention to the provision of paragraph 1 of this Article shall be declared null and void by the Agency.

Article 243h

Provisions of the law regulating privatization of the social and state capital in companies and other legal entities shall apply to the capital privatization process in insurance companies, if not stipulated otherwise by the present law.

Reporting to the National Bank of Serbia

Article 244

Until 30 June 2005, the provisions of Articles 113, 115, 118 and 157 herein shall be applied in such a way that the insurance companies and other entities defined in Article 148 herein shall semi-annually report to the National Bank of Serbia on the prescribed data and facts, starting from the effective date of this Law.

Law Validity Termination

Article 245

On the effective date of this Law, the Property and Personal Insurance Law ("FRY Official Gazette" No. 30/96, 57/98, 53/99 and 55/99) shall become null and void except for the provisions on compulsory insurance (Articles 73 to 108, 111, and 112) and provisions on placing the public authorizations (Articles 143 to 146).

From the effective date of this Law, the provisions of Articles 6 and 28 of the Accounting and Auditing Law ("FRY Official Gazette" No. 71/2002) shall not be applied in the part referring to insurance organizations.

Deferred Application

