

Pursuant to Amendment XL point 2 of the Constitution of the Republic of Srpska ("Official Gazette of the Republic of Srpska", 28/94) I hereby issue

**DECREE ON
PROMULGATING THE LAW ON AMENDMENTS TO THE LAW ON
INSURANCE COMPANIES**

I hereby promulgate the Law on Amendments to the Law on Insurance Companies adopted by the National Assembly of the Republic of Srpska at its fifth regular session held on 27 June 2019 and on 4 July 2019 the House of Peoples confirmed that the adopted Law on Amendments to the Law on Insurance Companies shall not endanger the vital national interest of the constituent peoples in the Republic of Srpska.

Number: 01-020-2779/19
8 July 2019
Banja Luka

President of the Republic,
Sgd. Željka Cvijanović

**THE LAW ON AMENDMENTS TO THE LAW ON
INSURANCE COMPANIES**

Article 1

Indents 3 and 4 of the Article 2 of the Law on Insurance Companies ("Official Gazette of the Republic of Srpska," No 17/05, 1/06, 64/06, 74/10 and 47/17 are changed and shall read:

"Branch office" is a basic business unit to which the company transferred part of the authorisations to act in legal transactions with third persons and which is entered in the court register as an organisational unit and lower level organisational units may be organised within it and conduct business activities;

"Key function in the company" is the position of the director, managing directors, chairman of the board of directors, members of the board of directors, interim manager and acting manager".

Article 2

In Article 10 paragraph 5 words "four years" are changed and shall read "five years".

After the paragraph 8 new paragraphs 9 and 10 are added and shall read:

"The director is obligated to authorise a person from the field of monitoring in accordance with internal organisation and systematization of business activities and tasks of Insurance Agency of the Republic of Srpska who will replace them and shall have the same rights and responsibilities.

If by the end of the term of office of the chairman and members of the board of directors of the Insurance Agency of the Republic of Srpska there are no new appointments made, they shall proceed to fulfil their duties until the National Assembly of the Republic of Srpska appoints someone new."

Article 3

After the Article 36 paragraph 3 new paragraphs 4, 5 and 6 are added and shall read:

"All organisational parts of the insurance company from the Federation of BiH in the area of the Republic of Srpska shall be considered dependent organisational units of branch office for which the insurance company obtained licence and which shall be entered in the register of the Insurance Agency of the Republic of Srpska.

Branch office of an insurance company from the Federation of Bosnia and Herzegovina shall be obligated to preserve and keep all documents referring to business activities of branch office in the Republic of Srpska.

Board of directors of the Insurance Agency of the Republic of Srpska shall issue a document prescribing rules referring to founding and business operations of branch offices of insurance companies in inter-entity business activities."

Article 4

After the Article 49 paragraph 2 new paragraphs 3 and 4 are added and shall read:

"One year from the entry into force of this Law, the minimal founding capital of the insurance company shall not be lower than:

- BAM 3 000 000,00 for insurance companies referred to in paragraph 2 point a. of this Article;
- BAM 4 000 000,00 for insurance companies referred to in paragraph 2 point d. of this Article.

Three years from the entry into force of this Law, minimal founding capital shall not be lower than:

- BAM 4 000 000,00 for insurance companies referred to in paragraph 2 point a. of this Article;
- BAM 6 000 000,00 for insurance companies referred to in paragraph 2 point d. of this Article;
- BAM 6 000 000,00 for insurance companies referred to in paragraph 2 point e. of this Article".

The present paragraphs 3, 4, 5, 6, 7, 8 and 9 shall become paragraphs 5, 6, 7, 8, 9, 10 and 11 respectively.

Article 5

After the Article 49 the name of Article and Article 49a are added and shall read:

"Special rules referring to insurance companies"

Article 49a.

An insurance company is obligated to have at least two managing directors.

The managing directors are full time employees of the insurance company.

Members of the board of directors who are not members of executive board may not conduct business activities referring to the insurance company and operating activities nor they may represent an insurance company.

An insurance company shall have audit committee.

Members of auditing committee shall be obligated to meet the requirements referring to key function holders and at least one of the members shall have professional degree of certified auditor in accordance with the law regulating accounting and audit.

An insurance company is obligated to inform the Insurance Agency of the Republic of Srpska about the appointment of members of audit committee."

Article 6

In Article 53 after the paragraph 1 new paragraphs 2 and 3 are added and shall read:

"One year from the entry into force of this law, guarantee fund shall not be lower than the amount of:

- BAM 3 000 000,00 for insurance companies referred to in paragraph 1 point a. of this Article;
- BAM 4 000 000,00 for insurance companies referred to in paragraph 1 point d. of this Article.

Three years from the entry into force of this law, guarantee fund shall not be lower than the amount of:

- BAM 4 000 000,00 for insurance companies referred to in paragraph 1 point a. of this Article;
- BAM 6 000 000,00 for insurance companies referred to in paragraph 1 point d. of this Article;
- BAM 6 000 000,00 for insurance companies referred to in paragraph 1 point e. of this Article".

The present paragraphs 2, 3, 4 and 5 shall become paragraphs 4, 5, 6 and 7 respectively.

Article 7

In Article 53a after the paragraph 3 new paragraph 4 is added and shall read:

"Fixed capital of the insurance company may be increased by the net profit of the current year if the following criteria are met:

- the profit is audited by certified auditor who obtained prior consent of the Insurance Agency of the Republic of Srpska to audit financial statements of the said insurance company and
- the competent authority of an insurance company made a decision on distributing profit."

The present paragraphs 4, 5, 6, 7, 8, 9 and 10 shall become paragraphs 5, 6, 7, 8, 9, 10 and 11 respectively.

Article 8

In Article 54 paragraph 1 is changed and shall read:

"Within the context of monitoring of insurance companies, the Insurance Agency of the Republic of Srpska monitors the legality of business activities, if the laws and regulations are obeyed and market behaviour of insurance companies toward the users of insurance services.

The paragraph 3 is changed and shall read:

"Monitoring of business activities of insurance companies is conducted by authorised person of Insurance Agency of the Republic of Srpska:

- indirectly, through insight and analysis of financial and other statements, business documents and other data and records that insurance company is obligated to keep or to deliver to Insurance Agency of the Republic of Srpska, in a manner and in accordance with provisions of this and other laws and regulations of the Insurance Agency of the Republic of Srpska and
- directly, in premises of an insurance company by taking statements and declarations of authorised persons and employees of an insurance company as well as by insight into financial and other statements, business documents and other data and records."

After the Article 3 new paragraph 4 is added and shall read:

"An insurance company shall be obligated to do the following for authorised persons of the Insurance Agency of the Republic of Srpska:

- enable access to business premises and provide appropriate premises and employees,
- enable insight and deliver requested documents and identifications in either physical or electronic form and to issue copies of those documents to them,
- enable approach and insight into electronic and other types of communication installed with an insurance company,
- give statements and declarations and
- provide other requirements necessary for conducting monitoring."

The present paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 shall become paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 respectively.

In present paragraph 8 which became paragraph 9 after words "and protection of insured" new words shall be added: "and acts in opposition to current insurance tariffs".

In the same paragraph indent 3 after word "temporary" new words shall be added: "prohibition in the time period from 30 to 180 days" and in the indent 8 before the word "managing director" the word "managing" shall be cancelled and words "members of bodies of the company responsible for the management" shall be replaced by words "members of audit committee".

After the present paragraph 14 which became new paragraph 15 new paragraphs 16, 17, and 18 are added and shall read:

"Articles of association of an insurance company i.e. amendments to the articles of association shall enter into force after the consent of the Insurance Agency of the Republic of Srpska.

Insurance Agency of the Republic of Srpska is authorised to monitor insurance companies for the purpose of checking if the activities that are important for the organisation and functioning of the system of bookkeeping and accounting as well as activities referring to preparation and presentation of financial statements are conducted in accordance with regulations regulating accounting and audit.

Board of directors of Insurance Agency of the Republic of Srpska shall issue a document regulating the procedure of monitoring of participants at the insurance market in accordance with this and other laws."

Article 9

In Article 56 paragraphs 1, 2 and 3 are changed and shall read:

"Depending on the type of insurance and nature of risk covered by that type of insurance, an insurance company is obligated to invest money of the insurance company in such manner that makes the investment guarantee safety, due adjutancy, profitability, liquidity, spreading investment and meeting the future liabilities of the company and it is all done within the interest of the insured and users from the insurance contract.

Insurance company shall invest assets covering technical reserves in Bosnia and Herzegovina. Exempt from paragraph 2 of this Article, assets covering technical reserves may be invested in EU, OECD and CEFTA member states with obtained prior consent of the Insurance Agency of the Republic of Srpska."

Paragraph 6 is changed and shall read:

"Assets covering mathematical reserves are invested in funds used for meeting future liabilities based on those types of insurance for which mathematical reserves need to be formed and which are not allowed to be used for meeting liabilities from other types of insurance."

After Article 6 new Articles 7, 8 and 9 are added and shall read:

"Assets covering mathematical reserves are exempt from collection of property of insurance companies in cases when judgment creditor is security trustee from the insurance contract or third injured party.

Insurance company is obligated to ensure that the purpose of assets used for covering mathematical reserves, depending on the type of investment of those assets, is unambiguously and explicitly recognisable in appropriate records and registers.

Board of directors of the Insurance Agency of the Republic of Srpska issues a document prescribing conditions for investing assets for covering technical and mathematical reserves as well as funds for covering minimal guarantee fund, type of asset in which it is allowed to invest those funds as well as limitations of investment per individual types of property and geographic area."

Article 10

In Article 60 after the paragraph 6 new paragraphs 7 and 8 are added and shall read:

"Insurance Agency of the Republic of Srpska shall deny request for issuing prior consent to key function holder appointed by the insurance company if they find that:

- a. the candidate does not meet requirements prescribed by this law and regulations of the Insurance Agency of the Republic of Srpska,
- b. data and information attached with the request and collected in other manner during the procedure of decision making indicate that the candidate is ineligible.

Key function holder appointed by the insurance company may not hold the function before they obtain prior consent of the Insurance Agency of the Republic of Srpska.

Paragraph 9 is cancelled.

Present paragraphs 7, 8 and 10 shall become paragraphs 9, 10 and 11.

Article 11

After the paragraph 61 paragraphs 61a, 61b and 61c are added and shall read:

"Requirements for obtaining qualified participation

Article 61a.

In addition to requirements referred to in Article 60 paragraph 2 of this Law, person intending to obtain qualified participation is obligated to fulfil requirements prescribed by this Article too.

In the decision-making process regarding issuing prior consent for obtaining qualified participation, Insurance Agency of the Republic of Srpska conducts a special estimation of eligibility and financial condition of the applicant, their leadership skills and impact on the insurance company based on the following criteria:

- a. business reputation and credit estimated with respect to their financial and business operations,
- b. estimation of leadership skills, knowledge and skills of person obtaining qualified participation as well as reputation, required business skills and experience of person which will be proposed by the applicant to manage business operations of the insurance company after they obtain qualified participation.
- c. direct or indirect ownership of other persons in the said legal person as well as every direct or indirect ownership of that person in other legal persons i.e. that close connection of the said insurance company with other persons based on the acquisition i.e. increase may not endanger stability and safety of business operations of insurance companies.
- d. source of funds and reasons for acquisition i.e. the increase of qualified participation.
- e. financial condition of applicant and their impact on business activities of an insurance company if the consent is provided.
- f. indicators that can be important for the estimation of impact of the applicant on the risk management in an insurance company,
- g. the presence of justified reasons for doubt in accordance with regulations on preventing money laundering and prevention financing of terrorism that there is money laundering and financing of terrorism occurring related to the obtaining qualified participation or for doubt that the said obtaining may impact the increase of risk of money laundering or financing of terrorism.
- h. possibilities of the insurance company to fulfil conditions prescribed by this law and bylaws and especially whether the group whose member should become an insurance company has ownership structure enabling conduct of efficient monitoring and information exchange between authorities and determining distribution of responsibilities between authorities.

If obtaining qualified participation enables great impact or monitoring of an insurance company, in addition to request for issuing approval for obtaining qualified participation in an insurance company, the person to obtain participation in the future shall be obligated to enclose the following:

- a. business plan of an insurance company for the following three business years,
- b. planned changes in organisational, management and staff structure of the insurance company,
- c. activities plan referring to creation of new or amendments of existing internal documents of insurance companies and
- d. activities plan referring to amending of existing or introducing new information technologies of insurance companies.

Insurance Agency of RS is obligated to deny request for issuing consent for obtaining qualified participation if:

- a. the applicant does not meet criteria for estimating eligibility and financial condition prescribed in Article 60 paragraph 2 of this Law and paragraph 2 of this Article and regulations of Agency of the Republic of Srpska,
- b. it was not possible to determine origin of funds by which the applicant intends to obtain qualified participation or it is impossible to determine direct or indirect ownership of other persons in the applicant as well as every other direct or indirect ownership of applicant in other persons,
- c. obtaining leads to concentration of financial market participants which largely prevents, limits or disturbs market competition primarily by creating or strengthening dominant position on financial market,
- d. due to business activities of person obtaining participation, unrelated to performing insurance activities, stability and safety of business activities of insurance companies would be threatened or monitoring of the said insurance company in accordance with this Law would be made far more difficult due to said activities.

Board of directors of Insurance Agency of RS issues a document prescribing documents to be delivered along with the request for obtaining consent for obtaining qualified participation in an insurance company, procedure and manner of estimation of fulfilment of criteria for obtaining qualified participation and prescribes the procedure of deciding on obtaining qualified participation.

Legal consequences of obtaining without prior consent Article 61b

Person who obtains or owns qualified participation contrary to provisions of Article 61 of this Law has no voting right i.e. right to manage in insurance company based on shares they obtained in that manner.

Voting rights arising from shares obtained without prior consent of Insurance Agency of the Republic of Srpska referred to in paragraph 1 of this Article are added to the voting rights of other shareholders proportionally to their participation in total voting rights of insurance companies.

If person does not obtain qualified participation without previous consent of the Insurance Agency of the Republic of Srpska or if they do not submit request for issuing subsequent consent or request for issuing subsequent consent is denied, Insurance Agency of the Republic of Srpska issues an order to the said person to sell shares obtained without consent and provide evidence on sale and if they know information about buyer.

Insurance Agency of the Republic of Srpska referred to in paragraph 3 of this Article determines deadline for sale which cannot be less than three months or more than nine months.

Decision referred to in paragraph 3 of this Article shall be delivered to the person required to sell shares, the insurance company where the person obtained the shares, regulatory agency for the securities market and legal person authorised for fulfilling duties of registration of securities. An insurance company shall be obligated to:

- a. make sure that person obtaining participation referred to in paragraph 1 of this Article does not exercise their rights from securities for which sales order was issued,
- b. send monthly reports to the Insurance Agency of the Republic of Srpska regarding the changes of shareholders within the time period from the reception of the decision referred to in Article 1 of this Article until the expiry of stated deadline for selling shares.

Revoking consent for obtaining qualified participation

Article 61c

Insurance Agency of the Republic of Srpska may revoke the consent for obtaining qualified participation if:

- a. the person obtaining qualified participation obtained the consent by providing false or untrue data,
- b. the person obtaining qualified participation exercises their rights in a manner that threatens stable business operations of insurance companies and
- c. they estimate that the person obtaining qualified participation no longer meets the criteria referred to in Article 60 and 61a of this Law.

Provisions of Article 61b of this Law shall be applied on the person obtaining qualified participation who was revoked consent in accordance with this Article."

Article 12

Paragraphs 5 and 6 of the Article 67a are changed and shall read:

"By making decision on introducing extraordinary administration of an insurance company all functions of director, competencies and authorisations of board of directors, directors and managing directors.

Competencies and authorisations of of board of directors, directors and managing directors are transferred to extraordinary administration by making decision on introducing extraordinary decision of an insurance company.

Article 13

After the paragraphs 5 of the Article 67b new paragraphs 6 and 7 are added and shall read:

"When the Insurance Agency of the Republic of Srpska estimates that reasons for introducing extraordinary administration no longer exist, it shall issue a decision by which interim manager shall be ordered to conduct the procedure of choosing and appointing members of the board of directors, director and managing directors within 30 days from the day of reception of the decision.

Authorisations of extraordinary administration stop existing on the day when the Insurance Agency gave their consent to the choice and appointment of director and managing directors."

Article 14

In the Article 77 paragraph 2 point j words: "paragraph 1" shall be replaced by the words "paragraphs 1, 2 and 3".

In point n number: "14" shall be replaced with the number: "16".

In point s number "7" shall be replaced with the number "9".

Article 15

In the Article 77a paragraph 1 after point i. new points t. j. and k. are added and shall read:

"j. does not appoint managing directors pursuant to Article 49a paragraph 2 of this Law;

k. does not appoint audit committee pursuant to Article 49a paragraph 5 of this Law;"

Present points t., j., k., l., m., n. ,o., p. and q. shall become points t., l., m., n., p, q, r, and s.

After the point t new point u is added and shall read:

"u. when obtaining qualified participation without prior consent of the Insurance Agency of the Republic of Srpska, they do not act pursuant to Article 61b paragraph 6 of this Law."

Article 16

In 78 paragraph 3 after the words "managing directors" the word "managing " shall be cancelled and words "members of bodies of the company responsible for the management" shall be replaced by words "members of audit committee".

Article 17

After the Article 81 the name of Article and Articles 81a and 81b are added and shall read:

"Applicable documents

Article 81a.

Board of directors of the Insurance Agency of the Republic of Srpska shall issue bylaws determined by this Law within 90 days from the day of their entry into force.

Until regulations referred to in paragraph 1 of this Article are issued, bylaws that were legally binding on the day of entry into force of this Law and that are not contrary to it shall apply.

Article 81b.

Insurance companies are obligated to harmonize their business activities with provisions of this law within six months from the entry into force of this law."

Article 18

The Law enters into force on the eight day from the day of publishing in the "Official Gazette of the Republic of Srpska."

Number: 02/1-021-645/19
27 June 2019
Banjaluka

President of the
National Assembly
sgd. Nedjeljko Čubrilović