

Pursuant to the point 2 of the Amendment XL to the Constitution of the Republic of Srpska ("Official Gazette of the Republic of Srpska", No. 28/94), I hereby issue the

DECREE

PROMULGATING THE LAW ON INSURANCE COMPANIES

I hereby promulgate the Law on Insurance Companies, which the National Assembly of the Republic of Srpska adopted at its twenty-fourth session, held on 26 January 2005, and the House of Peoples confirmed on 15 February 2005 that the adopted Law on Insurance Companies shall not endanger the vital national interest of the constituent peoples in the Republic of Srpska.

Number: 01-020-90/05
16 February 2005
Banja Luka

President
of the Republic
Dragan Čavić, m.p.

LAW

ON INSURANCE COMPANIES

I - GENERAL PROVISIONS

1.1. Recitals

Purpose of the Law
Article 1

This law shall stipulate incorporation, business operations, supervision and termination of work of insurance companies and branch offices performing the insurance activity in the Republic of Srpska, and establish the Insurance Agency of the Republic of Srpska.

The insurance activity in the Republic of Srpska may be performed by insurance companies established as joint-stock companies or mutual insurance companies. Insurance companies may only perform the insurance activity.

Definitions
Article 2

The terms used in this law shall mean the following:

Insurance company is a joint-stock company registered in the Republic of Srpska or a mutual insurance company registered in the Republic of Srpska, as well as an insurance company which is not from the Republic of Srpska, but performs the insurance activity pursuant to the provisions of this law;

Mutual insurance company is an insurance company where members by paying contributions mutually guarantee to cover for losses resulting from the occurrence of contractual risks based on the principles of reciprocity and solidarity;

Branch office is an organisational unit of the insurance company to which the company transferred part of the powers to act in legal transactions with third persons and which is entered in the court register as an organisational unit;

Significant position in the company is the position of the director and the board of directors;

Insurance activity is the activity of concluding and enforcing insurance and reinsurance contracts, as well as the activity of insurance brokers and agents;

Insurance services are services of concluding insurance and reinsurance contracts, processing insurance claims and paying for claims resulting from the contract;

Direct insurance is the activity of the insurance company the basis of which is the insurance contract, obliging the insurance company to compensate for the paid premium or contributions following the occurrence of the insured event, except for reinsurance;

Reinsurance is the activity of the company covering the entire or part of the risk underwritten by the first insurer (the reinsured person) or the second reinsurer;

Life insurance is a category of the insurance activity the types of which are prescribed under a decision by the Insurance Agency of the Republic of Srpska;

Non-life insurance is a category of the insurance activity the types of which are prescribed under a decision passed by the Insurance Agency of the Republic of Srpska;

Insurance intermediaries are insurance brokers and agents, natural or legal persons whose aim is to prepare and offer insurance contracts and provide services related to the relations between insurers and insured persons;

Brokerage is the activity performed by insurance brokers;

Insurance agent is a person performing the insurance activity in the name of and on behalf of the insurance company;

Insurance broker is a legal or natural person who independently performs the activity with a sole objective, in the name of the insured person and the reinsured person, and for the purpose of insurance or reinsurance of risk, to connect people seeking insurance or reinsurance with insurance or reinsurance companies, and, if necessary, to assist in the preparation and enforcement of the contracts, particularly in the event of insurance claims. The insurance broker shall receive the commission by the insurance or reinsurance company which shall not oblige them in the selection of the insurance or reinsurance company;

Actuary is a professional individual who is certified by the RS Insurance Agency for the purpose of this law to provide actuarial services;

Insured person is a person for whom the insurance company underwrites risks (first insured person) pursuant to the insurance contract;

Insurer is the insurance company;

Reinsured person is the insurance company whose insurance risks are reinsured as a whole or partly;

Reinsurer is the company performing the reinsurance activity;

Close relationship is the situation where two or more natural or legal persons are related by the participating share or control;

Control is the relationship between the parent company and the subsidiary, or a similar relationship between any natural or legal person, or any company where they have the right to majority decision-making in the company. Any subsidiary of the subsidiary is considered a subsidiary of the parent company leading the subsidiaries;

Participating share is the share in the capital of another company, where direct or indirect ownership of the capital share in another company exceeds 20%;

Participating company is the parent company or the one that owns the participating share;

Parent company is the company:

- having a majority of the voting rights possessed by the shareholders or members in another company (subsidiary); or

- having the right to appoint or dismiss the majority of the members of the administrative, managing or supervising body of another company (subsidiary), and being at the same time a shareholder or a member of the company; or

- having the right to exert dominant influence on the company (subsidiary) of which it is a shareholder or a member, pursuant to the contract concluded with the company or on the basis of the provision of the Articles of Incorporation or Articles of Association, when the law stipulating the business of the subsidiary allows it to be the subject of such contracts or provisions; or

- which is a shareholder or a member of the company, while:

a) the majority of the members of the managing or supervising body of the company (subsidiary), which performed their duty in the previous and the current financial year up until the moment when the consolidated accounts have been made, have been appointed exclusively as the result of exercising their voting right; or

b) it only controls the majority of the voting rights possessed by the shareholders or members of the company, pursuant to the agreement with other shareholders or members of the company (subsidiary);

Related company is the subsidiary or another company in which equity share is held;

Subsidiary is the company where the majority of the voting rights possessed by the shareholders or members is held by another company (parent company). Any subsidiary of another subsidiary shall also be considered a subsidiary of the highest parent company of these companies;

Qualified share is direct or indirect possession of 10% or more of the equity or the voting rights in a company, or another form of possession which allows exerting significant influence on managing the company. For the purpose of applying the law, the voting right possessed by natural and legal persons shall also be considered:

- the voting rights that other natural or legal persons possess under their name but on behalf of that natural or legal person,

- the voting rights possessed by the company under the control of that natural or legal person,

- the voting rights possessed by a third party with whom the natural or legal person concluded an agreement in writing, obliging them to adopt permanent common policy towards the management of the company in question by applying concerted voting rights,

- the voting rights possessed by a third party on the basis of an agreement in writing concluded with the natural or legal person or with the company under control of the natural or legal person, foreseeing temporary transfer of the voting rights in question,

- the voting rights attached to the shares owned by the natural or legal persons, invested as a guarantee, except in the cases where the natural or legal person possessing the guarantee controls the voting rights and expresses their intention to exercise them, in which case the rights shall be considered as their voting rights,

- the voting rights attached to the shares for which the natural or legal person is entitled to usufruct,

- the voting rights that the natural or legal persons are authorised to gain only at their own initiative, upon a formal agreement,

- the voting rights attached to the shares deposited with the natural or legal person, which in the absence of special instructions of the owner may be used of own choice by the natural or legal person;

Indemnity is the right belonging to the insured person on the basis of the concluded insurance contract;

Gross invoiced premiums include all amounts due in the course of the financial year arising from the insurance contract, notwithstanding whether the amounts refer fully or partly to the subsequent financial year, including in particular:

- the premiums not yet invoiced, provided that the calculation of the premiums may only be done at the end of the financial year;

- the single premiums and payments of annual annuities, and also the single premiums from the provisions for premium refund in the case of life insurance, if they are to be considered premiums on the basis of the insurance contract and if the regulations of the EU member countries stipulate or allow their presentation as premiums;

- the additions to the premium in the case of semi-annual, quarterly or monthly payments and the indemnity from the insurer for the expenses of the insurance company;

- the insurance company's share in the total premiums, in the case of coinsurance;

- the due reinsurance premiums for transactions received from ceding and retroceding companies, including the entries to the portfolio, following the deduction, as well as the withdrawal from the portfolio in favour of the ceding and retroceding companies, and cancellations.

The above-mentioned amounts shall not include taxes and similar charges prescribed for individual contracts, which refer to the overall premium;

Guarantee fund represents 1/3 of the solvency margin;

Solvency margin is part of the assets in line with the activities performed by each insurance company. The elements and control of the solvency margin shall be prescribed by the Insurance Supervision RS Agency under a separate act;

Insurance portfolio represents all contracts of one, multiple or all types of insurance;

Self-retention is a share in the risk which remains covered by the first insurer after the deduction for optional or mandatory reinsurance;

Risk exposed capital concerning life insurance is the amount paid in the case of death, reduced by mathematical reserves of the main risk;

Harmonised funds represent presentation of liabilities related to insurance expressed in a certain currency with receivables expressed or attainable in the same currency;

Entity providing services is the Entity of Bosnia and Herzegovina where the insured risk will occur, if the risk is covered by the insurance companies established in the other Entity.

Entity of the branch office is the Entity of Bosnia and Herzegovina in which the branch office covering the risk has been established;

EU is the abbreviated form of the European Union;

RS Agency is the abbreviated form of the Insurance Agency of the Republic of Srpska;

FBiH Agency is the abbreviated form of the Insurance Supervisory Agency of the Federation of Bosnia and Herzegovina;

RS Guarantee Fund is a legal person with the headquarters in Banja Luka, established under the Law on Compulsory Automobile Liability Insurance and other compulsory liability insurances, in order to cover for losses sustained by victims of traffic accidents which may not be indemnified by the compulsory automobile liability insurance system.

BiH Insurance Agency is the Agency established under the Law on Insurance Agency in Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", No. 12/04).

Direct insurance and reinsurance
Article 3

The direct insurance activity for risk coverage in the Republic of Srpska shall only be performed by the insurance company granted a licence by the RS Agency.

The RS Agency shall issue and publish the regulations on the conditions under which potential insurers may exceptionally conclude insurance contracts with the insurance companies which have not been established (registered) in Bosnia and Herzegovina. The regulations referred to in this paragraph may refer only to the situations where insurance companies from Bosnia and Herzegovina may not provide the coverage requested by the potential insurer.

All direct insurance companies, except for mutual insurance companies, may provide reinsurance services with the licence granted by the RS Agency. The RS Agency shall supervise the reinsurance services assumed by insurance companies from the Republic of Srpska, in particular their solvency and the financial capacity for assuming these risks, including the authorisation to prohibit the company from assuming the reinsurance risks for which it does not possess sufficient financial potential.

Any joint-stock company performing or intending to perform the reinsurance activity shall first obtain a special licence from the RS Agency, which shall cover all types of reinsurance. The reinsurance company shall be established as a joint-stock company providing the reinsurance services as the sole objective of the activity.

The RS Agency shall supervise the reinsurance activity.

The insurance companies doing business in the Republic of Srpska shall not be allowed to conclude reinsurance contracts with the reinsurance companies not possessing the licence to work in Bosnia and Herzegovina, without prior approval granted by the RS Agency. The RS Agency shall not deny issuing the approval referred to in this paragraph to the reinsurance companies meeting the internationally acceptable standards for solid provision of reinsurance services. The restrictions referred to in this paragraph shall not apply to the reinsurance companies possessing the approval to work in Bosnia and Herzegovina.

The company possessing the licence to work granted by the RS Agency of the FBiH Agency may provide reinsurance coverage in the entire territory of Bosnia and Herzegovina.

The provisions of this law shall also apply to reinsurance companies, unless reinsurance companies are exempt under the provisions of this law, or if these rules are not in compliance with reinsurance services.

The following provisions shall particularly apply to reinsurance companies:

- reinsurance companies shall have the highest solvency margin required from insurance companies;
- reinsurance companies may form technical reserves in cooperation with the direct insurer, in order to avoid double creation of technical reserves;
- the provisions of this law pertaining to the consumer protection shall not apply to reinsurance.

The provisions on granting the licence to perform certain types of insurance shall not apply to reinsurance companies.

Governing law to insurance contracts

Article 4

The governing law for the insurance contracts covering the risks in the Republic of Srpska shall be determined pursuant to the following provisions:

a. where the domicile or the headquarters of the insured person is in the Republic of Srpska, the governing law for insurance contracts shall be the law of the Republic of Srpska;

b. where the domicile or the headquarters of the insured person is not in the Republic of Srpska, the parties to the insurance contract may opt to apply the law of the Republic of Srpska or the law of the Federation of Bosnia and Herzegovina or the law of the country of the domicile or the headquarters of the insured person;

c. where the insured person performs a commercial or industrial activity or is independently engaged in a professional activity, and where the contract covers two or more risks pertaining to the activities in the Republic of Srpska and the Federation of Bosnia and Herzegovina and/or other countries, the freedom to opt for the governing law for the contract shall extend to the laws of those countries or the Federation of Bosnia and Herzegovina, depending on where the domicile or the headquarters of the insured person is;

d. notwithstanding the points (a), (b) and (c) of this paragraph, where the risk covered by the insurance contract is limited to events taking place in the Federation of Bosnia and Herzegovina, the parties may always opt for the law of the Federation of Bosnia and Herzegovina;

e. the fact that in the cases described under the points (a) or (b) of this paragraph the parties opted for the law other than the law of the Republic of Srpska shall not exclude the application of the mandatory legislation of the Entity or Bosnia and Herzegovina, where all other factors relevant to the situation at the time of opting for the governing law are connected with them;

f. the opting referred to in the previous points of this paragraph shall be expressed or shown with reasonable certainty, terms of contract or circumstances of the case. Should it not be the case, or if no opting has taken place, the law of the Entity or Bosnia and Herzegovina with which the contract has got the closest relationships shall apply to the contract, pursuant to the relevant above-mentioned points. Exceptionally, the law of another country or entity may be applied to a specific part of the contract which has got close relationships with the country or entity, as stipulated by the relevant points of this paragraph. There is a disputable assumption that the contract has got the closest relationships with the entity where the risk has occurred.

None of the provisions of this article shall limit the application of the mandatory provisions of the law of the Republic of Srpska, notwithstanding the law otherwise applied to the contract.

Prior to concluding the insurance contract, the insurance company shall inform the insured person of the governing law for the contract where the parties may not opt freely, or of the fact that the parties may freely opt for the governing law, and of the law the application of which has been suggested by the insurer.

The insurance contract for compulsory insurance, determined under the law of the Republic of Srpska, shall be subject to the law of the Republic of Srpska.

In the event where compulsory insurance is stipulated only by the law of the Republic of Srpska, in the case of non-compliance between the law of the Federation of Bosnia and Herzegovina where the risk has taken place and the law of the Republic of Srpska, the governing law shall be the law of the Republic of Srpska.

If the compulsory insurance contract stipulated under the law of the Republic of Srpska shall cover the risks in Bosnia and Herzegovina, the rules of the compulsory law of the Republic of Srpska shall exclusively apply.

1.2. Supervision of insurance

Establishment, status and headquarters of the Insurance Supervision Agency of the Republic of Srpska

Article 5

This law shall stipulate the establishment of the Insurance Supervision Agency of the Republic of Srpska.

The RS Agency shall be an independent and non-profit institution of the Republic of Srpska, accountable for its work to the National Assembly of the Republic of Srpska.

The funds for establishment and commencement of work of the RS Agency shall be provided in the budget of the Republic of Srpska.

The RS Agency is a legal person.

The headquarters of the RS Agency shall be in Banja Luka.

The RS Agency shall have its seal. The seal shall contain the name of the RS Agency and coat of arms of the Republic of Srpska.

Activity and objectives of the RS Agency

Article 6

The RS Agency shall have a regulatory and supervisory duty in order to protect persons entitled to insurance coverage and insurance indemnity, as well as the benefit of the insurance industry.

In performing its duties, the RS Agency shall act in the manner most suitable to attain the regulatory objectives of the RS Agency.

The regulatory objectives of the RS Agency shall be:

- to supervise the enforcement of the laws and bylaws in the field of insurance and other regulations;
- to regulate the business of insurance companies and insurance intermediaries;
- to build trust of the market in the activities of insurance;
- to prevent financial crime, whether by prohibiting the provision of insurance services in contravention of this law or services in the part where the insurance companies in the Republic of Srpska might be used for the purpose related to financial crime;
- to provide training in the advantages and risks related to various types of non-life and life insurance and other investments in the Republic of Srpska, as well as to provide adequate information and advice;
- to advise and protect consumers in line with the nature of the involved risks and the degree of experience and expertise of consumers.

General powers of the RS Agency

Article 7

The RS Agency shall grant the licence to the insurance company to provide services in one or multiple types of insurance. The RS Agency may temporarily or permanently revoke the licence granted to provide all or some of the types of insurance dealt with by the insurance company, pursuant to the provisions of this law.

In order for insurance companies to do business in line with the regulatory objectives, the RS Agency shall have the power to:

- inspect business books and documents of insurance companies, with or without prior notification given to the company;
- hire authorised experts to inspect books and documents of insurance companies;
- request from insurance companies to correct within a certain period of time, between ten days and three months, any regulation or action which is in contravention of the legal provisions.
- order the insurance company to suspend any action or act which is in contravention of the provisions of this law;
- make orders within the law and to the benefit of the insured persons in terms of investment, maintenance and management of insurance funds;
- institute court proceedings in legal matters regarding the supervision in insurance where the Agency of the Republic of Srpska is not authorised to perform its supervisory duties pursuant to this law or where during the procedure of supervision an issue has occurred for which the court shall have jurisdiction as a preliminary matter;
- pass bylaws, other general regulations (rulebooks, instructions, orders and decisions) and single regulations (administrative decisions and conclusions);
- organise or approve training of employees in insurance companies and insurance intermediaries;
- provide guidelines in any other manner which shall be required for the enforcement of this law and other matters of importance to the insurance market;
- order other measures pertaining to managing the insurance business of a company, if they have found them necessary to ensure that the company shall manage its business in line with the regulatory objectives.

Prior to issuing any decision or order, the RS Agency shall provide the insurance company with the right to preliminary statement. Decisions or orders of the RS Agency shall be issued in the form of an administrative decision, which shall be final.

The insurance company shall be entitled to institute an administrative dispute against the administrative decision referred to in the paragraph 3) of this article before the competent court.

In addition to the powers specified under this law, the RS Agency shall have the power to request from insurance companies to undertake all measures deemed necessary to attain the regulatory objectives.

In its actions, the RS Agency shall apply the Law on General Administrative Procedure.

Organisation, management and administration of the RS Agency Article 8

The organisation, management and administration of the RS Agency shall be stipulated under the law, Articles of Association and other general regulations.

The managing and administrative bodies of the RS Agency shall be the Management Board and the Director.

The Management Board shall be comprised of a chairperson and four members who shall be appointed and dismissed by the National Assembly of the Republic of Srpska, at the proposal of the Government of the Republic of Srpska.

The chairperson and the members of the Management Board shall be appointed for the period of five years. The mandates of the members may be renewed.

The chairperson, the members of the Management Board and the Director shall be BiH nationals, with a university degree, good reputation and professional experience in the field of insurance or finance and not convicted of criminal offences pertaining to financial crime or violation of public or professional duties. During their mandate none of the members shall work for an insurance or brokerage company doing business in Bosnia and Herzegovina and they shall not hold a position in political parties or act as persons undertaking public activities in the name of political parties. The chairperson, the members of the Management Board and the Director shall not own, possess or have, directly or through a third person, 5% or more shares in any insurance company, or work for an insurance company or hold a position in the management board or the supervisory board of any insurance company subject to supervision of the RS Agency.

The decision to appoint the Management Board shall be published in the "Official Gazette of the Republic of Srpska".

The chairperson and the members of the Management Board may be dismissed prior to the expiration of their mandate only for the following reasons:

- at their own request;
- if they have not acted in compliance with the law and the regulations of the RS Agency;
- if they have been or shall be sentenced to imprisonment for financial crime or violation of the public or professional duty;
- if they have abused their position;
- if they have been permanently incapable of performing their duties and if they have been unjustifiably absent from three or more meetings of the Management Board per year;
- if they have failed to comply with the confidentiality of data;
- if they have performed the duties prohibited under the paragraph 5) of this article.

Powers of the Management Board

Article 9

The Management Board shall have the following powers:

- to pass the Articles of Association of the RS Agency;
- to pass bylaws, in line with the powers of the RS Agency as set forth under the law and the Articles of Association;
- to adopt the financial plan and the financial statement of the RS Agency;
- to adopt the reports submitted by the RS Agency to the Government of the Republic of Srpska and the National Assembly of the Republic of Srpska, pursuant to the Article 19 of this law;
- to pass the decision on indemnity of insurance companies and insurance intermediaries to the benefit of the RS Agency.
- to make decisions on other matters regulated by the Articles of Association of the RS Agency and this law.

The Articles of Association shall establish which regulations of the RS Agency shall be published in the "Official Gazette of the Republic of Srpska".

For their work the Management Board shall be accountable to the National Assembly of the Republic of Srpska.

Work of the RS Agency Article 10

The funds for establishment and commencement of work of the RS Agency shall be provided in the budget of the Republic of Srpska

The RS Agency shall take over the employees of the RS Ministry of Finance performing tasks in the field of insurance of property and persons, which shall be transferred to the RS Agency, as well as the part of funds for their work and other documents necessary to the RS Agency.

The work of the RS Agency and its managing bodies shall be stipulated under the Articles of Association and bylaws. Consent to the Articles of Association of the RS Agency shall be given by the Government of the Republic of Srpska. The Articles of Association shall be published in the "Official Gazette of the Republic of Srpska".

The Director of the RS Agency shall be appointed and dismissed by the National Assembly of the Republic of Srpska, upon the opinion given by the Management Board of the RS Agency, and at the proposal of the Government of the Republic of Srpska. For their work, the Director of the RS Agency shall be accountable to the Management Board of the RS Agency and the National Assembly of the Republic of Srpska.

The Director shall be appointed for a period of four years.

The Director of the RS Agency shall manage the business, act on behalf of and represent the RS Agency, bear responsibility for lawful work and business of the RS Agency, appoint staff of the RS Agency, organise their activities, and perform other tasks for which they shall be empowered under this law, Articles of Association or some other regulation.

The Director may be dismissed prior to the expiration of the mandate for the same reasons valid for the members of the Management Board.

Supervision of investments and funds of insurance companies

Article 11

The RS Agency may issue orders to the insurance company regarding investments of insurance funds pertaining to the activities of long-term life insurance as follows:

- not to invest funds of certain type of insurance during a certain period of time in the manner as set forth under the Article 56 and the Article 81 of this law, if it shall be necessary that the interests of the insurer be immediately protected from immediate damage;

- to liquidate, in a certain period of time, all or some of the items of a certain type of investment of funds, as set forth under the Articles 56 and 81 of this law, or as described by the company, if it shall be necessary that the interests of insurance policy holders be immediately protected from immediate damage.

The RS Agency shall prevent management, burden or particular manners of using any of the forms of the property of the insurance company. Such an order may last six months maximum and may be renewed as many times as deemed necessary.

The property subject to the orders referred to in this article may not be placed under a mortgage or be subject to any other type of burden or restraint. Any mortgage or burden on the property shall, in the event of insolvency, be invalid in relation to the rights of the liquidator or the creditor. Prior to enforcing this order, the RS Agency shall publish the decision determining how the funds held by the creditor shall be registered with the relevant authority, in order to have the third parties be aware thereof.

Placing the funds of the insurance company under custody

Article 12

In order to protect the funds of the insurance company in economic difficulties, as set forth under the Article 67 of the law, the RS Agency may order that the property of the insurance company located in the Republic of Srpska be fully or partly entrusted to a custodian. The insurance company may recover possession of the property entrusted to the custodian only with the consent given by the RS Agency.

The custodian may be a bank established in the Republic of Srpska or some other similar organisation authorised by the RS Agency.

Throughout the validity of the order referred to in the paragraph 1) of this article, the insurance company shall be entitled to sell, commercially use or reinvest the value of the funds, should the custodian so allow.

The property subject to the order referred to in this article may not be placed under a mortgage or in any other manner be burdened or restrained. Any mortgage or burden registered for the funds, in the event of insolvency, shall not be valid according to the rights of the liquidator or the creditor.

The decision on recording and the manner of public disclosure of the funds placed under custody shall be passed by the RS Agency. The RS Agency shall be obliged to pass the decision referred to in this paragraph simultaneously with the custody order.

Influence of the RS Agency on the scope of activity and the amount of premiums

Article 13

The RS Agency may, for a certain period of time, limit the scope of the insurance activity performed by a company, should it be necessary in order to protect the financial capacity of the company. The limitation referred to in this article may refer to the activity of the company as a whole or any part thereof.

The RS Agency may order, following the abolishment of the tariff system, an increase or a decrease of the amount of premiums of a certain type of insurance if, in the opinion of the RS Agency, those premiums are not adequate.

Submission of information and reports to the RS Agency

Article 14

The RS Agency may request from the insurance company, its parent company, its subsidiaries or any other insurance companies related to those companies, to present particular documents and provide information immediately or at a particular point in time and at a particular place.

The RS Agency may request from the insurance company to submit the information referred to in the paragraph 1) of this article along with the opinion/report of a certified actuary or auditor or another person possessing the adequate expertise.

Any person being a current or previous director, controller, certified actuary or auditor shall provide explanation for all the submitted documents, or if they have not been submitted, the person from whom it had been requested to submit the document shall explain whereabouts of the document.

The RS Agency may request, for the purpose of control and analysis of the financial statements compiled quarterly or annually on the basis of this law or a regulation passed on the basis of this law, that the reports be submitted to the RS Agency within a reasonable deadline prior to the expiration of the submission deadline.

Control of the management of insurance companies

Article 15

In the event of a reasonable doubt that an insurance company might not meet the requirements for stable and solid management, or in the event of an actual risk that they shall not be met in the future, the RS Agency may appoint one or multiple experts to control the insurance company on behalf of the RS Agency and submit the following report on:

- whether the requirements for stable and solid management have been met;
- whether the person for whom the insurance company communicated that pursuant to the Article 60 of this law they intended to appoint to a significant position in the company has met the requirements for stable and solid management.

Any employee and representatives of the insurance company, including auditors and certified actuaries shall provide any information, document or assistance requested from them by the experts referred to in the previous paragraph.

The experts referred to in the paragraph 1) of this article shall be entitled to enter all business premises of the insurance company during the control. The experts shall not be obliged to provide notification of the control if they reasonably believe that the documents might be destroyed, hidden or altered in the event that the notification has been issued.

The RS Agency shall issue the list of experts authorised to conduct the control pursuant to this article. The experts shall be lawyers and certified accountants, auditors and actuaries.

The RS Agency shall collect the payment for expenses of the control from the controlled insurance company.

Special controls

Article 16

The RS Agency shall be entitled to enter the business premises of the insurance company or a branch office with or without the assistance of the police and seize or copy documents when they believe:

- that documents are hidden or
- that a criminal offence was committed and that documents might be destroyed or altered in order to conceal the criminal offence.

The RS Agency may order an urgent actuarial control of the life insurance activities of the insurance company, which shall be performed by the appointed certified actuary, and request the report of control.

Supervision of reinsurance contracts

Article 17

The RS Agency shall supervise reinsurance contracts concluded by insurance companies, and control the identity of other parties - reinsurers, conditions and provisions under which the reinsurance was concluded and the proportion of the ceded risk.

Professional secret

Article 18

Any person employed by the RS Agency currently or in the past, as well as the auditors and experts hired by the RS Agency, shall be obliged to keep the professional secret. Not a single piece of confidential data obtained during the performance of their tasks may be transferred to any person or authority, except in the total or cumulative form so as not to disclose the identity of the individual insurance company, without prejudice to the cases covered by the criminal code.

When an insurance company is announced to go bankrupt or that mandatory liquidation is underway, the confidential data that do not concern third parties involved in the attempts of saving the company may be disclosed in civil or criminal proceedings.

The provisions of the paragraph 1) of this article shall not apply to the exchange of data between the RS Agency, BiH Insurance Agency and the FBiH Agency. The BiH Insurance Agency and the FBiH Agency with which the data have been exchanged shall receive all data under the conditions of the professional secret, pursuant to the provisions of the paragraph 1) of this article.

The RS Agency may, in cooperation with the BiH Insurance Agency, conclude agreements on cooperation with the relevant authorities in other countries which foresee exchange of data, if the exchanged and disclosed data shall be subject to guarantees of the professional secret pursuant to the provisions of the paragraph 1) of this article.

The RS Agency may only use the confidential data submitted during the performance of their duties:

- to check whether the conditions regulating the commencement of provision of the insurance services have been met and to facilitate the supervision of the provision of the services, particularly in terms of supervision of technical reserves, solvency margins, administrative and accounting procedures and internal control mechanisms;
- to impose penalties;
- in the cases of pending administrative disputes against an administrative decision of the RS Agency; or
- in pending civil legal matters on complaints against the decisions of the RS Agency passed pursuant to the provisions of this law.

The provisions referred to in the paragraphs 1) and 5) of this article shall not apply to the exchange of data between the RS Agency and:

- the authorities responsible for supervision of credit institutions and other financial organisations and authorities responsible for supervision of the financial market;
- the authorities involved in liquidation and bankruptcy of insurance companies, as well as in similar procedures; and

- the persons responsible for performing audits of the accounts of insurance companies and other financial institutions as set forth by the law, in performing their supervisory duties or disclosing data to the authorities managing the process of mandatory liquidation or guarantee funds, necessary for the accomplishment of their duties. The data received by those bodies, authorities or persons shall be subject to the conditions of professional secrecy as set forth under the paragraph 1) of this article.

Notwithstanding the provisions of the paragraphs 1) and 4) of this article, the responsible authority of the Republic of Srpska may approve, under the conditions set forth by the law, disclosure of particular data to the bodies of the Government of the Republic of Srpska and organisations responsible for supervision of credit institutions, financial, investment and insurance companies and inspection authorities of the Republic of Srpska empowered to supervise the above-mentioned companies where the disclosure of data is necessary for the purpose of control.

The data obtained pursuant to the paragraphs 2) and 6) of this article, as well as any other data obtained through on-site inspections performed on behalf of the FBiH Agency, or inspections performed by the supervisory authority of the country where the insurance company having branch offices in the Republic of Srpska has its headquarters, shall not be disclosed in the cases mentioned in this article except with explicit consent given by the supervisory authority which has disclosed the data or the supervisory authority performing the on-site inspection.

Registers and reports

Article 19

The RS Agency shall maintain the following registers:

- the register of certified insurance companies, indicating the types of insurance for which they have been granted the approval;
- the register of certified registered insurance agents;
- the register of certified registered insurance brokers;
- the register of certified actuaries;
- the register of certified insurance companies established in the Federation of Bosnia and Herzegovina having branch offices in the Republic of Srpska;
- the register of insurance companies whose headquarters are outside Bosnia and Herzegovina, which have established branch offices in the Republic of Srpska.

An extract from the register shall be deemed a public document.

The RS Agency shall ensure access to the data from the register to the persons who shall personally approach the business premises of the Insurance Supervision Agency of the RS and the persons who shall submit inquiries by post, telephone, telefax or e-mail.

The RS Agency shall pass a semi-annual and annual report on the situation in the insurance sector in the Republic of Srpska and the business and performance report of the RS Agency. The report, *inter alia*, shall contain statistical data on the gross premium income, separately for each type of insurance, the results of the insurance companies from the Republic of Srpska, as well as any other economic facts necessary to obtain a clear insight into the situation in the insurance sector. The report shall also contain the financial statement on the business of the RS Agency for the reporting period, as well as the performance report of the RS Agency.

The report referred to in the paragraph 4) of this article shall be published in the "Official Gazette of the Republic of Srpska".

The RS Agency shall be obliged to submit the semi-annual and the annual report referred to in the paragraph 4) of this article to the Government of the Republic of Srpska and the National Assembly of the Republic of Srpska for adoption.

Actuaries

Article 20

For the purposes of this law, actuarial servicers shall be provided by certified actuaries.

The RS Agency shall pass the rulebook which shall stipulate the requirements for appointment and dismissal of the title of certified actuaries, as well as the type and contents of the required documents.

Any issuance or revocation of the actuary authorisation shall be published by the RS Agency in the "Official Gazette of the Republic of Srpska".

The certified actuary shall act independently and autonomously in performing their tasks and be accountable for the accuracy of their findings as well as of any proposals of measures to the RS Agency and before the law.

The certified actuary may not provide actuary services if they:

- they own or possess over 3% of shares in a joint-stock insurance company,
- they are members of the supervisory board, management board or any other board of an insurance company,
- they are spouses or relative to the second degree in the direct or lateral line with: a shareholder possessing or owning over 3% of shares in a joint-stock insurance company, members of the managing, supervisory or auditing bodies of insurance companies.

The certified actuary shall, in particular:

- evaluate the financial statement and the annual performance report of the insurance company,
- carry out general or special inspections of the insurance company in line with the orders given by the RS Agency,
- provide opinion on the business acts of the insurance company, their enforcement and the manner of implementation,
- provide assessment of the situation of the funds of the insurance company, their placement and security,
- provide actuary services in insurance companies,
- provide any other supervisory, advisory and inspection services at a request of the insurance company or upon the order of the RS Agency,
- verify by signature the official documents of the insurance company pertaining to mathematical reserves and confirm their compliance with this law.

The certified actuary may not be hired by the RS Agency to provide actuarial services of general or special control if employed with an insurance company.

Income of the RS Agency

Article 21

The performance of the RS Agency shall be financed from the following sources:

- charges for the issuance of the business licence;
- compensation for supervision of performance;
- costs of conducting the minor offence proceedings;
- any other income from the scope of work;
- donations and all other lawful sources.

The excess of income over expenses of the RS Agency shall be transferred to the following year.

Cooperation of the RS Agency with the FBiH Agency and the BiH Insurance Agency

Article 22

The RS Agency shall exchange with the FBiH Agency all documents and information useful for conducting supervision of the insurance companies doing business in the Republic of Srpska and the Federation of Bosnia and Herzegovina, and shall particularly cooperate in implementing the measures stipulated under the articles 28 and 45 to 48, 54, 55, 58, Article 59, paragraph 2) and Article 63 of the law.

When an insurance company and a credit institution or an investment company or both are directly or indirectly related or have a joint-share company, the RS Agency and the responsible supervisory bodies of those organisations shall develop close cooperation. Without prejudice to their individual powers, those organisations shall mutually provide all information facilitating their tasks, in particular in the framework of this law.

Upon the request of the FBiH Agency, the RS Agency may prohibit free management of the funds located in the Republic of Srpska, belonging to the insurance company with the headquarters in the Federation of Bosnia and Herzegovina, due to the infringement of the provisions pertaining to the

establishment and investment of technical reserves and establishment of the solvency margin. The request referred to in this paragraph shall specify the particulars to which the prohibiting measures apply.

In all cases of revocation of the business licence from an insurance company from the Republic of Srpska, the RS Agency shall notify the FBiH Agency thereof, which shall prohibit the company from concluding new insurance contracts in the Federation of Bosnia and Herzegovina. The RS Agency, with the assistance of the FBiH Agency, shall undertake all adequate measures in order to protect the interests of the insured persons and restrict free management of funds of insurance companies particularly pursuant to the provisions of the Article 58 of this law. When an insurance company from the Republic of Srpska does business in the Federation of Bosnia and Herzegovina, the RS Agency shall notify the FBiH Agency of the measures undertaken, so that at their request the FBiH Insurance Supervisory Agency may undertake the necessary measures.

In the event that the RS Agency has revoked the business licence from an insurance company from the Republic of Srpska providing insurance services in the Federation of Bosnia and Herzegovina, it shall immediately notify the FBiH Agency thereof in order to undertake the adequate measures.

The RS Agency shall cooperate with the FBiH Insurance Supervisory Agency in enforcing the measures foreseen under the articles 36 through 48 of this law.

The decisions of the RS Agency shall be published in the "Official Gazette of the Republic of Srpska", stating all particulars necessary for enforcing this article in line with the protocol on cooperation with the FBiH Agency.

Any information referred to in this article, exchanged by the entity insurance supervision agencies shall be submitted to the BiH Insurance Agency. The RS Agency shall cooperate with the BiH Insurance Agency, in order to exchange the necessary data.

The data obtained pursuant to this law, in particular any exchange of data among the relevant authorities foreseen under this law, shall be subject to professional secrecy, as set forth under the Article 18 of this law.

1.3 Protection of the insured persons

General provisions

Article 23

The data submitted or presented to the insured person at their request prior to the insurance contract conclusion or during the period of the insurance contract validity shall be unambiguous, accurate, given in writing and in one or more official languages used in Bosnia and Herzegovina.

The data referred to in the paragraph 1) of this law may be presented in other language as well, if the insured person, under this law and the insurance contract, has the right to choose the governing law.

An insurance contract or any other document providing coverage, along with the insurance offer must include: address of the headquarters, branch office of the insurance company providing coverage, and the name and address of a special representative of the insurance company providing insurance services specified as: "Motor vehicles civil liability insurance", except for carrier insurance.

Article 24

Prior to the insurance contract conclusion, the insurance company shall provide the insured person with the following data.

a) Data on the insurance company:

1. name of the insurance company and its organisational form;
2. name of the entity in which the contracting insurance company or its branch office have the headquarters;
3. address of the headquarters and address of the contracting branch office;

b) Data on the insurance contract elements:

1. monetary compensations and other rights;
2. contract validity period;
3. contract termination methods;
4. amount, methods of payment and insurance premium payment deadlines;
5. calculation method and method of participation in profits and mathematical reserve of the insurance company;

6. method of calculation of redemption monies or buyout prices and its guarantee scope;
7. data on premiums for each compensation, for principal compensations and additional compensations as necessary;
8. if compensations, under the insurance contract, relate to the investment units, data shall be provided on the nature of the units to which the compensations relate;
9. data on the funds related to the investment units;
10. terms of the contract rescission and termination;
11. data on taxes applicable to that particular type of insurance contracts;
12. method of processing the insurance claims filed by the insured persons or persons entitled to indemnification;
13. governing law when the parties do not have the freedom of choice or the law suggested by the insurer when the parties do not have the freedom of choice.

In addition to the general and specific terms of the insurance contract, the insurance company shall have an obligation, during the contract validity period, to provide the insured person with the following data:

1. any modification in: company name, its legal form or address of the headquarters or the contracting branch office;
2. all data listed in the paragraph 1), indent (b), points (1) through (12), of this article in the case of modification of the insurance contract terms or modification of the contract governing law;
3. data on the level of participation in profits and mathematical reserve of the insurance company provided on an annual basis.

Insurance ombudsman

Article 25

This law shall introduce an insurance ombudsman to be managed by the RS Agency. An ombudsman shall enable swift resolution of certain disagreements by independent persons, involving minimum formalities. The establishment, operation and funding of the insurance ombudsman shall be regulated by the Rulebook on Ombudspersons to be adopted by the RS Insurance Agency.

The RS Agency shall pass the rules and regulations related to the functioning of the insurance ombudsman, especially in terms of conflict resolution, cost distribution, types and scope of admissible compensations.

II - INSURANCE COMPANIES

2.1. Insurance companies' authorisation

Business licence

Article 26

Founders of insurance companies may be domestic and foreign natural and legal persons.

The establishment of an insurance company is subject to issuance of the business licence, which shall be issued by the RS Agency and valid in the whole territory of Bosnia and Herzegovina. The business licence shall be issued under the terms foreseen by the provisions of the articles 34, 49 and 50 of this law and pursuant to the decision on the types of insurance passed by the RS Insurance Agency. Pursuant to this law, the business licence shall grant an insurance company the right to carry out the insurance activity in the Republic of Srpska and the Federation of Bosnia and Herzegovina according to the law governing its establishment. The business licence shall be issued by type of insurance, for all or some of the insured events covered by that particular insurance type or a group of insurance types.

In respect of the business activities referred to in the RS Agency's decision on the types of insurance, the RS Agency shall limit the business licence to the types of insurance for which the insurance company has been registered and for which the necessary founding capital has been provided.

An insurance company not having its headquarters in Bosnia and Herzegovina may obtain the business licence to operate its branch office in the Republic of Srpska subject to fulfilment of the terms foreseen by the provisions of the Article 46 of this law.

Fees for the business licence and operation

Article 27

An insurance company filing a request for obtaining the business licence under the provisions of the articles 34 and 46 of this law shall pay the fee to the RS Agency in the amount prescribed by the decision of the RS Agency. Once a year, the RS Agency may pass a decision to adjust the amount of this fee in accordance with the annual inflation rate.

Within 60 days as of the day when the request and the evidence were duly filed, the RS Agency shall pass a decision upon the request or demand for the request to be corrected or completed. If the applicant has failed to provide the correction or completion within the given deadline, the RS Agency shall reject the request. The decision of the RS Agency shall be final and an administrative dispute may be instituted against it before the court having jurisdiction.

As of the day of obtaining the business licence, the insurance company shall be liable to pay the fee for operation in the amounts and within the deadlines prescribed by the RS Agency.

If the business operation fee foreseen in the paragraph 3) of this article has not been paid within the given deadline, the RS Agency shall be authorised to determine the default damages to be prescribed by a separate decision of the RS Agency. This decision shall be published in the "Official Gazette of the Republic of Srpska". The default damages specified by the decision of the RS Agency shall not exceed an amount of BAM 10,000.00.

Rejection of the business licence request

Article 28

The RS Agency shall reject the business licence request if the identity of direct or indirect shareholders or related entities of the legal persons possessing the qualified share, as foreseen under the articles 2 and 61 of this law, as well as the amounts of these shares, have not been previously disclosed.

The business licence shall not be granted if the RS Agency, taking into consideration the necessity of maintaining the criterion of stable and solid management of the insurance company, as provided in the Article 60 of this law, is not convinced in the suitability of the mentioned shareholders or partners to which this relates.

With regard to legal persons with qualified share in insurance companies, becoming thereby their related entities, the RS Agency may require to be informed of their funds and financial statements in order to monitor their financial standing.

During the assessment of the suitability referred to in this article, the RS Agency shall cooperate with the FBiH Agency.

The RS Agency may also refuse to grant the business licence if the insurance company and other natural or legal persons maintain such close relationships defined by the Article 2 of this law, and the RS Agency considers these relationships to hinder the efficient performance of its supervisory duties.

The RS Agency shall refuse to grant the business licence if a third country regulations applicable to one or more natural or legal persons with which the insurance company has close relationships or the enforcement of these regulations hinder the performance of its supervisory duties.

The RS Agency shall request from the insurance company to supply it continuously with the data it shall require in order to monitor the observance of the terms referred to in this article.

The decisions of the RS Agency passed in respect of the request for the business licence shall be final, but an administrative dispute may be instituted and conducted against it before the court having jurisdiction.

Business licence revocation

Article 29

The RS Agency shall revoke a business licence in the following cases:

- in the case of violation of the provisions of the articles 55 through 59 of this law concerning the prescribed technical and mathematical reserves and investment of the insurance company funds;
- if a final and binding judgment impeding the business performance has been passed;
- if the insurance company has failed to meet the terms referred to in the Article 49 of the law, i.e. if it has ceased to fulfil the prerequisites for performing the insurance activity or the terms under which the business licence was granted no longer exist or are modified to the extent that the RS Agency would not have granted the licence in light of the new circumstances;
- if the insurance company is not able to take the measures foreseen in its restoration or financial plan within a particular deadline pursuant to the Article 54 of this law;

- if the insurance company has violated the provisions related to the calculation and maintenance of technical reserves and the solvency margin which results in jeopardising the interests of the insured persons;
- if the insurance company has failed to commence its business within six months as of the day of the entry into the court register or, has completely or partially discontinued its business operations in the course of the current year for a period longer than six months;
- if the insurance company has failed to meet its obligations toward the Green Card Bureau in BiH or the Protection Fund in any of the entities;
- if the insurance company has failed to apply the insurance tariffs and terms.

In the event of permanent business licence revocation, the insurance company shall not be able to conclude new insurance contracts. The supervision performed by the RS Agency shall remain in place until the decision of the RS Agency on permanent revocation of the business licence shall become final and binding, and after that until the end of the insurance company liquidation proceedings.

Whether partial or complete, permanent or temporary, the business licence revocation of an insurance company may be carried out based on a decision of the RS Agency including a detailed reasoning and notification of the insurance company to which it relates. This also refers to the cases where business licence revocation is done for the reasons foreseen in the regulations related to joint-stock companies and mutual insurance companies. When an insurance company covers risks located in the Federation of Bosnia and Herzegovina, the Agency shall be informed of each decision on business licence revocation.

After the complete and permanent business licence revocation, all insurance claims based on compulsory motor vehicles insurance shall be paid by the RS Protection Fund, and all reserves of the insurance company pertaining to compulsory motor vehicles insurance shall be transferred to the RS Protection Fund pursuant to the Law on Motor Vehicles Liability and Other Types of Compulsory Liability Insurance.

The business licence revocation of an insurance company, notwithstanding whether complete or partial, i.e. temporary or permanent, shall result in *ipso jure* revocation of the approval for the provision of insurance services through a branch office. After the revocation of the business licence, the RS Agency shall institute the insurance company liquidation proceedings pursuant to the provisions of the articles 68 through 71 of this law. After the revocation of the business licence granted to the insurance company, the RS Agency shall be authorised to seal the business premises of that company.

A joint-stock insurance company can be transformed into a joint-stock company performing a different activity after the transfer of all insurance contracts with all pertaining rights and obligations pursuant to the provisions of the Article 63 of this law, or after a company doing business in Bosnia and Herzegovina has assumed all of its obligations, and after the respective decision of the RS Agency has been published in the "Official Gazette of the Republic of Srpska". In this case, the paragraph 4) of this article shall not be applied.

The RS Agency shall provide the insurance company with its decision on the business licence revocation.

The decision of the RS Agency issued in respect of the business licence revocation shall be final, but an administrative dispute may be instituted and conducted against it.

2.2. Provisions on types of insurance

Types of insurance

Article 30

The insurance activity shall include:

- a. non-life insurance,
- b. life insurance.

The insurance activity categories referred to in the paragraph 1) of this article shall be grouped by insurance type and sub-grouped by risk type. The types of insurance types and the risk types foreseen in this paragraph are prescribed by the decision of the RS Agency on the types of insurance.

Insurance companies must fulfil additional requirements foreseen in the articles 65 and 66 of this law and the relevant decisions and rulebooks of the RS Agency, as well as the Law on Motor Vehicles Liability and Other Types of Compulsory Liability Insurance for the following types of insurance:

- a. assistance in non-life insurance,
- b. court fees in non-life insurance,
- c. life insurance related to life insurance investments,

d. motor vehicles civil liability insurance except for carrier insurance.

Separate licence for life and non-life insurance

Article 31

The insurance company with the headquarters in the Republic of Srpska shall be granted the business licence for performing non-life insurance or life insurance services. The insurance company may provide reinsurance services related to risks of both non-life and life insurance.

The insurance company with the headquarters in the Republic of Srpska providing both non-life and life insurance services at the time of entering into force of this law may continue such combined business operations provided that each of these business activities has a separate administration and financial operations.

If the insurance company providing both non-life and life insurance services has financial, commercial or administrative ties with an insurance company providing non-life or life insurance services in the territory of the Federation of Bosnia and Herzegovina, the RS Agency in cooperation with the FBiH Agency shall prevent such ties from having an impact on the distribution of income and expenses of the insurance company.

For the purposes of this law, a separate administration shall mean the separation of non-life insurance business from life insurance business in order to:

a. prevent inflicting damage to the interests of the beneficiaries of life insurance and the beneficiaries of non-life insurance by simultaneous provision of non-life and life insurance services, in particular to ensure that the beneficiaries of life insurance benefit from the profits earned by the life insurance activity as if the same company has not provided non-life insurance services;

b. prevent life insurance activities from being burdened by creation of minimum financial guarantees, especially the solvency margin which is necessary for non-life insurance business and vice versa;

c. enable the mixed insurance company, if it has covered the necessary financial guarantees, and once it has informed the RS Agency, to use certain still available solvency margin funds for the activities of both non-life and life insurance;

d. enable the RS Agency to analyse the results of two types of business activity and make sure that the provisions of this article are complied with.

The balance sheets for life and non-life insurance shall be presented in the manner to disclose the sources of income and expenses for each of these two business activities separately. In this manner, all income (in particular: premiums, reinsurers' payments, income from investments) and expenses (in particular: insurance fees, addition to technical reserves, reinsurance premiums, operating expenses related to insurance activities) shall be distributed according to their origin.

The bookkeeping for the items present in both activities shall be done using the distribution methods prescribed by the RS Agency, which shall be harmonised with the accounting standards.

Based on its balance sheet, the insurance company shall prepare a statement clearly defining the items forming each solvency margin harmonised with the provisions related to solvency margin creation referred to in the Article 52 of this law and the regulations related to solvency margin elements and control passed by the RS Insurance Supervision Agency.

If one of the solvency margins is not sufficient, the measures foreseen by the Article 54 of this law related to recovery of the insurance company facing financial difficulties linked to the creation of an appropriate solvency margin and capital requirement of an insurance company under this law, shall be applied to a deficient activity. By derogation from the provisions of the paragraph 4), point a., of this article, the measures foreseen in the Article 54 of this law may include the transfer of funds from one activity to the other, in which case the approval is necessary from the RS Agency.

The RS Agency may pass a decision defining the rules for separation of the elements pertaining to assets and those pertaining to liabilities of the insurance company, as well as other details as required for maintaining the separate administration and financial operations.

Life insurance - additional types

Article 32

The insurance company with the headquarters in the Republic of Srpska possessing a licence to provide life insurance services may also obtain the licence for provision of accident and sickness insurance, provided that it shall maintain the minimum amounts of capital requirement and calculate two solvency margins.

The insurance company providing non-life insurance services having the headquarters in the Republic of Srpska and possessing the licence exclusively for non-life accident and sickness insurance may also obtain the licence for life insurance under the conditions foreseen in the paragraph 1) of this article.

Types of insurance for companies not from Bosnia and Herzegovina

Article 33

The insurance company with the headquarters outside Bosnia and Herzegovina may do business in the Republic of Srpska in the following manner:

a. if the insurance company provides non-life insurance services along with life insurance services (mixed or complex insurance companies) in the country where it has its headquarters, it may do the following in the Republic of Srpska:

- obtain the business licence from the RS Agency for performing only the life insurance or only the non-life insurance activity by means of its branch offices pursuant to the articles 45 through 48 of this law,

- obtain the business licence from the RS Agency for performing the life insurance activity in the Republic of Srpska by means of its branch office, and when it provides non-life insurance in the Republic of Srpska by means of its subsidiary in the Republic of Srpska;

b. If the insurance company referred to in the paragraph 1) of this article provides only non-life insurance services or only life insurance services in its headquarters, in the Republic of Srpska, by means of its branch office, it may only perform the insurance activity for which it has been registered in its headquarters, pursuant to this law.

The provisions of the Article 32 of this law shall be applied accordingly to the company referred to in the paragraph 1), point (a), of this article.

2.3. Insurance companies from the Republic of Srpska

General provisions

Article 34

The business licence for an insurance company from the Republic of Srpska shall be a precondition to be entered in the registry maintained by the relevant court. The branch offices of the insurance company shall also be entered in the court register, pursuant to the legislation governing the entry in the court register.

The request for the issuance of the business licence shall be accompanied by the following documents:

1. Articles of Incorporation and Articles of Association of the company,
2. proof of payment of the share (subscribed) capital prescribed under the provisions of the Article 49 of this law,
3. a business plan,
4. data on the persons holding significant positions in the company, and
5. other documents pursuant to the decision on documents passed by the RS Agency.

If deeming it necessary, the RS Agency may carry out the control of the case of the applicant referred to in this article, it may cooperate with other relevant administrative authorities and request for any necessary data related to personal data and data on the bank account of the applicant.

The RS Agency shall pass a decision on granting the business licence to the insurance company if the requirements prescribed in this law have been met.

Insurance companies may establish independent associations of insurance companies as voluntary non-profit institutions. The articles of association of an insurance company shall ensure that insurance companies may not sign contracts with other insurance companies or associations which might restrict the free market and transparent competition principles in business activities of the insurance companies.

Submission of reinsurance documents

Article 35

Within three months as of the day of adoption of the decision of the RS Agency granting the business licence to an insurance company, that company shall have the obligation to submit copies of reinsurance contracts to the RS Agency. The RS Agency may request for any other documents on reinsurance as necessary for the purpose of supervision of the insurance company.

2.4. Establishment of branch offices between the entities

Establishment of a branch office of an insurance company from the Federation of Bosnia and Herzegovina in the Republic of Srpska.

General provisions

Article 36

An insurance company having the headquarters in the Federation of Bosnia and Herzegovina may establish a branch office in the Republic of Srpska provided that the FBiH Agency has provided the RS Agency with the request accompanied by the following documents in one or more official languages of Bosnia and Herzegovina:

a. a business plan providing details on the types of the foreseen business activities and the organisational structure of the branch office;

b. address of the branch office in the Republic of Srpska at which documents may be obtained and to which documents may be sent. The address of the branch office shall be the address to which all information to the authorised representative shall be sent;

c. a power of attorney appointing an authorised representative with sufficient powers to incur obligations in the name of and on behalf of the insurance company and represent the insurance company in relationships with third persons, before the court, other authorities and organisations in the Republic of Srpska and the RS Agency. If the authorised representative is a legal person, they shall give the power of attorney to a natural person to represent them;

d. that the authorised representative who shall be a resident of the Republic of Srpska shall represent the insurance company before the court and in relationships of the company with the public authorities and the RS Agency. The insurance company may only appoint one authorised representative for the territory of the Republic of Srpska for all types of insurance. The representative shall sign all policies issued in the Republic of Srpska.

e. confirmation that the insurance company is a member of the RS Protection Fund and the BiH Green Card Bureau if it intends to provide insurance of the type "Motor vehicles civil liability insurance" except for the carrier's liability;

f. a statement on the selected business method in the framework of the insurance type: "Court fees" pursuant to the Article 65 of this law, if it intends to be involved in this type of insurance;

g. confirmation of solvency.

In the event of alteration of any piece of data listed in the indents a., b. and c. of the paragraph 1) of this article, the RS Agency shall be notified in writing at least one month prior to the enforcement of the alteration so as to allow the RS Agency to act pursuant to the paragraph 1) of this article.

The branch office of an insurance company with headquarters in the Federation of Bosnia and Herzegovina may commence doing business in the Republic of Srpska following the submission of the documents referred to in the paragraph 1) of this article, issuance of the RS Agency approval and entry into the court register.

Taxation issues

Article 37

All indirect taxes, fees, duties or other expenses arising from insurance contracts concluded in the Republic of Srpska by an insurance company with the headquarters in the Federation of Bosnia and Herzegovina shall be subject to the legislation applicable in the Republic of Srpska.

All movable property found in a building located in the Republic of Srpska, except for the goods subject to trade transactions, shall be subject to the same indirect taxes, duties and other expenses, even if the building and its contents are not covered by the same policy.

All data related to collection of indirect taxes for insurance transactions in the Republic of Srpska by means of an organisational unit of an insurance company from the Federation of Bosnia and Herzegovina shall be regulated by the rules set out by the RS Agency and published in the "Official Gazette of the Republic of Srpska".

Establishment of a branch office of an insurance company from the Republic of Srpska in the Federation of Bosnia and Herzegovina

General provisions

Article 38

An insurance company having the headquarters in the Republic of Srpska may establish a branch office in the Federation of Bosnia and Herzegovina provided that the RS Agency has provided the FBiH Agency with the request for opening of a branch office in the Federation of Bosnia and Herzegovina accompanied with the following documents:

- a. a business plan providing, *inter alia*, the details on the types of the foreseen business activities and the organisational structure of the branch office;
- b. address of the branch office in the Federation of Bosnia and Herzegovina at which the documents may be obtained and submitted, implying that the address of the branch office shall be the address to which all information to the authorised representative shall be sent;
- c. a power of attorney appointing an authorised representative with sufficient powers to incur obligations for the company in relationships with third persons and represent it before the relevant authorities and courts in the Federation of Bosnia and Herzegovina. If the authorised representative is a legal person, they shall give the power of attorney to a natural person to represent them;
- d. the insurance company shall have the obligation to present the confirmation on its membership in the RS Protection Fund and the BiH Green Card Bureau if it intends to provide the insurance of the type "Motor vehicles civil liability insurance" except for the carrier's liability;
- e a statement on the selected business method in the framework of the insurance type: "Court fees" pursuant to the Article 65 of this law, if it intends to be involved in this type of insurance.

Special provisions

Article 39

After checking the business plan and provided that the administrative structure and the financial situation of the insurance company, as well as the general and professional qualifications of their director and the authorised representatives are satisfactory, the RS Agency, within 60 days from the completion of the request referred to in the Article 38 of this law, shall submit the request accompanied by the documents foreseen in the Article 38 of this law, and the confirmation of solvency determined pursuant to the Article 36, paragraph 1), point (g), of this law, to the FBiH Agency in one of the official languages used in Bosnia and Herzegovina informing the applying insurance company about it.

If the RS Agency has refused to forward the data specified in the Article 36, paragraph 1), of this law to the FBiH Agency, the RS Agency shall, within 60 days as of the day of receipt of all the prescribed data, pass a decision and submit it to the applying insurance company. The insurance company shall have the right to institute an administrative dispute before the court having jurisdiction in the Republic of Srpska against such a decision, or in the event of expiration of the period of 60 days if the decision has not been passed.

In the event of alteration of any details specified in the paragraph 1), indents a., b. and c. of the Article 38 of this law, the RS Agency shall be notified in writing at least 30 days prior to the enforcement of the alteration so as to allow the enforcement of the procedure specified in the previous paragraph.

Each insurance company from the Republic of Srpska providing non-life insurance services intending to get involved in the Federation of Bosnia and Herzegovina in insurance of the type: "Health insurance", which shall fully or partially replace the statutory social insurance system in this entity, has to provide the RS Agency, prior to their enforcement, with the technical basis for tariffs and general and special terms of insurance. The FBiH Agency may require the insurance designated as the type: "health insurance" to be dealt with on the basis similar to that of life insurance in the following cases:

- a. when premiums are calculated and paid based on the tables with specified diseases and other statistical data relevant to Bosnia and Herzegovina in accordance with the mathematical methods applied in the insurance business;
- b. when reserve is determined for the increase in age;
- c. when an insurer may cancel a contract only within a certain deadline determined by the FBiH legislation;
- d. when a contract foresees that premiums may be increased or payments may be decreased even for the current contracts;
- e. when a contract foresees that the insurer may replace the existing contract with a new one offered by the same insurance company or the same branch office, taking into account their exercised rights. Particular consideration is given to the reserve for the increase in age, and a new medical check-up may only be requested for more extensive coverage.

For the cases referred to in the paragraph 4) of this article, the BiH Insurance Agency, the RS Agency and the FBiH Agency shall publish the joint tables with specified diseases and other relevant statistical data referred to in the paragraph 4), point (a), of this article. Premiums shall be sufficient, according to actuarial assessments, to allow the insurance companies to meet their obligations having influence on all aspects of

their financial status. Insurance companies shall inform the RS Agency on the technical bases for calculation of the premiums prior to the commencement of the service provision. This paragraph shall apply even when the existing contract terms have been changed.

2.5. Common provisions for establishment of branch offices between the entities of Bosnia and Herzegovina

Notification on documents

Article 40

In order to protect the public interest and ensure compliance with the legal provisions on insurance contracts, the RS Agency may request from the insurance company with the headquarters in the Federation of Bosnia and Herzegovina providing insurance services in the Republic of Srpska through its branch offices, to provide it occasionally with information on general and special terms of insurance contracts, as well as of the documents intended to be used for their insurance beneficiaries.

The RS Agency shall request from the insurance company to provide all details necessary for the enforcement of this law in one of the official languages used in BiH.

The insurance company established in the Federation of Bosnia and Herzegovina and doing business in the Republic of Srpska through their branch offices shall have the obligation to provide the RS Agency with all required documents in order to enable the enforcement of this article if the companies with the headquarters in the Republic of Srpska shall also be obliged to do so. If the insurance company has refused to submit the required documents, the RS Insurance Supervision Agency shall apply the provisions of the articles 41 and 42 of this law.

Non-compliance with the law

Article 41

If the insurance company has not adhered to the applicable legislation, the RS Agency shall pass a decision to eliminate the irregularities in the business activities of that company, and inform the management of the company about it in writing, as well as the FBiH Agency.

In the event that the company has failed to comply with the decision referred to in the paragraph 1) of this article, the RS Agency shall notify the FBiH Agency thereof requesting from it to take the appropriate measures in order for the company to comply with the decision. The RS Agency shall be informed on the measures taken.

If the insurance company has continued violating the applicable legal provisions in the Republic of Srpska despite the measures taken by the FBiH Agency, or if the measures taken have proved to be inadequate or if no measures have been taken at all, the RS Agency may, after notifying the FBiH Agency, take the appropriate measures in order to prevent any future violation of the law and protect the interests of the insured persons, including, if necessary, preventing the insurance company from concluding new insurance contracts through the branch office.

The RS Agency shall be entitled to implement any appropriate measure, in particular to address the FBiH Agency.

If the company acting contrary to the provisions of this law has the headquarters in the Federation of Bosnia and Herzegovina and a branch office or property in the Republic of Srpska, the RS Agency may impose minor offence fines on this organisational unit, along with the appropriate measures, including restraining free management of property of the company in the Republic of Srpska.

Cooperation with the FBiH Supervision Agency

Article 42

If an on-site inspection is necessary on the premises of the insurance company or its branch office in the Republic of Srpska in order to ensure the enforcement of the applicable legal provisions of the Republic of Srpska, the RS Agency shall cooperate with the FBiH Agency with the aim of conducting the inspection. If deeming it necessary, the RS Agency itself may conduct the inspection on the premises of the branch office, after it had notified the FBiH Agency of it.

Advertising

Article 43

The insurance company with the headquarters in the Federation of Bosnia and Herzegovina providing services in the Republic of Srpska based on its right to establish branch offices may advertise its services in

the Republic of Srpska pursuant to the legal provisions valid in the Republic of Srpska, pertaining to the form and contents of such advertising, and in accordance with the public interest.

Liquidation

Article 44

In the event of liquidation of an insurance company, the obligations arising from the contracts concluded by means of its branch office shall be adhered to in the same way as the obligations arising from other insurance contracts of that company under the provisions of the Article 70 of this law.

2.6. Insurance companies with no headquarters in Bosnia and Herzegovina

General provisions

Article 45

A foreign insurance company with the headquarters outside Bosnia and Herzegovina may provide insurance services in the Republic of Srpska through a branch office once it has obtained the business licence from the RS Agency and has been entered in the court register. A branch office of a foreign insurance company shall have the prerogatives of a legal person and shall be subject to supervision conducted by the RS Agency. A branch office may provide only life insurance or only non-life insurance services. The business licence granted by the RS Agency shall be published in the "Official Gazette of Bosnia and Herzegovina" and the "Official Gazette of the Republic of Srpska", based on which the entry of the branch office in the court register shall be made.

The decision on the issuance of the business licence referred to in this article shall be final and valid in the whole territory of Bosnia and Herzegovina and shall be submitted to the BiH Insurance Agency.

Requirements

Article 46

In order to obtain the business licence for running a branch office in the Republic of Srpska, a foreign insurance company shall:

a. be established as a joint-stock company or a mutual insurance company or have any other form of an insurance company as foreseen in the European Union member countries, and shall be licensed in its country of origin to perform the types of insurance for which it seeks the business licence in the Republic of Srpska;

b. appoint an authorised representative of the branch office in the Republic of Srpska. If this authorised representative is a legal person it shall have the headquarters in the Republic of Srpska and appoint a natural person to represent it. This natural person shall be a resident of the Republic of Srpska and meet the requirements set out in the articles 34 and 60 of this law in terms of the professional qualifications of persons managing the insurance company;

c. be registered in a country allowing to insurance companies from the Republic of Srpska to be established based on the reciprocity principle;

d. have a minimum capital in the Republic of Srpska not lower than the lowest capital limit determined in the Article 49 of this law;

e. possess property in the Republic of Srpska or the Federation of Bosnia and Herzegovina of at least one half (1/2) of the minimum guarantee fund and deposits in the Republic of Srpska of minimum one fourth (1/4) of that minimal amount as a guarantee;

f. assume an obligation, by a formal statement signed by its representatives:

- to ensure a solvency margin for that branch office,

- to establish an administrative and accounting service appropriate for the business activities conducted in the Republic of Srpska within two months from obtaining the licence in the place where the branch office shall be located,

- to form and invest technical reserve funds in terms of conducting business in the Republic of Srpska, pursuant to the articles on the required technical reserves and funds,

- to appoint a certified actuary and a person responsible for details related to the variable fund.

The request for the business licence shall be accompanied by the following documents in one of the official languages used in the Republic of Srpska:

- a. a certified copy of the Articles of Association and proof of registration issued by the relevant authority of the country where the company has the headquarters;
- b. a certified power of attorney to appoint the authorised representative in the Republic of Srpska along with a statement that this power of attorney shall enter into force only after submitting this document the RS Agency;
- c. confirmation from the supervising authority of the country where that insurance company has the headquarters, not older than three months before the date of filing the request, confirming that the said insurance company does business and is licensed for the types of insurance intended to be performed in the Republic of Srpska;
- d. documents proving that the branch office meets the requirements defined in the paragraph 1), points (d) and (e), of this article;
- e. a list of names and addresses of the directors and executive directors;
- f. the branch office business plan including the elements foreseen under the Article 34 of this law;
- g. the balance sheet and the income statement for the last three financial years, or for the finished financial years if the applicant has done business for less than three financial years.

If a business licence is sought for the extension to another type or types of insurance, the applicant shall submit the documents referred to in the paragraph 2) of this article, except for the documents already submitted, if they comprise a new type or types of insurance.

The solvency margin which the insurance company referred to in this article shall be obliged to have shall be formed pursuant to the provisions of the Article 52 of this law and the decision of the RS Agency related to the documents to be enclosed to the request for issuance of the business licence, and calculated based on the premiums or mathematical reserves and insurance claims arising from the insurance for the services provided by the branch office. One third of the solvency margin shall constitute the guarantee fund the amount of which may not be lower than one half of the minimum guarantee required under the Article 53 of this law.

The funds covering the solvency margin, except for the guarantee deposited and blocked as foreseen in the paragraph 1), point (d), of this article, may be invested in the European Union member countries

Authorised representative

Article 47

The authorised representative having residence in the Republic of Srpska shall represent the insurance company before the court and in relationships with the public and state authorities of the Republic of Srpska and the RS Agency. The insurance company may not appoint more than one authorised representative with the powers in a particular part of the territory or for managing a certain type of insurance.

The authorised representative shall sign all insurance policies issued in the Republic of Srpska by the branch office of the foreign insurance company. The RS Agency may, after the submission of a written request by the authorised representative, grant the approval for several persons residing in the Republic of Srpska to be entitled to sign policies, provided that for the purposes of granting such an approval, a copy of the appropriate certified power of attorney shall be presented.

The authorised representative shall assume the responsibilities of the members of the Management Board of the insurance company.

The revocation or withdrawal of the power of attorney of the authorised representative shall be valid as of the date on which the written information about the revocation or withdrawal was received and registered by the RS Agency.

The insurance company shall fill in the position of the authorised representative within 60 days as of the day of the revocation or withdrawal or the RS Agency shall revoke the business licence.

Financial statements and business books, powers

Article 48

The alien company doing business in the Republic of Srpska shall:

- a. maintain business books in the Republic of Srpska for the activities performed in the Republic of Srpska, in one of the official languages used in the Republic of Srpska;
- b. prepare, publish and submit to the RS Agency the financial statements in one of the official languages used in the Republic of Srpska.

The branch offices of the foreign insurance company doing business in the Republic of Srpska shall fall within the jurisdiction of the courts in the Republic of Srpska and shall be bound to act in accordance with

the accounting rules and standards harmonised with the legislation of the Republic of Srpska related to joint-stock companies.

III - INSURANCE COMPANIES AND MUTUAL INSURANCE COMPANIES

3.1. Joint-stock companies and mutual insurance companies in the Republic of Srpska

Joint-stock insurance companies

Article 49

The Law on Companies shall be applied to joint-stock insurance companies unless otherwise provided in this law.

The minimal founding capital of the insurance company shall not be lower than:

a. BAM 2,000,000.00 if the insurance company performs one or more of the following types of insurance:

- insurance against liability for motor vehicles,
- insurance against liability for aircraft,
- insurance against liability for vessels,
- insurance against general civic liability,
- credit insurance,
- guarantee insurance.

b. BAM 2,000,000.00 if the insurance company performs one or more of the following types of insurance:

- insurance against the consequences of accidents,
- health insurance,
- insurance of passenger vehicles - casco,
- insurance of rail vehicles - casco,
- aircraft insurance - casco,
- marine, river and internal waters casco,
- insurance of goods in transport,
- insurance against fire and other hazards,
- insurance against various financial losses,
- insurance of tourist-related services.

c. BAM 1,000,000.00 if the insurance company performs one or more of the following types of insurance:

- other property insurance,
- legal protection insurance.

d. BAM 3,000,000.00 if the insurance company provides life-insurance services;

e. BAM. 3,000,000.00 if the insurance company provides reinsurance services exclusively.

The founding share capital shall be fully paid-in, in cash, during the incorporation and it may not originate from the following sources:

- a loan approved by a company the capital of which is credited with that payment;
- a loan approved by a bank or other financial institution for other purposes; or
- funds for which repayment is guaranteed by the insurance company the capital of which is credited with that payment.

When a link may be established within the loan beneficiary or their related entity between the approved loan and the paid-in share capital, or between the paid-in share capital of the insurance company and the approved loan, then such paid-in share capital shall not produce a legal effect notwithstanding whether it was done in the same or a different manner.

The RS Agency shall have the right to check out cash flows of the insurance company, the bank, the loan beneficiary and the related entity. The RS Agency shall have the discretionary power to decide whether or not the share capital was paid-in pursuant to the law, and to refuse such a payment and exclude payments done in this manner from paid-in share capital, in the event of violation of the law.

The provisions of this article shall also apply to the branch offices of the foreign insurance companies.

The insurance company may not either reduce its share capital or jeopardise its structure by acquisition of own shares without prior written approval of the RS Agency.

Shares of the joint-stock insurance companies may only be made out to the name.

Each joint-stock insurance company shall cumulatively maintain the following:

- a. the share capital amount which shall not be lower than the minimum founding capital required;
- b. the solvency margin;
- c. the guarantee fund.

Special provisions for mutual insurance companies

Article 50

A mutual insurance company (hereinafter referred to as: MIC) shall be a company whose members jointly guarantee the company funding and giving a compensation after the insured event has taken place, on the principles of mutuality and solidarity. The MIC shall be a company possessing legal personality and limited liability of its members for the company obligations. The MIC may be established by natural and legal persons. The sole objective of the MIC shall be to provide direct insurance services.

The funds required for covering the insurance amount to be paid after the risk occurrence shall be collected by contribution only in the scope necessary for meeting the company obligations toward the insured persons and for creation of reserves.

The membership in the MIC shall be open for natural persons with permanent residence in Bosnia and Herzegovina.

The MIC may not provide reinsurance services, but it may conclude reinsurance contracts for their own needs.

The MIC shall fulfil the following criteria:

- a. the number of its members may not exceed 250, if the company shall be authorised to cover only one risk type;
- b. the number of its members may not exceed 300, if the company shall be authorised to cover more than one risk type;
- c. at least a half of the income from contributions shall originate from the persons who are MIC members;
- d. its annual turnover may not exceed the amount of BAM 2,000,000.00.

The MIC shall not cover transactions in the following types of insurance: insurance against liability for the owner or user of motor vehicles, insurance against liability for the owner or user of aircraft, insurance against liability for the owner or user of vessels, insurance against general civic liability unless they constitute additional, i.e. incidental risks specified in the RS Agency decision on the types of insurance, and credit insurance and guarantee insurance.

Types of mutual insurance companies

Article 51

The MIC shall do business on the basis of unlimited or limited contributions of its members.

The MIC with unlimited contributions may request from each of its members to pay additional amounts, without restrictions, as necessary for covering outstanding claims provision.

If the income and provisions of the MIC with limited contributions are not sufficient to cover provisions for outstanding claims occurred in a given financial year, the limited contributions MIC can ask all the insured members to pay additional amounts which may not exceed the total amount of their previous contribution paid for that particular financial year.

The Articles of Association of the MIC shall include, among other things, terms for payment of increased member contributions or a decrease in the amounts of outstanding fees and benefits, if their annual contributions shall prove to be insufficient to cover the outstanding claims provisions for that financial year.

The MIC shall have a minimum capital equal to the minimum share capital of the joint-stock insurance companies referred to in the Article 49 of this law, classified in accordance with the types of insurance with which they shall do business.

Each MIC shall have the Management Board consisting of at least three members. The members of the Management Board shall be elected based on the decision of the members' assembly. The Management Board shall supervise the performance of executive officers. Up to one half of the Management Board

members need not be the MIC members, whereby the number of the Management Board members which shall at the same time be the company members may not be lower than two.

The Management Board shall appoint one or multiple executive officers to manage the company operations and they shall have the appropriate experience and skills. These persons shall not be required to be the MIC members and their appointment is subject to approval of the RS Agency pursuant to the provisions of the Article 60 of this law.

3.2. Solvency margin and the Guarantee Fund

Obligation to establish the solvency margin

Article 52

Each insurance company from the Republic of Srpska shall be required to establish a solvency margin in terms of its overall business operations, which shall correspond to the total assets deducted by non-tangible investments, prepayments and deferred expenses, loss, liabilities (including the mathematical reserve for life insurance) and for transferable positions (transferable premiums and reserved damages).

The RS Agency shall pass a regulation on the elements and controls for solvency margin.

Guarantee Fund

Article 53

Insurance companies in the Republic of Srpska shall be required to establish guarantee funds. The guarantee fund must constitute one third of the solvency margin.

The guarantee fund may not be lower than the amount of:

a. BAM 2,000,000.00, if the insurance company performs one or more of the following types of insurance: insurance against liability for the owner or user of motor vehicles, insurance against liability for the owner or user of aircraft, insurance against liability for the owner or user of vessels, insurance against general civic liability, credit insurance, guarantee insurance;

b. BAM 2,000,000.00 if the insurance company performs one or more of the following types of insurance: insurance against the consequences of accidents, health insurance, all-risk insurance of motor vehicles, all-risk insurance of aircraft, all-risk insurance at sea, rivers or internal waters, insurance of goods in transport, insurance against fire or other hazards, insurance against various financial losses, and insurance of tourist-related services;

c. BAM 1,000,000.00 if the insurance company performs insurance against other property damages and/or insurance involving legal protection;

d. BAM 3,000,000.00 if the insurance company performs life insurance;

e. BAM 3,000,000.00 if the company performs reinsurance exclusively.

The guarantee fund of the insurance company performing the type of credit insurance, if annual amounts of premiums and contributions charged on clients, related to this type of insurance, for each of the most recent three financial years, have exceeded BAM 5,000,000, or an amount equal to 4% of the total amount of premiums or contributions charged by the insurance company on clients, may not be less than BAM 3,000,000.00.

If a company performing credit insurance is required to increase its guarantee fund in terms of the paragraph 3) of this article up to BAM 3,000,000.00, the company shall increase the guarantee fund in the following manner:

- Within three years, up to BAM 2,500,000.00,
- Within five years, up to BAM 2,700,000.00,
- Within seven years, up to BAM 3,000,000.00.

If the business conducted by the insurance company covers a number of types or risks, only such type or risk shall be taken into account which shall require the highest amount of the guarantee fund.

In the case of the MIC, the upper minimum amounts of guarantee funds shall be deducted by one fourth.

In the case of life insurance activity, the guarantee fund may not be lower than the amount corresponding to the amount of BAM 3,000,000.00. At least 50% of the guarantee fund, as well as the sum of the lowest limits of the guarantee fund established pursuant to this article, must consist of the funds referred to in the regulation on the elements and controls for solvency margin.

Controls for solvency margin and guarantee funds

Article 54

In order to ensure compliance with the provisions related to the solvency margin and guarantee fund, the RS Agency shall conduct inspection control of the financial situation at insurance companies at least once a year.

For the type of insurance: „Assistance“ the verification shall also encompass staff qualifications, including medical staff, as well as the quality of the equipment available to the insurance company to meet its obligations arising from this type of insurance.

In order to ensure control of the solvency margin and guarantee fund, the RS Agency may require to be supplied with any relevant piece of data or may conduct an on-site verification, on the premises of the insurance company.

During the first three financial years, on a six-month basis, each insurance company shall be required to submit to the RS Agency brief financial statements in order to ensure the control of their financial situation in relation to the business plan submitted at obtaining licence approval.

The RS Agency may prescribe the contents of the brief financial statements. Upon the expiration of 12 months from the issuance of the business licence, the insurance company shall be required to maintain the assets as insurance investments pursuant to the provisions referred to in the articles 56 and 57 of this law.

For an insurance company from the Republic of Srpska that is already operating, the blocking of the property maintained or assigned as asset investment shall cease and transform once this property is placed into insurance deposit, based on the decision of the RS Agency, which pertains to the request of the insurance company along with the enclosed documents confirming that the company has been in compliance with the provisions referred to in the Article 55 of this law and the regulations on technical reserves as passed by the RS Agency.

Whenever the solvency margin of the insurance company is lower than the amount foreseen under Articles 52 through 54 of this law, the company shall be required to submit a financial recovery plan to the RS Agency pursuant to the paragraph 9) of this article.

In exceptional cases, if the RS Agency deems that the financial situation of the insurance company shall be further aggravated, it may restrict or prohibit the free management of the full or part of the property of the insurance company and may undertake any other appropriate measure in order to protect the interests of insured persons.

Whenever the solvency margin of the insurance company is lower than the guarantee fund, or when the appropriate guarantee fund has not been established pursuant to the provisions of the Article 53 of this law, the insurance company shall be required to submit for a review to the RS Agency a plan of a short-term financial programme, which shall eliminate the shortcoming.

In order to fully eliminate the shortcoming, the RS Agency may prohibit free management of the entire or a part of the property of the insurance company, and undertake any other adequate measure to protect the interests of the insured persons.

The RS Agency may revoke the licences for all types of insurance performed by the insurance companies if the company has failed to set itself in compliance with the measures contained in the recovery plan or in the short-term financial program within the set deadline pursuant to the paragraphs 7) and 9) of this article.

Every year, by 31 July, each insurance company shall submit the annual report on the solvency margin to the RS Agency. By 31 October every year, the RS Agency shall perform the control of calculation and composition of the solvency margin, approve a recovery plan or a short-term financial program, or shall enforce any other measures.

After the date referred to in the previous paragraph, the RS Agency shall impose fines for violations and sanctions foreseen in this law. The recovery plan and the short-term financial program shall on a mandatory basis specify the periods for their enforcement, which may not exceed two months.

Technical and mathematical reserves

General provisions

Article 55

Each insurance company having the headquarters in the Republic of Srpska shall be required to form technical reserves for all insurance contracts concluded in the Republic of Srpska or in the Federation of Bosnia and Herzegovina through branch offices, in line with the regulation on technical reserves passed by the RS Agency.

For insurance concluded outside Bosnia and Herzegovina, the insurance company referred to in the paragraph 1) of this article shall be required to form technical reserves in line with these provisions and the regulation referred to in the paragraph 1) of this article, only if they are subject to application of the requirement to form such reserves in the specific country.

3.4. Fund investments by insurance companies

General Provisions

Article 56

The insurance companies having the headquarters in the Republic of Srpska may invest funds in Bosnia and Herzegovina or in the European Union member countries, in order to protect the interests of persons entitled to any of the benefits arising from the insurance contract.

Any investments beyond Bosnia and Herzegovina shall require the approval of the RS Insurance Agency.

Details related to investments of funds by insurance companies shall be regulated pursuant to the provisions of this law and the regulation on the amount and method to invest funds by insurance companies as passed by the RS Agency.

Any person filing an insurance claim for collection of insurance compensation shall also have a preferential claim against the funds that consist the investment by the insurance company into specific types of insurance to which such a claim pertains. A preferential claim in terms of this paragraph shall understand to include the priority for the claimant in relation to the other creditors in the procedure for settlement of insurance claims.

Any confiscation, mortgage, assignments or any other form of managing the funds of insurance companies towards third persons shall be null and void.

The insurance companies shall invest funds in line with the type of transactions they conduct, in order to guarantee life insurance, income and cash flow for investments by insurance companies, which are also reliable for allocations and appropriate scheduling of these investments.

Controls by the RS Agency

Article 57

Insurance companies shall be required to notify the RS Agency of the investments of funds to which secrecy of deposits does not pertain.

Insurance companies shall be required to notify the RS Agency of any changes in the status of investments within 10 days of such change.

For changes pertaining to real estate and loans secured with mortgage, such notification must be provided 15 days prior to change.

Insurance companies may not purchase shares of stock, other equity shares, bonds or other securities of parent companies or of companies controlling insurance companies at the time of their issuance, or at the time of sending out the public invitation to register and make payments for securities.

The RS Agency shall:

- a. Conduct on-site control and require all data pertaining to the financial situation of:
 - Subsidiaries of this insurance company, when insurance funds constitute investments by the company,
 - Subsidiaries of this insurance company managing the investments of this insurance company.
- b. Require any piece of data that is related to the financial situation of the bonds or debt securities from credit institutions, as possessed by and available to the insurance company within the scope of investment.

Require any piece of data or perform control on the premises of the insurance company in order to ensure the application of the articles 55 through 58 of this law.

The assessments of assets elements covered by investments and the distribution of investments of the insurance company shall be conducted in line with the regulation on the amount and method of investing funds by insurance companies.

Measures by the RS Agency against failure to form reserves and invest funds by insurance companies for insurance

Article 58

If the insurance company has failed to adhere to the provisions referred to in the articles 55 through 58 of this law in relation to technical reserves, after having notified its intention to the Agency of FBiH, if such insurance company conducts business in the FBiH via branch offices, the RS Agency may pass a decision to: prohibit investing of insurance funds and prohibit the management of part or all free property; revoke the business licence fully or temporarily for some or all types of insurance it performs; and undertake any appropriate measure aimed at protection the interests of insured persons, as well as of any other persons entitled to benefits from insurance.

The prohibition of free management with total or part of funds of the insurance company, or property of the insurance company, in line with the provisions referred to in the paragraph 1) of this article, shall be entered upon the request of the RS Agency in each individual case in public registries foreseen in the law or in the books of the bank in which the relevant deposit is in existence. The prohibition referred to in this paragraph may be withdrawn fully or partially in a decision of the RS Agency. Such decision must specify the terms and conditions of such withdrawal. The Agency of FBiH must be notified of the prohibition and of its withdrawal.

If necessary for the application of the measures referred to in the paragraphs 1) and 2) of this article, the Agency of FBiH shall also be notified of the decision of the RS Agency passed in line with the paragraph 2) of this article, along with the data on the property blocked or banned from free management, as well as on other instructions.

In exceptional cases, when there is risk in place of violation of the applicable provisions and the Act of Incorporation of the insurance company, the RS Agency may decide to appoint authorised auditors who will conduct extraordinary audit according to international standards. The auditors shall be tasked with conducting of financial and administrative audit of the insurance company under the scope of the supervision conducted by the RS Agency, aimed at establishing whether the insurance company applies the legal regulations in effect in the Republic of Srpska, as specified in the decision of the Agency for Insurance Supervision of RS referred to in the paragraph 2) of this article.

3.5. Financial statements and audit of insurance companies

Financial statements of insurance companies

Article 59

The RS Agency shall require from insurance companies having the headquarters in the Republic of Srpska to occasionally report their income along with all statistical documents necessary for supervision. The RS Agency and the Agency of FBiH shall exchange all documents and data useful for conducting the supervision.

Within four months after the financial year, the insurer must submit to the RS Agency the balance sheet and the income statement, along with all audit reports, as well as with the financial statements the form, contents, data, details and certifications of which have been determined in the decision on the form and contents of the statements submitted by insurance companies, as passed by the RS Agency.

The audit of financial statements supplied by insurance companies shall be conducted in line with the applicable regulations on the audit of financial statements, audit standards and actuary principles. In particular, it is necessary to conduct the audit of investment and formation of technical reserves, as well as assess the ratio between investments and property. The audit shall be conducted by the authorised auditors every financial year or even more

frequently, if so deemed necessary by the RS Agency. The general meeting of the insurance company shall appoint the authorised auditor under the approval of the RS Agency. Unless within 15 days from the date of submission of proposed selection for the authorised auditor the RS Agency has failed to file objection or proposal for another authorised auditor, it shall be deemed to agree with the proposed selection. The insurance company must submit the reports and findings of the authorised auditor to the RS Agency within 15 days from the day of the audit.

Within 15 days, the insurance company shall be required to publish the report of the authorised auditor in one or multiple public gazettes available in the whole territory of Bosnia and Herzegovina, and to immediately notify the RS Agency to this effect, attaching a copy of such publication.

Life insurance companies must complete the report on the results of the audit foreseen in the previous paragraph of this article („Life Insurance Report“), the form, contents, supplementary data, details and

methods of certification of which are determined in the decision on the form and contents of the reports submitted by insurance companies as passed by the RS Agency.

The insurance company must submit a copy of the life insurance report to the RS Agency no later than within 60 days from the date of audit. The RS Agency may pass a written decision on extending of the period for submission of the report if the insurance company has filed a substantiated written request to this effect.

The insurance company must submit data, documents and other necessary facts in the form required by the RS Agency, in order to assess the investments and the financial position, which is to be done following the submission of the life insurance report to the RS Agency.

3.6. Significant positions and the qualified shares

Persons holding significant positions at insurance companies

Article 60

The persons holding significant positions at insurance companies must be of high reputation and moral, with satisfactory qualifications or experience in management.

The persons who have been convicted of fraudulent transactions or embezzlement, use of forged documents, theft of public or private property, misstatement, giving or taking bribe, or any other crime foreseen by the law related to performance of their professional activity, as well as persons who have been members of the Management Board at the insurance company subjected to opening of the bankruptcy procedure or to revocation of the business licence due to violation of the law, may not be selected or appointed as directors, managers, executive officers, authorised representatives or actuaries of insurance companies. The persons who have been members of management boards at insurance companies subjected to pronouncement of bankruptcy or revocation of licence may be appointed to the positions referred to in this paragraph upon the expiration of a five-year period.

The requirements referred to in the preceding paragraph of this article shall also apply to persons who have directly or indirectly acquired qualified shares in an insurance company, as well as to liquidators and trustees in the liquidation or bankruptcy procedure.

The financial standing or the criminal history of the persons referred to in the preceding paragraphs of this article, in the case involving nationals of a different country, shall be proved through submission of excerpts from court criminal records or in a different manner, using an identical document from the competent court or administrative authority from the country of origin of such persons. If the country of origin does not issue such documents, then it shall suffice to provide an affidavit under oath or an official statement before the competent administrative or court authority or before the public notary of such country.

The persons referred to in the preceding paragraphs of this article shall be responsible, pursuant to the law, for the criteria, assessment and method of selection of the employees appointed to provide executive management of the operations of insurance companies, taking into consideration the interests of insured persons or potential insured persons.

The documents issued pursuant to the preceding paragraphs shall only be admitted unless more than 90 days have passed since the date of their issuance.

Qualified shares in insurance companies

Article 61

Any natural or legal person intending to acquire, directly or indirectly, a qualified share in an insurance company having the headquarters in the Republic of Srpska, pursuant to the Article 2 of this law, must provide a prior written request to the RS Agency.

The company shall be required to enter the requests referred to in the paragraph 1) of this article into a special register, which apart from each purchase or sale of shares of stock shall also contain the prices at which such transactions have been conducted.

The requirement referred to in the paragraphs 1) and 2) of this article also exists when the existing property is increased, so that the ratio between the voting rights and equity in possession of specific persons reaches or exceeds the lowest amounts of 20%, 33%, or 50% of the total voting rights or equity, or so that the insurance company shall become a related company of the entity whose property is being increased.

For property possessed by legal persons, the RS Agency shall hold the authority to:

- request data on the identity of the natural persons that directly or indirectly control such legal persons,

- introduce the obligation to provide information on any subsequent change in the identity of such natural persons, and
- request disclosure of financial details (financial accounts) for the purpose of controlling their financial position, whenever an insurance company may be in the position of their related entity.

Such data may also be requested subsequently.

In order to ensure verification of identity of the natural persons who control the legal person possessing qualified shares in an insurance company, the RS Agency may:

- require from such legal persons to possess shares of stock in the name with voting rights;
- require that certain percentages of the total amount of shares of stock in the name with voting rights belong to one or more than one natural persons previously approved by the RS Agency.

Within three months from the date of receipt of the notification referred to in the paragraphs 1) and 2) of this article, the RS Agency shall pass a decision approving or rejecting the share. In the procedure of passing the decision, the RS Agency shall have the authority to conduct the eligibility control for the candidates as well as to cooperate with the Agency of FBiH and the supervisory bodies of insurance companies in other countries or other competent authorities.

In the case of death of the owner of the qualified share, the successors must provide a written notification to the RS Agency within four months from the day of death. Within three months from receipt of the notification referred to in this paragraph, the RS Agency may pronounce the measures foreseen in the paragraph 5) of this article and the penalties foreseen in the Article 62 of this law, if it deems that the successors are not suitable for stable and solid management of the insurance company.

In addition to the requirements referred to in this article, the owners of qualified shares in insurance companies shall notify the RS Agency in advance of any increase of their shares, which exceeds the previously reported share by the amount of 2% of the shareholding equity of the insurance company. The notification requirement referred to in this paragraph exists until the total share in the insurance company reaches the 33% threshold.

The Insurance Agency in BiH shall have the discretion to object to the shares in insurance companies that are located and operating in the Republic of Srpska owned by natural persons residing outside of Bosnia and Herzegovina, or owned by natural persons regulated by the laws of another country. This paragraph shall not preclude the requirements that arise from international agreements between Bosnia and Herzegovina and other states governing the operations of insurance companies.

Any natural or legal person intending to manage, either directly or indirectly, the qualified shares in an insurance company shall provide an advance written notification to the RS Agency and shall specify the share that it intends to retain.

The insurance company shall immediately provide a written notification to the RS Agency if such management of the qualified shares has caused a change in the voting rights ratio or the shares of stock in the equity of such natural or legal person have fallen below the minimum threshold of 20%, 33%, or 50%, if the percentage of such share has exceeded the limits specified in the paragraph 7) of this article, or if the insurance company has ceased being a related company.

Until July 15, each year, the insurance companies shall submit the names of shareholders with qualified shares, as well as the amounts and percentages of such shares, based on the data compiled during annual general assembly of shareholders or on the occasion of meeting of other legal requirements for the companies.

The decisions passed by the RS Agency foreseen in the articles 61 and 62 of this law shall be final and shall be entered into the registry of insurance companies of the RS Agency.

Measures of the RS Agency in the event of failure to adhere to the provisions on qualified shares

Article 62

If a qualified share has been acquired or an existing qualified share has been increased beyond the limits set forth in the Article 61 of this law, without prior notification to the RS Agency or without obtaining of the appropriate approval, the use of voting rights resulting from this share shall be null and void. In addition, the RS Agency may pronounce the following penalties against the owners of qualified shares, either individually or aggregately:

a. the fine credited to the budget of the Republic of Srpska in the amount of not more than 10% of the value of shares of stock transferred without adhering to the provisions referred to in the Article 61, paragraphs 1) and 8), of this law;

b. exclusion of any individuals from the Management Board of the insurance company, as well as from any managing position at the insurance company for a limited or unlimited period.

If the RS Agency has not been notified of the change of identity of the natural person controlling the legal person with a qualified share in an insurance company, the use of voting rights arising from the share owned by such natural person shall cease from having effect ipso jure, and the RS Agency may pronounce the penalty against the natural person as referred to in the paragraph 1), point (b) of this article. The same penalties may be pronounced against persons not adhering to the requirements foreseen in the Article 61, paragraph 7), of this law.

Against such persons who fail to adhere to the notification requirement pursuant to the Article 61, paragraph 10), of this law, the RS Agency may pronounce the fine up to 5% of the value of the shares of stock transferred without prior notification.

The RS Agency shall undertake all appropriate measures in order to prevent natural persons with qualified shares or natural persons who either directly or indirectly control the legal person with a qualified share in the insurance company located and operating in the Republic of Srpska, from exerting influence that is or may be harmful to the stable and solid management of the insurance company.

In order to ensure the application of the provisions referred to in this article, the RS Agency cautions of actions, failures or their parallel activities in other domains, which in the opinion of the RS Agency may be harmful to the stable and solid management of the insurance company. The RS Agency shall also communicate corrective measures to the representatives of the persons referred to in this article, which need to be undertaken in a specific period.

The RS Agency may undertake all the necessary measures in order to stop the negative influence that natural persons exert onto the management of the insurance company, specifically:

a. order for their dismissal from the Management Board of the insurance company and from any other managing position at the insurance company;

b. until the circumstances that have caused the need for introduction of specific measures have ceased, suspend the application of the voting rights arising from the shares of stock possessed by such natural persons or legal persons they control;

c. ban any new transactions conducted by insurance companies with such persons or with any legal person they control, as well as call the loans that the previously mentioned persons have received from such insurance company.

3.7. Transfer of the insurance portfolio

General provisions

Article 63

Under the approval of the RS Agency, the insurance company established in the Republic of Srpska may transfer all or part of its insurance contract portfolio onto one or more than one insurance companies established in the Republic of Srpska or in the Federation of Bosnia and Herzegovina.

Partial transfer of the portfolio is the transfer of a whole type of insurance or at least one risk involved with a specific type of insurance.

The same right to transfer portfolios may also be exercised by insurance companies that are not from the Republic of Srpska, but that have been established in Bosnia and Herzegovina in the form of branch offices.

The transfer of portfolio shall be permitted pursuant to the provisions arising from Articles 63 through 66 of this law, under the following conditions:

- that such transfer shall not prejudice the interests of insured persons or other persons entitled to rights and liabilities arising directly from the transferred agreements;
- that the insurance company onto which such transfer is conducted has been authorised to transact with the type of insurance covered by the transferred portfolio;
- that after the completed transfer of portfolio it still possesses the required solvency margin;
- that there is an approval from the Agency of FBiH in place if the risks accepted are found in the Federation of Bosnia and Herzegovina.

The insurance company conducting such transfer shall notify the insurance contractors and any other stakeholders of the proposed transfer by publishing the notification on the proposed transfer in the „Official Gazette of the Republic of Srpska“, „Official Gazette of Bosnia and Herzegovina“, and in the daily newspapers with major circulation in the Republic of Srpska. The notification on transfer shall contain the data on the name of the company conducting the transfer and the name of the company being transferred to, on the classification of the risks involved in the insurance portfolio to be transferred, as well as the option that within three months from the date of publication objections may be filed against such transfer with the RS Agency. For life insurance transactions, the notification shall contain the designation stating that an actuary report has been compiled and that it is available for insight at the seat of the company and at all branch offices of the company.

The insurance company established in the Republic of Srpska conducting the transfer shall also be required to publish the notification referred to in the paragraph 5) of this article, in the Federation of Bosnia and Herzegovina in terms of the risks being transferred, and are found in the Federation of Bosnia and Herzegovina.

The objections pertaining to the risks found in the Federation of Bosnia and Herzegovina or as filed by the insured persons residing in the Federation of Bosnia and Herzegovina may be filed with the Agency for Insurance Supervision of RS.

Within 30 days from the date of receipt of the objection, the RS Agency shall pass the decision approving or rejecting the transfer of portfolio.

The decision of the RS Agency approving the transfer shall also be published in the Federation of Bosnia and Herzegovina if the portfolio involves risks found in the Federation of Bosnia and Herzegovina.

The publication and the approval for transfer of portfolio for the company conducting the transfer and having the headquarters in the Federation of Bosnia and Herzegovina, covering the risks found in the Republic of Srpska, shall be completed pursuant to the provisions of this article.

Transfer approval procedure

Article 64

After publication of the decision of the RS Agency approving the transfer of portfolio, no objections may be filed against this decision by the insured persons, insurance contractors or beneficiaries of compensation.

A contract portfolio transfer shall be approved covering the risks in the Republic of Srpska as concluded by an insurance company having the headquarters in the Federation of Bosnia and Herzegovina and operating in the Republic of Srpska through its branch offices, not precluding the application of the Article 63, paragraph 4), of this law, provided that the insurance company being transferred onto has been established in the Republic of Srpska.

A branch office in the Republic of Srpska of an insurance company from the Federation of Bosnia and Herzegovina, intending to conduct the transfer onto a specific insurance company having the headquarters in the Republic of Srpska, whose whole or part of the insurance portfolio has been concluded based on the branch office establishment right, shall be required to procure a prior opinion from the RS Agency.

The RS Agency whose opinion is being procured in terms of insurance contract portfolio transfer shall submit its opinion or approval to the Agency of FBiH within 90 days from the date of receipt of such request pursuant to this law. If the Agency for Insurance Supervision of the RS has failed to submit the opinion within the period referred to in this paragraph, it shall be deemed to have provided a favourable opinion or a silent approval.

The portfolio transfer also includes the transfer of the property that constitutes the investments of the insurance company along with the technical reserves that correspond with the insurance policies from the portfolio being transferred, pursuant to the transfer agreement concluded between the two insurance companies. The RS Agency shall not approve the transfer of portfolio unless the company conducting the transfer possesses the necessary insurance reserves for the liabilities arising from the policies or unless, in the case of successive transfer of funds along with the policies, the side accepting the portfolio possesses sufficient technical reserves to cover the future liabilities.

Each transfer agreement must explicitly state the name of the person carrying the burden of covering the technical reserves. The transfer has been completed once the transfer protocol has been signed for the transferred portfolios, which shall also contain the amounts of technical reserves as of the date of signing the

protocol. The protocol shall also be signed by the authorised actuary and shall be entered into the registry of the RS Agency if life insurance policies are being transferred.

The authorised actuary of the insurance company being transferred onto shall be required to enter the technical notes and the general terms and conditions from the policies transferred, pursuant to the Article 20 of this law, in the „Book of Technical Notes and General Terms and Conditions“, also specifying that such policies have arisen from the transfer.

Special provisions on transactions in specific types of insurance company

Article 65

Special provisions shall apply to the types of insurance: „Court Expenses“ and „Assistance“, as prescribed in the decision on the special provisions for specific types of insurance passed by the RS Agency.

Investment-related life insurance

Article 66

If the benefits foreseen in the agreement are to be calculated above a specific value unit related to a specific value, such as the approved units of common funds or units of a number of separate funds organised and managed by the same insurance company (internal variable fund), the provisions shall be applied as foreseen in the book of rules on investment-related life insurance and tontines, as passed by the RS Agency.

3.8. Measures for reorganisation, liquidation and protection of insured persons

3.8.1. Measures for reorganisation

The authority of the RS Agency to introduce the measures for reorganisation

Article 67

Regardless of the provisions referred to in the Article 54 of this law in relation to the financial recovery plan, as well as with the short-term financial program plan due to the failure to determine the solvency margin and guarantee capital, in order to preserve or recover the financial position of the insurance company, the Agency for Insurance Supervision of RS may, with or without intervention on the part of other administrative, regulatory or court authorities, intervene with efficient measures in terms of previous rights of other parties, except or the rights of insurance companies, such as introduction of temporary trustees, suspension of payments, suspension of executive procedures or reduction of damage compensation amounts.

The reorganisation measures shall be undertaken in line with the laws of the Republic of Srpska or in line with the laws of the Federation of Bosnia and Herzegovina if the seat of the insurance company is located in the Federation of Bosnia and Herzegovina and if it operates in the Republic of Srpska through branch offices. As of the date of entering into force in the entity in which they have been undertaken, the measures referred to in this article shall enter into force in the whole of Bosnia and Herzegovina. All of the legal rights and legal remedies that pertain to the insurance company, as well as to any person whose legal rights have been jeopardised due to the reorganisation measures undertaken by the RS Agency in terms of the insurance company established in the Federation of Bosnia and Herzegovina operating in the Republic of Srpska through branch offices shall also be applied and recognised in the Federation of Bosnia and Herzegovina.

The RS Agency may introduce the measures for reorganisation in relation to the insurance company established in the Federation of Bosnia and Herzegovina conducting insurance transactions in the Republic of Srpska through branch offices only upon the request of the Agency of FBiH. In the case referred to in this paragraph, the RS Agency shall immediately notify the Agency of FBiH of the measures undertaken, when possible even prior to the undertaking of measures, and if not possible then immediately after the undertaking of measures, as well as on the possible practical effects of the measures.

In order to facilitate the RS Agency's supervision over the implementation of the reorganisation measures undertaken pursuant to this article, the Ministry of Finance of the Republic of Srpska may publish a decision in the „Official Gazette of the Republic of Srpska“ in order to pass the necessary procedural and material regulations. In order to ensure the identical application of such regulations in the Federation of Bosnia and Herzegovina, the decision referred to in this paragraph may be passed after the obtaining of the prior opinion from the Agency for Insurance in BiH. The Agency for Insurance in BiH, pursuant to the Law on the Agency for Insurance in BiH, shall undertake all the prescribed measures to ensure that these provisions be passed simultaneously by the Ministry of Finance of the Federation of Bosnia and Herzegovina.

3.8.2. Special liquidation and liquidation

Special liquidation of insurance companies

Article 68

The procedure for liquidation of insurance companies shall be instituted by the RS Agency in the cases when:

1. the RS Agency has revoked the business licence from an insurance company;
2. the registration of the insurance company has been pronounced null and void in a final court decision; and
3. the general meeting of shareholders of the insurance company has opted for the cease of operations of the insurance company.

The provisions of the regulations on the bankruptcy procedure, liquidation procedure and of the regulations on companies shall also be applied to the procedures involving the bankruptcy or liquidation of the insurance companies except in the cases where the same matter has been regulated otherwise in this law.

The procedure for special liquidation of insurance companies is part of the liquidation procedure aimed at conducting the liquidation of the insurance portfolio instituted by the RS Agency in the cases when:

- the business licence has been fully and permanently revoked from the insurance company, and
- free management of property has been banned to the insurance company in the cases when the general meeting of shareholders of the company opts for the cease of the insurance company.

In the course of the liquidation procedure until its completion, no bankruptcy procedure may be instituted against the insurance company.

The procedure for special liquidation shall begin and end with the passage of the decision by the RS Agency. The decision referred to in this paragraph shall be submitted to the insurance company and shall be published in the „Official Gazette of the Republic of Srpska“, and if the insurance company has been conducting business in the Federation of Bosnia and Herzegovina through field offices, in the „Official Gazette of the Federation of Bosnia and Herzegovina“.

The RS Agency shall appoint a temporary trustee to supervise the special liquidation of insurance. The RS Agency shall pass a decision to establish the fee for the temporary trustee. The decision on appointment of the temporary trustee shall be published in the „Official Gazette of the Republic of Srpska“, and if the insurance company has been conducting business in the Federation of Bosnia and Herzegovina through field offices, in the „Official Gazette of the Federation of Bosnia and Herzegovina“.

The RS Agency shall form a list of 30 (thirty) persons with special skills and experience in business transactions of insurance companies or credit institutions, to be used for appointment of temporary trustees.

All of the authority of the insurance company's management and other persons authorised to represent all bodies of the company shall cease as of the date when the decision on appointment of the temporary trustee has been published in the official gazette.

Within the period of 30 days from the date of their appointment, through a registered letter, the temporary trustee shall be required to notify the insurance contractors that the business licence of the insurance company has been fully and permanently revoked, and that the procedure for special liquidation of the company shall begin. Upon the expiration of 30 days from the date of receipt of such letter by the insurance contractor, all contract agreements shall be deemed terminated ipso jure, provided that within this period no other company has filed a request to take over the portfolio of the company whose business licence has been revoked.

Within the period of five days from his appointment, the temporary trustee shall file with the competent court the request to institute the liquidation procedure and to appoint the liquidation trustee. Until the appointment of the liquidation trustee pursuant to the provisions of the Law on the Bankruptcy Procedure and the Law on the Liquidation Procedure, the temporary trustee shall execute all duties of the Management Board and the Director of the insurance company.

After appointment of the liquidation trustee, the temporary trustee shall monitor the progress of liquidation, providing his opinion on the liquidation matters if so requested by the liquidation trustee, notify the Agency for Insurance Supervision of RS in writing of the progress of liquidation at least once every two months, and shall execute whatever he is required to by the RS Agency.

The temporary trustee shall submit the report to the RS Agency upon the finalisation of the special liquidation procedure.

The temporary trustee may take part in court procedures conducted by the liquidation trustee. Any withdrawal of appointment of the temporary trustee shall not preclude the validity of his actions in performing his duties prior to such withdrawal.

In due course of the procedure for liquidation of the insurance company, enforcement procedures shall be suspended against the company or its insured persons up to the amount for which the insurance company is responsible. During this time, any procedures against the insurance company in terms of payment of insurance compensation shall also be suspended.

Once the special liquidation of the insurance company has been instituted, all current court procedures shall be deemed urgent, and the beneficiaries of the compensation, temporary trustee and liquidation trustee shall be entitled to so request from the court.

The liquidation trustee may conclude loan agreements with credit institutions for the purpose of payment of insurance compensations to insurance beneficiaries. The claims upon such loans shall hold priority pursuant to the provisions referred to in the Article 70 of this law.

Upon the report filed by the shareholders of the insurance company or members of the company for mutual insurance who represent more than 50% of the equity of the insurance company, or upon the report filed by the liquidation trustee or temporary trustee, the RS Agency may pronounce the finalisation of the liquidation of insurance if the solvent liquidation of the insurance portfolio has been successfully completed. The liquidation of transactions not related to the insurance portfolio shall be conducted pursuant to the provisions of other laws governing the liquidation of other legal persons (hereinafter referred to as: standard liquidation). Independently from the act pronouncing that the company is in the status of special liquidation, the finalisation of all outstanding matters not related to the insurance portfolio shall be completed pursuant to the provisions of the laws governing standard liquidation.

The insurance company shall submit to the RS Agency the decision of the shareholders on the cease of operations of the insurance company. Within the period of fifteen days, the RS Agency may pass the decision pronouncing that the insurance company is under special liquidation.

Any transfer of property of the company shall be banned and null and void during the period from the passage of the decision on cease of operations of the insurance company until the issuance of the decision by the RS Agency referred to in the previous paragraph of this article or until the expiration of the period of fifteen days referred to in the preceding paragraph of this article.

In relation to the insurance company that is already under standard liquidation, the RS Agency may institute special liquidation if it deems that otherwise the interests of insured persons may be at risk.

The court must notify the RS Agency of any request to institute the procedure for liquidation or bankruptcy of the insurance company within ten days from the date of submission of such request. The bankruptcy judge, or the liquidation judge, who has passed the decision to institute the bankruptcy procedure shall serve a copy of the decision to institute the procedure for liquidation or bankruptcy to the RS Agency within five days from the date of passage of such decision.

Common provisions for bankruptcy and liquidation

Article 69

In the case of special liquidation or bankruptcy of the insurance company, the temporary trustee, liquidation trustee or bankruptcy trustee referred to in the Article 68 of this law, within ten days from the date of appointment, shall write to all known insurance contractors and claimants for insurance compensation in the whole of Bosnia and Herzegovina, to their place of residence or seat, inviting them to report their claims and informing them on the effects of the special liquidation or bankruptcy pursuant to the provisions referred to in the articles 67 through 70 of this law, and the Article 29 of this law. Every claimant in insurance must be notified through public advertisement to be published once per week for three successive weeks in two dailies of major circulation, at least one of the two being published in the place of the seat of the insurance company, and the second one being the financial gazette, in order to file their claims with all corresponding documents within three months from the date of the last publication.

The claims shall be examined by the persons referred to in the paragraph 1) of this article within a period as short as possible, which begins no later than within three days from the expiration of the date referred to in the paragraph 1) of this article. At the hearing for examination of claims, the bankruptcy or liquidation judge shall rule on the grounds of each claim. The temporary trustee, the liquidation or bankruptcy trustee must publicly express their opinions on each individual claim and submit their opinions to the bankruptcy or liquidation judge on whether the claims are grounded.

The claims are categorised in the following way:

1. beneficiaries of life insurance policies;
2. beneficiaries of compensations on non-life insurance policies who have reported the realisation of the insured case and whose reports have been properly recorded in the books of the company; and
3. any other persons who have filed their claims within the period referred to in this article.

The bankruptcy or liquidation judge shall compile a special list of disputed claims stating the amounts assessed by the liquidation or bankruptcy trustee, as well as the reported amounts. The list shall be entered into the register of the insurance company and shall be published in two dailies of major circulation, at least one of them being published in the place of the management of the insurance company, once per week through three successive weeks. The payees of all disputed claims shall be entitled to file suits with regular courts to establish the existence of disputed claims. The cases on such suits are urgent.

The RS Agency may issue an approval to the temporary trustee for free management of the funds that constitute the investment of the insurance company.

The transfer of the whole or part of the portfolio shall be conducted upon the prior approval by the RS Agency, determining the terms and conditions for such transfer. The terms and conditions for the transfer contained in the decision referred to in this paragraph may deviate from the provisions referred to in the articles 63 and 64 of this law.

The existing legal provisions on the liquidation in the Republic of Srpska shall be applied on shareholding companies for insurance and companies for mutual insurance unless otherwise regulated in the provisions referred to in the articles 67 through 71 of this law. The RS Agency shall supervise all the proceedings during special liquidation or bankruptcy of the insurance company.

3.8.3 Protection of insured persons

Preferential claims against invested funds of insurance companies

Article 70

The beneficiaries of insurance compensations as well as their successors shall have the right of preferential claims against investments of insurance company in relation to all other general or special preferential claims, with an exception of the costs of procedure for special liquidation foreseen in the articles 68 through 70 of this law, as well as bankruptcy costs.

Once the insurance company has come into the phase of special liquidation, the beneficiary of the insurance compensation shall have the right to preferential claims against all funds, be they part of investments by the insurance company or not. This preference provides them with advantage over all other payees, except for the claims related to costs referred to in the paragraph 1) of this article.

The preference in terms of this article shall consist in the settlement of claims by insured persons and their successors, also including third parties with direct claims against the insurer based on insurance contracts. Other payees may be settled from invested funds of insurance companies only if the claims of insured persons have been settled in full. The beneficiaries of non-life insurance compensations are to be first settled from investment of non-life insurance investments of the insurance company; and in particular from the category of funds invested by the insurance company that pertain to their claims, pursuant to the Article 56 of this law and the regulation on the amount and method of investing funds by insurance companies. The beneficiaries of life insurance compensations shall first be settled from the invested life insurance funds, and in particular from the category of funds invested by insurance companies to which their claims pertain, pursuant to the Article 56 of this law and the regulation on the amount and method of investing funds by insurance companies.

The seizure of property covered by investments that is possessed by insurance companies or third parties shall only be allowed in favour of the beneficiaries referred to in this article. The insurance company shall submit to the RS Agency a copy of the court decision on seizure, otherwise such seizure shall be pronounced null and void.

Supplementary supervision of insurance companies in a group of insurers

Article 71

The RS Agency shall perform supplementary supervision using the method and under the terms and conditions determined in the regulation on supplementary supervision over groups of insurers, as passed by the RS Agency.

IV – PENAL PROVISIONS

Article 72

If during the procedure for establishment of the insurance company the applicant has provided a false statement to the RS Agency with an intention to obtain the licence or if the responsible or authorised person in the insurance company has made such a statement with an intention to extend the licence or obtain the licence without meeting the requirements related to mandatory insurance, they shall be punished with a prison sentence in the duration from three months to three years and a fine up to the amount of BAM 25,000.00.

The authorised or responsible person at the insurance company that has published false statements via public media (newspapers, TV, the Internet), with an intention to misguide the public shall be punished with a prison sentence in the duration from three months to three years and a fine up to the amount of BAM 25,000.00.

Provision of false reports

Article 73

An auditor or authorised actuary who in contravention to the provisions referred to in the Article 54 of this law and the regulation on technical reserves has made false statements based on the facts he has obtained when controlling the balance sheet of the mathematical reserves for life insurance or insurance against accidents shall be punished with a prison sentence in the duration from one to three years and a fine up to the amount of BAM 25,000.00.

Provision of false assessments

Article 74

An expert and assessor who, when assessing the scope of damage that has occurred and when meeting out the compensation for payment to the insured person who has suffered the damage, has intentionally made false assessments or statements in favour of the insured party who has suffered the damage shall be punished with a prison sentence in the duration from thirty days up to three years and a fine up to the amount of BAM 10,000.00.

Unauthorised business transactions

Article 75

A person who without licence or authorisation has been maintaining an insurance company in the Republic of Srpska or has been transacting business involving insurance for which he has not obtained any licence, or has been transacting business in any other manner that is in contravention with the provisions of this law, or as an agent or plenipotentiary has concluded or brokered in the conclusion of the insurance contract in the Republic of Srpska by the insurance company possesses no licence for this shall be punished with a prison sentence from one to three years and a fine up to the amount of BAM 25,000.00.

Violation of confidential information

Article 76

Any person who currently works or who has ever worked for the RS Agency or any auditor or expert working in the name of the RS Agency, and who has disclosed any confidential information to third parties or has violated Article 18 of this law shall be punished with a fine up to the amount of BAM 10,000.00 or a prison sentence in the duration of up to one year.

4.2. Minor offences

Article 77

The insurance company and branch offices of the insurance company having the headquarters outside Bosnia and Herzegovina shall be fined in the amount from BAM 5,000.00 up to BAM 17,000.00 for the following minor offences:

- If they fail to form and maintain the technical reserves, solvency margins, guarantee funds and shareholding equity pursuant to the Article 42 of this law and the regulation on the elements and controls for solvency margins;
- if they fail to submit information within the legally provided period as specified in the articles 52 through 59 of this law and in the bylaws passed based on this law in terms of technical reserves, fund investments, solvency margins, guarantee funds, maintaining of business and other professional books and items required in the applicable laws;
- if during the distribution of dividends it has acted in contravention with the provisions of the law or statute on establishment of reserves;
- if it has acted in contravention with the provisions referred to in the articles 52 through 56 of this law and the bylaws passed based on this law that pertain to technical reserves, solvency margin, guarantee fund and shareholding equity;
- if when drafting balance sheets and income statements they have acted in contravention with the provisions referred to in the Article 59 of this law and the appropriate bylaws passed based on this law or act of incorporation of the insurance company;
- if within 30 days from the date of completion of the claim for compensation of damage or other types of claims, depending on the insurance type, has failed to establish the grounds of the claim and to pay the assessed compensation within the further 15-day period;
- if it manages the guarantee or available funds in contravention with the provisions referred to in the articles 52 through 56 of this law and the bylaws establishing the control of technical reserves, fund investments by insurance companies, solvency margins or guarantee funds;
- if it refuses to cooperate with the Ombudsman in insurance pursuant to the Article 25 of this law and the bylaw of the RS Agency governing the Ombudsman in insurance.

The responsible person or persons at the insurance company shall be fined for the violations regulated in this article in the amounts from BAM 500.00 up to BAM 1,700.00.

Individual penalties shall be pronounced for each minor offence committed.

All of the fines governed in this article shall be paid into the budget of the Republic of Srpska, and the costs of first-instance procedures shall be paid onto the account of the RS Agency.

Article 78

The first instance minor offence procedure shall be conducted by the Commission for Minor Offences, consisting of three members.

The members of the Commission for Minor Offences shall be appointed by the director of the RS Agency for a four-year period, with the possibility of reappointment.

The members of the Commission for Minor Offences shall be appointed in line with the Law on Minor Offences of the Republic of Srpska.

The RS Agency shall pass the book of procedures on the organisation and work of the Commission for Minor Offences.

The Commission for Minor Offences shall conduct the minor offence procedure in line with the regulations governing the minor offence procedure, and the fines and other measures shall be pronounced pursuant to the provisions of this law.

V – TRANSITIONAL AND FINAL PROVISIONS

5.1. Transitional provisions

Article 79

The type of insurance: “Tontine” in life insurance, such as has been determined in the decisions on types of insurance, shall not be applied, unless the RS Agency has passed rules about the application of this type. The rules referred to in this paragraph shall be published in the “Official Gazette of the Republic of Srpska”.

The provisions referred to in the Article 4, and the articles 45 through 48, as well as other provisions of this law pertaining to insurance companies not from Bosnia and Herzegovina shall be applied after five years as of the day of entering into force of this law.

The provisions referred to in the Article 12 that pertain to placing of funds of insurance companies under custody shall apply after three years from the date of entering into force of this law.

Article 80

The RS Agency shall pass a decision which shall stipulate all necessary procedures in terms of registration of a branch office of the insurance company with the headquarters in the Federation of Bosnia and Herzegovina.

The decision referred to in the paragraph 1) of this article shall be passed within 90 days as of the day of entering into force of this law, and shall be published in the “Official Gazette of the Republic of Srpska”.

Article 81

The existing insurance and reinsurance organisations shall be required to harmonise their business operations and to pass the general acts in compliance with the provisions of this law within one year from the date of entering into force of this law, i.e. to make the entry as to harmonisation with this law into the registry of the competent court.

The existing insurance and reinsurance organisations operating in the Republic of Srpska shall be required, prior to the entry into the registry referred to in the paragraph 1) of this article, to submit to the RS Agency all of the prescribed documents as well as the proof of meeting the requirements on the minimum required shareholder equity for insurance companies as prescribed in the provisions referred to in the Article 49 of this law.

Within 60 days from the date of submission of documents by insurance companies as referred to in the paragraphs 1) and 2) of this article, the RS Agency shall be required to pass the decision assessing whether the requirements prescribed in this law have been met as pertaining to issuance of the business licence for insurance companies.

If the procedure for establishment of the insurance company or reinsurance company is in due course as of the date of coming into force of this law, it shall be finalised as per the provisions of this law.

5.2. Final Provisions

Article 82

Within six months from the date of coming into force of this law, the RS Agency shall pass the acts and accompanying regulations as foreseen in this law.

Article 83

The provisions referred to in the Article 59, paragraph 3), of the Law on Insurance of Property and Persons (“Official Gazette of the Republic of Srpska”, Nos. 14/00 and 20/00) shall remain in effect until the date of establishing of common terms and conditions and the premium system for mandatory insurance against liability by the RS Agency.

The provisions of the Law on Insurance of Property and Persons referred to in the paragraph 1) of this article pertaining to mandatory passenger insurance in public transport against consequences of accidents, mandatory insurance of owners or users of aircrafts against liability for damage caused to third parties, mandatory insurance of owners or users of motored vessels against liability for damage caused to third parties shall remain in effect until the legislation has been passed to govern the remaining types of mandatory insurance which do not constitute insurance against auto-liability, pursuant to the procedure described in the Article 6, paragraph 1), points (b) and (c) of the Law on Insurance Agency in BiH.

Article 84

The RS Protection Fund shall assume the funds, rights and obligations from the Insurance Bureau of the Republic of Srpska that pertain to the damage compensation fund. The remaining funds, rights and obligations of the Insurance Bureau of the Republic of Srpska shall be assumed by the members pursuant to the acts of the Insurance Bureau of the Republic of Srpska.

Article 85

Once it enters into force, this law shall repeal the Law on Insurance of Property and Persons (“Official Gazette of the Republic of Srpska”, Nos. 14/00 and 20/00), except for the provisions referred to in the Article 84 of this law.

Article 86

This law shall enter into force on the eighth day as of the day of publication in the “Official Gazette of the Republic of Srpska”, and it shall be applicable upon the expiration of three months as of its adoption.

Number: 01-66/05
26 January 2005
Banja Luka

Speaker
of the National Assembly
Dušan Stojičić, m.p.