

## Legal notice

All effort has been made to ensure the accuracy of this translation, which is based on the original Slovenian text. All translations of this kind may, nevertheless, be subject to a certain degree of linguistic discord. In case of any uncertainties regarding the English translation the questions may be addressed to:

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The original text of this act is written in the Slovenian language; in case of any doubt or misunderstanding, the Slovenian text shall therefore prevail. Original text can be found in Official Journal of Republic of Slovenia, no: 99/10, or on web page <http://www.uradni-list.si/1/objava.jsp?urlid=201099&stevilka=5105>

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## Insurance Act (Official Consolidated Text) (ZZavar –UPB7)

Pursuant to Paragraph (2) of Article 153 of the Rules of Procedure of the National Assembly and decision of the National Assembly of 28 September 2010, the National Assembly on its session on 23 November 2010 officially adopted the official consolidated text of the Insurance Act which includes:

- Insurance Act – Zzavar (Official Gazette of the Republic of Slovenia, No. 13/2000 of 17 February 2000),
- Act Amending the Minor Offences Act – ZP-L (Official Gazette of the Republic of Slovenia, No. 31/2000 of 7 April 2000),
- Corrigendum of Insurance Act – Zzavar (Official Gazette of the Republic of Slovenia, No. 91/2000 of 6 October 2000),
- Act Amending the Insurance Act – ZZavar-A (Official Gazette of the Republic of Slovenia, No. 21/02 of 11 March 2002),
- Public Agencies Act – ZJA (Official Gazette of the Republic of Slovenia, No. 52/02 of 14 June 2002),
- Decision revoking Paragraph (5) of Article 22 and Paragraphs (2) and (3) of Article 29 of the Insurance Act, No. U-I-131/00-22 (Official Gazette of the Republic of Slovenia, No 29/03 of 21 March 2003),
- Corporate Income Tax Act – ZDDPO-1 (Official Gazette of the Republic of Slovenia, No 40/04 of 20 April 2004),
- Act Amending the Insurance Act – ZZavar-B (Official Gazette of the Republic of Slovenia, No. 50/04 of 6 May 2004),
- Act Amending the Health Care and Health Insurance Act – ZZVZZ-H (Official Gazette of the Republic of Slovenia, No. 76/05 of 12 August 2005),
- Authentic interpretation of the first sentence of Paragraph (4) of Article 62 of the Insurance Act (Official Gazette of the Republic of Slovenia, No. 102/04 – official consolidated text and 76/05 - ZZVZZ-H) – ORZZavar62 (Official Gazette of the Republic of Slovenia, No. 8/06 of 26 January 2006),

- Act Amending the Insurance Act – ZZavar-C (Official Gazette of the Republic of Slovenia, No. 79/06 of 27 July 2006),
- Euro Introduction Act – ZUE (Official Gazette of the Republic of Slovenia, No. 114/06 of 9 November 2006),
- Act Amending the Insurance Act – ZZavar-D (Official Gazette of the Republic of Slovenia, No. 102/07 of 9 November 2007),
- Act Amending the Insurance Act – ZZavar-E (Official Gazette of the Republic of Slovenia, No. 69/08 of 8 July 2008),
- Act Amending the Insurance Act – ZZavar-F (Official Gazette of the Republic of Slovenia, No. 19/09 of 13 March 2009),
- Act Amending the Insurance Act – ZZavar-G (Official Gazette of the Republic of Slovenia, No. 49/09 of 29 June 2009) and
- Act Amending the Insurance Act – ZZavar-H (Official Gazette of the Republic of Slovenia, No. 79/10 of 8 October 2010).

Number: 460-01/10-14/2  
Date: 23. November 2010  
EPA 1379-V

National Assembly  
Dr. Pavel Gantar  
President

## **INSURANCE ACT**

### **OFFICIAL CONSOLIDATED TEXT (ZZavar-UPB7)**

#### **1. GENERAL PROVISIONS**

##### **Insurance undertaking**

##### **Article 1**

(1) An insurance undertaking shall be a legal entity with its head office in the territory of the Republic of Slovenia that has been granted an authorisation to perform insurance business by the Insurance Supervision Agency.

(2) The name ‘insurance undertaking’ or any derivatives thereof may not be entered in the companies’ register if the legal entity in question fails to meet the conditions for performing insurance business.

## Transposition of EC Directives

### Article 1a

This Act shall transpose the following EC Directives into the law of the Republic of Slovenia:

- Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession (OJ L 56, 4.4.1964, p. 878);
- Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability (OJ L 103, 2 May 1972, p. 1);
- First Council Directive 73/239/EEC of 24 June 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16 August 1973, p. 3);
- Council Directive 73/240/EEC of 24 July 1973 abolishing restrictions on freedom of establishment in the business of direct insurance other than life assurance (OJ L 228, 16 August 1973, p. 20);
- Council Directive 76/580/EEC of 29 June 1976 amending Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 189, 13 July 1976, p. 13);
- Council Directive 78/473/EEC of 30 May 1978 on the coordination of laws, regulations and administrative provisions relating to Community co-insurance (OJ L 151, 7 June 1978, p. 25);
- Council Directive 84/641/EEC of 10 December 1984 amending, particularly as regards tourist assistance, First Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 339, 27 December 1984, p. 21);
- Council Directive 87/343/EEC of 22 June 1987 amending, as regards credit insurance and suretyship insurance, First Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 185, 4 July 1987, p. 72);
- Council Directive 87/344/EEC of 22 June 1987 on the coordination of laws regulations and administrative provisions relating to legal expenses insurance (OJ L 185, 4.7.1987, p. 77);
- Second Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC (OJ L 172, 4 July 1988, p. 1);
- Council Directive 90/618/EEC of 8 November 1990 amending, particularly as regards motor vehicle liability insurance, Directive 73/239/EEC and Directive 88/357/EEC which concern the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (OJ L 330, 29 November 1990, p. 44);
- Council Directive 91/371/EEC of 20 June 1991 on the implementation of the Agreement between the European Economic Community and the Swiss Confederation concerning direct insurance other than life assurance (OJ L 205, 27 July 1991, p. 48);
- Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings (OJ L 374, 31 December 1991, p. 7);
- Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending

Directives 73/239/EEC and 88/357/EEC (Third non-life insurance Directive)(OJ L 228, 11 August 1992, p. 1);

- European Parliament and Council Directive 95/26/EC of 29 June 1995 amending Directives 77/780/EEC and 89/646/EEC in the field of credit institutions, Directives 73/239/EEC and 92/49/EEC in the field of non-life insurance, Directives 79/267/EEC and 92/96/EEC in the field of life assurance, Directive 93/22/EEC in the field of investment firms and Directive 85/611/EEC in the field of undertakings for collective investment in transferable securities (Ucits), with a view to reinforcing prudential supervision (OJ L 168, 18 July 1995, p. 7);
- Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group (OJ L 330, 5 December 1998, p. 1);
- Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (Fourth motor insurance Directive) (OJ L 181, 20 July 2000, p. 65);
- Directive 2000/64/EC of the European Parliament and of the Council of 7 November 2000 amending Council Directives 85/611/EEC, 92/49/EEC, 92/96/EEC and 93/22/EEC as regards exchange of information with third countries (OJ L 290, 17.11.2000, p. 27);
- Directive 2001/17/EC of the European Parliament and of the Council of 19 March 2001 on the reorganisation and winding-up of insurance undertakings (OJ L 110, 20 April 2001, p. 28);
- Directive 2002/13/EC of the European Parliament and of the Council of 5 March 2002 amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings (OJ L 77, 20 March 2002, p. 17);
- Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345, 19 December 2002, p. 1);
- Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11 February 2003, p. 1);
- Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation (OJ L 009, 15 January 2003, p. 3);
- Council Directive 2004/66/EC of 26 April 2004 adapting Directives 1999/45/EC, 2002/83/EC, 2003/37/EC and 2003/59/EC of the European Parliament and of the Council and Council Directives 77/388/EEC, 91/414/EEC, 96/26/EC, 2003/48/EC and 2003/49/EC, in the fields of free movement of goods, freedom to provide services, agriculture, transport policy and taxation, by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (OJ L 168, 1 May 2004, p. 35);
- Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees (OJ L 79, 24 March 2005, p. 9);
- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (OJ L 373 of 21 December 2004, p. 37);
- Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC (OJ L 323, 9 December 2005, p. 1);

- Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (OJ L 247 of 21 September 2007, p. 1).

## **Insurance business**

### **Article 2**

(1) Insurance business pursuant to this Act shall involve the conclusion and implementation of contracts on both non-life insurance and life assurance or reinsurance, with the exception of compulsory social insurance.

(2) With regard to the main risks to be covered, insurance shall be broken down into the following classes of insurance:

1. Accident insurance (including industrial injuries and occupational diseases) shall, in the event of death or loss of health due to injury, be insurance covering:

- the payment of agreed pecuniary indemnities, compensations and repayments in one-off amounts;
- instalment payments of agreed pecuniary indemnities;
- a combination of payments pursuant to the preceding indents;
- payments due to injury, injury to health or death of passengers.

2. a health insurance shall be insurance covering in cases of illness, injury or special medical state:

- the cost of health and other related services, the cost of supply of medicines and medical-technical devices;
- a payment of agreed monetary indemnity, and
- a combination of payments under the previous indents;

3. Land vehicle insurance shall be insurance covering all damage to or loss of:

- self-propelled land vehicles, other than railway rolling stock;
- non-self-propelled land vehicles.

4. Railway rolling stock insurance shall be insurance covering all damage to or loss of railway rolling stock.

5. Aircraft insurance shall be insurance covering all damage to or loss of aircraft or other flying machine.

6. Ship insurance shall be insurance covering all damage to or loss of sea, river and lake vessels.

7. Goods in transit insurance shall be insurance covering all damage to or loss to goods in transit, including luggage, regardless of a transport type.

8. Fire and natural forces insurance shall be insurance covering all damage to or loss of property (other than damage to property included in items 3 to 7 hereunder) due to:

- fire;
- explosion;
- storm;
- natural forces other than storms;
- nuclear energy;
- sinking and sliding ground.

9. Other damage to property insurance shall be insurance covering all damage to or loss of property (other than damage to property included in items 3 to 7 hereunder) due to hail or frost, and causes other than those included in item 8 hereunder (e.g. theft).
10. Vehicle liability insurance shall be insurance covering all liabilities arising from the use of self-propelled land vehicles (including carrier's liability).
11. Aircraft or other flying machine liability insurance shall be insurance covering all liabilities arising from the use of aircraft or other flying machine (including carrier's liability).
12. Liability for ship insurance shall be insurance covering all liability arising from the use of sea, river and lake vessels (including carrier's liability).
13. General liability insurance shall be insurance covering types of liability other than those mentioned under items 10 to 12 hereunder.
14. Credit insurance shall be insurance covering:
- risk of non-payment (or late payment) due to insolvency or other events (actions or facts);
  - export credits and other risks related to export, trade and investment in foreign and domestic markets;
  - credits with instalment repayment;
  - mortgages and lombard loans;
  - agricultural credits;
  - other credits and loans.
15. Suretyship insurance shall be insurance covering and directly or indirectly guaranteeing the meeting of debtors' obligations.
16. Miscellaneous financial loss insurance shall be insurance covering financial loss arising from:
- employment risks;
  - insufficient income (general);
  - bad weather;
  - loss of benefit;
  - unforeseen general expenses;
  - unforeseen operating expenses;
  - loss of market value;
  - loss of rent or revenue;
  - indirect operating losses other than those mentioned in the preceding indents;
  - other financial loss (non-operating);
  - other forms of financial loss.
17. Legal expenses insurance shall be insurance covering legal expenses and costs of litigation.
18. Tourist assistance insurance shall be insurance covering assistance provided to persons encountering problems when travelling or in other events of absence from home or permanent residence.
19. Life assurance (other than insurance referred to in items 20 to 24 of this Paragraph) shall be insurance comprising in particular endowment insurance, insurance in the event of death, mixed life assurance, annuity insurance, life insurance with the repayment of premiums.
20. Marriage assurance or birth assurance.
21. Life assurance linked to units of investment fund or to units of funds covering mathematical provisions shall be an insurance in which the insured person accepts the investment risk linked to changes in the value of investment vouchers or other securities of investment funds, or linked to changes in the value of the assets of the fund covering mathematical provisions.
22. Tontine shall be assurance whereby associations of subscribers are set up with a view to jointly capitalising their contributions and subsequently distributing the assets thus

accumulated among the survivors upon completion of certain age or among the heirs of the deceased insured persons or among the beneficiaries named by the deceased insured persons.

23. Capital redemption insurance shall be insurance based on actuarial calculations whereby, in return for single or periodic payments, the policy holder, insured person or any other beneficiary receives commitments of a specified duration and amount.

24. Insurance of loss of income due to accident or illness, which the insurance undertaking may not revoke.

(3) Insurance business involving several classes of insurance shall be classified in the following insurance subgroups:

1. Accident and health insurance shall cover the classes of insurance referred to in items 1 and 2 of the preceding Paragraph hereunder
2. Vehicle insurance shall cover the classes of insurance referred to in indent 4 of item 1 and items 3, 7 and 10 of the preceding Paragraph.
3. Marine and transport insurance shall cover the classes of insurance referred to in indent 4 of item 1, and items 4, 6, 7 and 12 of the preceding Paragraph.
4. Aviation insurance shall cover the classes of insurance referred to in indent 4 of item 1, and items 5, 7 and 11 of the preceding Paragraph.
5. Insurance against fire and other damage to property shall cover the classes of insurance referred to in items 8 and 9 of the preceding Paragraph.
6. Liability insurance shall cover the classes of insurance referred to in items 10 to 13 of the preceding Paragraph.
7. Credit and suretyship insurance shall cover the classes of insurance referred to in items 14 and 15 of the preceding Paragraph.
8. Damage to property and accident insurance shall cover the classes of insurance referred to in items 1, 3 to 13, and 16 of the preceding Paragraph.

(4) Insurance business involving several classes of insurance shall be joined in the following groups:

1. Non-life insurance under this Act shall cover the classes of insurance referred to in items 1 to 18 of Paragraph (2) hereunder.
2. Life assurance under this Act shall cover the classes of insurance referred to in items 19 to 24 of Paragraph (2) hereunder.

(5) Reinsurance shall mean insurance of the excess over the level of the own equaling of risks by an insurance undertaking at another insurance undertaking.

(6) Compulsory insurance in transport shall mean insurance business governed by the Compulsory Motor Third-Party Liability Act (Official Gazette of the RS, No. 70/94).

(7) Supplementary health insurance shall mean voluntary health insurance covering the difference, or part thereof, between the total costs of health services and the costs covered by compulsory health insurance pursuant to the act regulating healthcare and health insurance (Official Gazette of the RS, Nos. 9/92, 13/93, 6/96, and 29/98).

(8) For the sake of understanding indirect insurance business in the Community, the following terms shall be defined:

1. branch shall mean an agency or branch of an insurance undertaking; any permanent presence of an undertaking in the territory of a Member State shall be treated in the same way as an agency or branch, even if that presence does not take the form of a branch or agency, but

consists merely of an office managed by the undertaking's own staff or by a person who is independent but has permanent authority to act for the undertaking as an agency would;

2. establishment shall mean the head office or branch of an insurance undertaking pursuant to item 1 of this Paragraph;
3. host Member State shall mean the Member State in which an insurance undertaking has a branch or provides direct services.

### **Pursuit of insurance business**

#### **Article 3**

(1) Insurance business may be performed by:

1. an insurance undertaking with its head office in the Republic of Slovenia, authorised by the Insurance Supervision Agency to carry out the said operations;
2. a branch of a foreign insurance undertaking authorised by the Insurance Supervision Agency to carry out these operations;
3. a Member State insurance undertaking which, in accordance with this Act, establishes a branch in the territory of the Republic of Slovenia or, in accordance with this Act, is authorised to directly carry out insurance operations in the territory of the Republic of Slovenia.

(2) The entities referred to in the preceding Paragraph shall only be permitted to carry out the said operations within those classes of insurance for which they were granted an authorisation by the competent authority.

### **Persons according to nationality**

#### **Article 3a**

(1) A Member State shall mean a member of the European Union or a Signatory State of the Agreement on The European Economic Area (Official Gazette, No. 1 of 3 January 1994, p. 3).

(2) A foreign country shall mean a country other than a Member State.

(3) A person of an individual country shall be a natural person with a residence in this country or a legal person whose head office is situated in this country.

### **Prohibition from performing insurance business**

#### **Article 4**

No entity, other than those persons referred to in Article 3 of this Act, shall be authorised to perform insurance business.

### **Application of the Act with regard to domestic insurance undertakings**

#### **Article 5**



(1) This Act shall apply to insurance undertakings with their head offices in the Republic of Slovenia (hereinafter referred to as: insurance undertakings).

(2) This Act shall also apply for insurance undertakings which exclusively perform reinsurance business (hereinafter referred to as: reinsurance undertakings), unless otherwise stipulated with regard to individual cases. Notwithstanding the provisions of the preceding sentence, the provisions of Articles 83 to 86, 88, 89, 91, 92, 125 to 133, and 208 to 213 of this Act shall not apply to reinsurance business.

### **Application of the Act with regard to insurance undertakings of Member States**

#### **Article 6**

(1) This Act shall apply to insurance undertakings of Member States when:

1. a branch is established by them in the Republic of Slovenia, or
2. policies underwritten by them Republic of Slovenia or in another Member State for covering risks in the Republic of Slovenia (hereinafter referred to as: direct carrying out of insurance business).

(2) Notwithstanding the provisions of the preceding Paragraph of this Article, this Act shall also apply for insurance undertakings which in the Republic of Slovenia perform reinsurance business via branches or directly.

(3) Insurance shall be deemed to cover risks in the Republic of Slovenia:

1. In the event of non-life insurance:

- when insuring risks relating to land and buildings and to any movables situated in those buildings insured by the same insurance contract, when the said real property is situated in the territory of the Republic of Slovenia;
- when insuring means of transport, when those means of transport are registered in the territory of the Republic of Slovenia;
- when insuring risks relating to travelling and holidaying, when the insurance contract is valid for four months at the most, when the legal act resulting in the conclusion of the insurance contract was performed in the territory of the Republic of Slovenia.

2. In the event of non-life insurance other than the insurance referred to in item 1 of this Paragraph, and in the event of life assurance:

- when the policy-holder is a natural person, when the said person has residence in the territory of the Republic of Slovenia;
- when the policy-holder is a legal person, when the property of the said person to which the insurance relates is located in the territory of the Republic of Slovenia.

(4) A Member State entity pursuant to this Act shall be a legal entity whose head office is situated in the territory of a Member State, or a natural person with residence in the territory of a Member State.

### **Application of the Act with regard to foreign insurance undertakings**

#### **Article 7**

(1) This Act shall apply to foreign insurance undertakings when insurance contracts are concluded by them in the Republic of Slovenia or when their services are advertised in any way in the Republic of Slovenia.

In the case referred to in the preceding Paragraph, it shall be deemed that an insurance contract was concluded in the Republic of Slovenia even when the policy-holder is a natural person with residence in the territory of the Republic of Slovenia provided that the insurance contract is concluded by means of a professional intermediary or adviser, regardless of the type of intermediation of this kind.

(3) A foreign insurance undertaking shall be an insurance undertaking with its head office in the territory of a country other than a Member State.

(4) Special provisions of this Act regarding insurance undertakings with their head office in the Swiss Confederation (hereinafter referred to as: Swiss insurance undertakings) and branches of these insurance undertakings shall only apply to non-life insurance.

### **Application of the Act to other persons**

#### **Article 8**

The provisions of this Act shall apply to persons who, in the territory of the Republic of Slovenia, in any way intermediate in the underwriting of policies covering risks in the Republic of Slovenia.

### **Participation and qualifying holding**

#### **Article 9**

(1) Pursuant to this Act, an individual entity shall participate in another entity when it holds a direct or indirect holding, shares or other rights on the basis of which it participates in the management of another entity or in its capital with a share of a minimum of 20%.

(2) Qualifying holding shall mean a direct or indirect holding of participating interests, shares, or other rights in the capital of a legal person on the basis of which the owner acquires:

1. at least 10% of the voting rights or at least 10% holdings in the capital of such legal person,
2. a share of the voting rights or holdings in the capital of this legal person which is less than 10%, but still makes it possible to exercise a significant influence over the management of that legal person.

### **Related entities and indirect investments**

#### **Article 10**

(1) Related entities pursuant to this Act shall be legally independent entities related in terms of either management, capital or other aspects, so that they either, due to the said relations, jointly formulate their business policy and perform concerted actions with the purpose to attain joint business objectives, or in such a manner that one of the entities can direct the other or exert significant influence upon its decision-making process as regards financing and

business operation, or the operations of one entity or its business results may significantly influence the operations or business results of another entity.

(2) Related entities pursuant to this Act shall, in particular, be considered entities mutually related:

1. as close family members;
2. in such a manner than an entity or entities deemed to be related entities pursuant to other items of this Article which participate in another entity either jointly, directly or indirectly;
3. in such a manner that the same entity or entities deemed to be related entities pursuant to other items of this Article participate in the two entities in question;
4. by constituting a concern of companies under the law governing companies (hereinafter referred to as: "ZGD");
5. as members of either the board of directors or supervisory board, holder of procuration or as persons employed on the basis of an employment contract to which the tariff section of the collective agreement is not applicable, related to the company in which they perform such a function or in which they are employed, and the close family members of such a person.

(3) Close family members of an individual person pursuant to this Act shall be:

1. that person's spouse or a person with whom they cohabit in a long-term domestic community that, under the law governing marital union and family relations or the law governing same-sex partnership registration, is equivalent in status to marital union;
2. children or adoptive children of the said person lacking full contractual capacity;
3. other persons lacking full contractual capacity and being under the person's guardianship.

(4) Controlled company and controlling company pursuant to this Act shall be controlled company and controlling company under provisions of ZGD defining the controlled and controlling company concepts.

(5) Controlling pursuant to this Act shall be the relationship between a controlled company and a controlling company, or a similar relationship between any natural person and legal entity.

(6) Should this Act stipulate that an insurance undertaking must not hold investments in a certain legal entity, this prohibition shall apply to both direct and indirect investments.

(7) Indirect investments shall be investments in those entities related to a certain legal entity referred to in Paragraph (6) of this Article.

## **Indirect acquisition**

### **Article 11**

(1) An indirect holder of shares, holdings or other rights ensuring participation in the management of capital shall be a person for whose account another person, as a direct holder, has acquired the said shares, holdings or other rights ensuring participation in management.

(2) An individual person shall be considered to be an indirect holder of shares, holdings or other rights ensuring participation in management or other securities, whose direct holder is any other person controlled by that person.

**Article 12  
(deleted)**

**2. STATUS PROVISIONS**

**2.1. Common provisions**

**Legal organisational form**

**Article 13**

(1) An insurance undertaking may be set up in the form of an insurance public limited company, an European insurance public limited-liability company (SE), or a mutual insurance company.

(2) Notwithstanding the provision of the preceding Paragraph, reinsurance undertaking may only be organised as a public limited company or a European insurance public limited-liability company (SE).

(3) The provisions of the act governing companies shall apply as appropriate to the insurance company or reinsurance undertaking organised as a European insurance public limited-liability company (SE).

**Management system of insurance company**

**Article 13.a**

(1) An insurance company may opt for a two-tier management system, including a management board and a supervisory board, or a one-tier management system with a board of directors.

(2) The provisions of this Act concerning the insurance undertaking's supervisory board shall be applied, as appropriate, to its board of directors with a one-tier management system, and the provisions of this Act concerning the insurance undertaking's management board shall be applied to executive directors.

(3) Executive directors and other members of the board of directors of the insurance undertaking with a one-tier management system shall be subject to the following special rules:

1. the insurance undertaking's board of directors shall appoint at least two executive directors,
2. not more than one half of members of the insurance undertaking's board of directors may be appointed executive directors,
3. members of the board of directors who are not executive directors shall not manage the insurance undertaking's affairs.

(4) Executive directors and members of the board of directors of the mutual insurance company shall be, in addition to Paragraphs (2) and (3) of this Article, subject to the following special rules:

1. they are not governed by the provisions of ZGD that regulate participation of the members of the management board or supervisory board in the profit,
2. the mutual insurance company must have, in addition to minimum two executive directors, at least three members of the board of directors.

### **Activities of insurance undertakings**

#### **Article 14**

- (1) An insurance undertaking shall only be allowed to perform insurance business.
- (2) An insurance undertaking shall be allowed to perform insurance business within an individual class of insurance or group; several insurance businesses may only be performed within one of the following groups or subgroups:
  1. life assurance;
  2. non-life insurance.
- (3) Notwithstanding the provision of the preceding Paragraph hereunder, an insurance undertaking performing insurance business under an insurance group that involves life assurance may also perform insurance business under the classes of insurance involving accident and health insurance referred to in items 1 and 2 of Article 2 of this Act.
- (4) Notwithstanding the provision of Paragraph (2) of this Article, an insurance undertaking that has obtained a licence to perform insurance business only in insurance classes referred to in items 1 and 2 of Paragraph (2) of Article 2 of this Act may also perform insurance business in insurance classes from the life assurance group.
- (5) Notwithstanding the provision of Paragraph (1) of this Article, an insurance undertaking may also perform operations directly related to insurance business.
- (5) The following, in particular, shall be deemed to be operations referred to in the preceding Paragraph hereunder:
  1. futures operations, option dealings and other derivatives, when they contribute to reducing risk arising due to changes and fluctuations in exchange rates and interest rates, and are in conformity with the provisions of Article 124 of this Act (securing investments against market risks);
  2. intermediation in the sale and the sale of damaged property which, upon the resolution of loss events, has become the property of the insurance undertaking;
  3. the taking of measures for the prevention and elimination of risks threatening persons and property insured;
  4. assessment of exposure rate relating to the insurance object, and loss assessment;
  5. the performance of other intellectual and technical services with regard to insurance business.
  6. mediation in the conclusion of insurance business for an insurance undertaking from the same insurance group.
- (7) The following operations shall also be deemed to belong among the operations referred to in Paragraph (5):
  - mediation in providing banking services and other credit transactions under the law governing banking business,

– mediation in services relating to securities under the law governing the securities market,  
– mediation in issuing and managing other payment instruments (e.g. debit and credit cards, travellers' cheques, bills of exchange),  
– mediation in buying and selling mutual fund investment coupons under the law governing investment funds and management companies, insofar as it involves mediation for a bank or other financial organisations under the laws governing banking or securities market. An authorization to carry out operations in accordance with this Paragraph shall be granted by the Insurance Supervision Agency on the basis of a prior opinion of the Bank of Slovenia or of the Securities Market Agency. The provisions of Article 227(5) and (6) of this Act or of the relevant sections of the laws regulating banking or securities market shall apply, as appropriate, to the authorizing procedure.

(8) Notwithstanding the provision of Paragraph (1) of this Article, an insurance undertaking performing operations under an insurance group that involves life assurance may, in accordance with the act governing pension funds, also engage in the management of pension funds, when it meets the requirements stipulated by the said act.

(9) With regard to the underwriting of reinsurance, insurance business may only be performed by reinsurance undertakings. Notwithstanding the provision of Paragraph (2) of this Article, reinsurance undertakings may perform insurance business with regard to the underwriting of reinsurance under all groups of insurance.

(10) Notwithstanding the provisions of the preceding Paragraph, an insurance undertaking may provide insurance also in an indirect way. Indirect insurance business implies the business in which an insurance undertaking shall underwrite a risk through coinsurance or facultative quota share reinsurance.

(11) An insurance undertaking granted an authorisation to perform insurance business under one or several classes of insurance that involve non-life insurance may also perform insurance business under those classes of insurance involving non-life insurance for which it has not acquired an authorisation, provided the following conditions are satisfied:

1. the insurance in question covers a risk
  - relating to the risk covered by insurance under the class of insurance for which the insurance undertaking has obtained authorisation (hereinafter referred to as: main risk),
  - relating to the same object as the main risk,
  - covered by the same insurance contract;
2. a risk is involved which, in relation to the main risk, is of auxiliary significance;
3. a risk covered by insurance referred to in items 14 and 15 of Paragraph (2) of Article 2 of this Act is not involved;
4. regarding insurances referred to in item 17 of Paragraph (2) of Article 2 of this Act, when the following conditions are satisfied:
  - when the main risk is covered by insurance referred to in item 18 of Paragraph (2) of Article 2 of this Act, or
  - when the main risk is related to the use of ocean-going vessels.

(12) The supplementary health insurance referred to in Paragraph (7) of Article 2 of this Act represents the Republic of Slovenia's public interest and shall be conducted in accordance with the principle of inter-generation reciprocity. All insurance undertakings engaged in the said insurance shall be compulsorily included in the equalisation schemes designed to equalise, among insurance undertakings, differences relating to the costs of health services

arising from the differences in the age structure, sex structure and structure of seriously ill insured persons in the portfolios of individual insurance undertakings. Detailed arrangements regarding the implementation of equalisation schemes shall be regulated by a special act.

(13) Insurance undertakings performing insurance business in the life assurance insurance group may conclude additional insurance to the life assurance. Additional insurance concluded by an insurance undertaking performing insurance business in the life assurance insurance group shall primarily comprise insurance against disability due to accident or illness, accidental death insurance and injury insurance including insurance against professional incapacity due to injury, but only when such forms of insurance are concluded as additional insurance to life assurance.

(14) Insurance undertakings performing insurance business in accordance with Paragraphs (3) and (4) of this Article in the life and non-life insurance group shall be obliged:

- to maintain business books and compile accounting statements and business reports separately for non-life insurance and life assurance business;
- to compile financial statements in a way to allow the results of each group of insurance classes to be shown separately. To this end, all revenues and expenditures shall be set out with regard to their origin. Items in common with both groups of insurance classes shall be posted in accordance with the method of apportionment. The method of apportionment of revenue and expenditure shall be laid down by the insurance undertaking which shall seek a consent for it subsequently from the Insurance Supervision Agency. The consent of the Insurance Supervision Agency shall also be required for the amendments of the method of apportionment;
- on the basis of accounting statements, to prepare a declaration clearly defining the items that comprise the minimum capital referred to in Articles 110 or 111 of this Act;
- to determine and secure the minimum capital referred to in Articles 110 and 111 of this Act and the guarantee capital from Article 112 of this Act separately for non-life and life insurance business.

In the event of capital inadequacy in the life assurance or non-life insurance group, the Insurance Supervision Agency may permit the transfer of spare funds from one group to the other.

## **2.2. Insurance public limited companies**

### **2.2.1. General provisions**

#### **Definition**

#### **Article 15**

(1) An insurance public limited company shall be a public limited company which has been granted an authorisation to perform insurance business by the Insurance Supervision Agency.

(2) An insurance public limited company must have a supervisory board.

(3) Unless otherwise provided by this Act, the provisions of ZGD shall apply to insurance public limited companies.

## **2.2.2. Share capital and shares**

### **Share capital**

#### **Article 16**

The minimum amount of the share capital of an insurance public limited company shall equal the amount of the guarantee fund referred to in Article 112 of this Act.

### **Shares**

#### **Article 17**

- (1) The shares of an insurance public limited company may only be registered shares.
- (2) The shares of an insurance public limited company must, prior to the entry in the companies' register of either its foundation or an increase in its share capital, be fully paid in cash.
- (3) The shares of an insurance public limited company must be issued in book-entry form.
- (4) The provision of Paragraph (2) of this Article shall not apply in the following cases:
  - establishment of an insurance undertaking or increase in its share capital due to a merger or break-up,
  - increase in share capital by a non-cash contribution consisting in shares of any other insurance undertaking, if such an increase has been authorized by the Insurance Supervision Agency.
- (5) With regard to the authorization referred to in the second indent of the preceding Paragraph, the provisions of this Act regulating merger authorizations shall apply as appropriate.

## **2.2.3. Qualifying holdings**

### **Abbreviations of other acts and EU regulations, and definition of terms**

#### **Article 17.a**

- (1) The following abbreviations of other acts shall be used in this subchapter:
  1. ZBan-1 shall mean the Banking Act (Official Gazette of the Republic of Slovenia, No. 131/06, 1/08 and 109/08),
  2. ZFK shall mean the Financial Conglomerates Act (Official Gazette of the Republic of Slovenia, No. 43/06),
  3. ZISDU-1 shall mean the Investment Funds and Management Companies Act (Official Gazette of the Republic of Slovenia, No. 26/05 – official consolidated text, 68/05 – Constitutional Court Decision, 28/06, 92/07, 109/07 – corr., and 65/08),
  4. ZPPDFT shall mean the Prevention of Money Laundering and Terrorist Financing Act (Official Gazette of the Republic of Slovenia, No. 60/07),



5. ZTFI shall mean the Financial Instruments Market Act (Official Gazette of the Republic of Slovenia, No. 67/07,100/07 – corr., and 69/08).

(2) In this subchapter, the following short titles shall apply for EU regulations:

1. Directive 85/611/EEC shall mean Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L No. 375 of 31 December 1985, p. 3), last amended by Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees (OJ L 79, 24 March 2005, p. 3);

2. Directive 2004/39/EC shall mean Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC, and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L No. 145 of 30 April 2004, p. 1).

(3) The terms used in this subchapter shall have the same meaning as the terms used in:

- bank – in Paragraphs (1) and (4) of Article 13 of ZBan-1,
- financial undertaking – in Paragraph (5) of Article 15 of ZBan-1,
- investment firm – in Paragraph (1) of Article 14 of ZBan-1,
- credit institution – in Paragraph (3) of Article 13 of ZBan-1,
- parent entity and controlled undertaking – in Article 25 of ZBan-1,
- third country – in Paragraph (2) of Article 18 of ZBan-1.

(4) The term “asset management company“ used in this subchapter shall have the same meaning as the term used in item 6 of Article 2 of ZFK.

(5) The terms used in this subchapter shall have the same meanings as the terms used in ZTFI:

- investment services and transactions in Paragraph (1) of Article 8 of ZTFI,
- collective investment undertaking in Paragraph (1) of Article 26 of ZTFI.

## **Authorisation to acquire qualifying holdings**

### **Article 18**

(1) Any person intending to acquire the insurance undertaking's shares directly or indirectly in order to achieve or exceed a qualifying holding (hereinafter referred to as: future qualifying holder) shall obtain an authorization from the Insurance Supervision Agency prior to achieving such holding (hereinafter referred to as: authorisation to acquire a qualifying holding).

(2) In the operative part of its decision on issuing an authorisation to acquire a qualifying holding, the Insurance Supervision Agency shall lay down the amount of participation in the voting rights or participation in the insurance undertaking's capital for which the authorisation is issued, as one of the following ranges:

1. participation in the insurance undertaking's voting rights or in the insurance undertaking's capital which is equal to or greater than the qualifying holding, and lower than 20%,

2. participation in the insurance undertaking's voting rights or in the insurance undertaking's capital which is equal to or greater than 20%, and smaller than one third,
3. participation in the insurance undertaking's voting rights or in the insurance undertaking's capital which is equal to or greater than one third, and smaller than 50%,
4. participation in the insurance undertaking's voting rights or in the insurance undertaking's capital which is equal to or greater than 50%,
5. holding on the basis of which the future qualifying holder becomes the insurance undertaking's parent company.

(3) Prior to any subsequent acquisition of shares that might enable the qualifying holder to exceed the range which is subject to the already issued authorisation to acquire a qualifying holding, the qualifying holder shall be required to obtain a new authorisation to acquire a qualifying holding.

(4) The persons who have entered into an agreement on concerted actions in the acquisition of the insurance undertaking's shares, or in exercising management rights arising from such shares (hereinafter referred to as: joint qualifying holders), and who intend to acquire the holding whereby the qualifying holding is jointly acquired or exceeded shall, prior to the acquisition of such share, obtain the authorisation to acquire a qualifying holding.

(5) It shall be considered, unless it is proven otherwise, that they have agreed, and that the following persons perform concerted actions in the acquisition of the insurance undertaking's shares, or in exercising management rights arising from such shares:

1. members of the management or supervisory board with legal entities where they perform such task,
2. persons interconnected as immediate family members,
3. the asset management company and investment funds managed by this asset management company, or
4. persons
  - that proposed to the insurance undertaking's general meeting the adoption of a resolution on the appointment or discharge of members of the management or supervisory boards, or of other resolution which, according to ZGD, is to be adopted by at least a three-fourths majority in decisions made by the represented equity capital, and
  - who have achieved the adoption of this resolution by exercising voting rights or otherwise.

(6) Joint qualifying holders in possession of a valid authorisation to acquire a qualifying holding shall, prior to any further acquisition of the insurance undertaking's shares, whereby their joint holding exceeds the range subject to the already issued authorisation to acquire a qualifying holding, obtain a new authorisation to acquire a qualifying holding.

(7) Paragraphs (1) and (2) of this Article, Articles 19 to 20.b, and Articles 21 and 21.a of this Act governing the authorisation to acquire a qualifying holding, and the rights and duties of individual qualifying holders, shall apply as appropriate also to joint qualifying holders. In the application of the provisions of the preceding sentence, as appropriate, the term "qualifying holder" shall be replaced by the term "joint qualifying holders".

## **Determination of qualifying holding**

### **Article 18.a**

(1) In determining the qualifying holding on the basis of voting rights, all insurance company's shares with voting right shall be taken into consideration, including own shares and the shares where exercising the voting right is restricted by law or bylaws of the insurance undertaking, in accordance with the law.

(2) In determining the qualifying holding of an individual person (hereinafter referred to as: potential qualifying holder) on the basis of voting rights, the following voting rights attached to the shares shall be considered:

1. held by a potential qualifying holder for its own account,
2. held by a third party with whom the potential qualifying holder has concluded an agreement which obliges them to adopt, by concerted exercise of the voting rights they hold, a lasting common policy towards the management of the insurance undertaking,
3. held by a third party with whom the potential qualifying holder has concluded an agreement by means of which it temporarily in return for repayment transferred the exercise of such rights to a third person,
4. which have been temporarily transferred to the potential qualifying holder as collateral, provided that the holder controls the voting rights attached to such shares, and declares the intention that they would be exercised,
5. to which the potential qualifying holder has a life interest,
6. held by a controlled undertaking of the potential qualifying holder, or which enables the controlled undertaking of the potential qualifying holder to exercise voting rights as defined in items 2 to 5 of this Paragraph,
7. which are held by a potential qualifying holder for the account of a third party, and which enable such holder to exercise the voting rights arising from such shares at its own discretion, unless otherwise instructed by a third party,
8. which are held by the third party in its own name and for the account of the potential qualifying holder,
9. which enable the potential qualifying holder to exercise voting rights as a proxy at its own discretion, unless otherwise instructed by their holder.

(3) All shares into which the share capital of the insurance undertaking is divided, including own shares shall be considered as the basis for establishing the qualifying holding on the basis of participation in the capital.

(4) In determining the qualifying holding of a qualifying holder on the basis of participation in the capital, items 1, 2, 3, 5, 6 and 8 of Paragraph (2) of this Article shall apply as appropriate.

#### **Exceptions in determining the qualifying holding** **Article 18.b**

- (1) The following shall not be taken into account when determining the qualifying holding:
1. shares which the potential qualifying holder has acquired exclusively for settlement within a usually short settlement period, and
  2. shares which the potential qualifying holder has acquired for the account of the third party in relation to the provision of custody services, when the voting rights arising from such shares can be exercised only on the basis of instructions given by the person for whose account they are managed, in writing or by electronic means.

(2) When determining the qualifying holding the company that is the parent undertaking of the asset management company, the holdings arising from the investments of collective investment undertakings managed by the asset management company under the terms provided for in ZISDU-1 or Directive 85/611/EEC, in shares of the insurance company, shall not be taken into account, when exercising voting rights arising from such holdings is independent from the parent undertaking.

(3) The preceding Paragraph shall not apply when:

1. the parent undertaking or its controlled undertaking is the holder of shares of the insurance undertaking carrying voting rights, managed by an asset management company, and
2. asset management company is unable to exercise the voting rights arising from such shares at its own discretion, but merely through the direct or indirect instructions of the parent undertaking or its controlled undertaking.

(4) When determining the qualifying holding of the company that is the parent undertaking of the investment firm entitled to provide investment services and activities under ZTFI or Directive 2004/39/EC, the holdings arising from investments in shares of the insurance undertaking managed by this investment firm in the scope of providing the services of financial instruments management as defined in Paragraph (4) of Article 8 of ZTFI shall not be taken into account, provided that the following conditions are met:

1. the investment firm has the appropriate licence of the competent supervisory authority to provide the investment services of portfolio management as defined in item 4 of Paragraph (1) of Article 8 of ZTFI,
2. the investment firm:
  - either is allowed to exercise the voting rights arising from investments in the shares of insurance undertaking carrying voting rights only on the basis of instructions given by the client for whose account they are managed, in writing or by electronic means;
  - was able to provide the appropriate conditions, by taking adequate measures that are equal to the conditions stipulated by ZISDU-1 or Directive 85/611/EEC for the portfolio management services to be provided independently of other services and activities provided by the investment firm, and
3. the investment firm exercises its voting rights independently of the parent undertaking.

(5) The preceding Paragraph shall not apply when:

1. the parent undertaking or its controlled undertaking is the holder of shares of the insurance undertaking carrying voting rights managed by an investment firm, and
2. an investment firm is unable to exercise the voting rights arising from such shares at its own discretion, but merely through the direct or indirect instructions of the parent undertaking or its controlled undertaking.

(6) When determining the qualifying holding of a bank, Member State's bank, or investment firm, the shares acquired by such bank, Member State's bank, or investment firm during performing the services related to the performance of the first or any further sale of financial instruments on a firm commitment basis as referred to in item 6 of Paragraph (1) of Article 8 of ZTFI shall not be taken into account, provided that the following conditions are met:

1. according to ZTFI or Directive 2004/39/EC, the bank, Member State's bank, or investment firm is allowed to perform the investment services referred to in item 6 of Paragraph (1) of Article 8 of ZTFI;

2. the bank, Member State's bank, or investment firm does not exercise either voting rights attached to the shares or other management rights arising from such shares, so as to influence the management of business of the insurance undertaking, and
3. the bank, Member State's bank, or investment firm disposes of the shares within one year after acquisition.

### **Request for authorisation to acquire a qualifying holding**

#### **Article 19**

(1) Requests for authorisation to acquire a qualifying holding shall include the following:

1. the amount of participation in the voting rights or in the capital of the insurance undertaking which the future qualifying holder intends to obtain;
2. other information specified in Paragraph (1) of Article 327 of this Act to be included in each request.

(2) Requests for authorisation to acquire a qualifying holding shall be accompanied by evidence and information on the future qualifying holder's compliance with the criteria set out in Article 19.b of this Act.

### **Consulting the competent supervisory authorities**

#### **Article 19.a**

(1) Prior to taking a decision to issue an authorisation to acquire a qualifying holding, the Insurance Supervision Agency shall consult the competent supervisory authority of a Member State when the future qualifying holder is an:

1. insurance undertaking in that Member State,
  2. a credit institution, investment firm, or asset management company in that Member State,
- or
3. a parent entity of the persons referred to in items 1 or 2 of this Paragraph.

(2) Prior to taking a decision to issue an authorisation to acquire a qualifying holding, the Insurance Supervision Agency shall consult the competent supervisory authority of the Republic of Slovenia when the future qualifying holder is a:

1. credit institution, stock broking company or asset management company in the Republic of Slovenia, or
2. a parent entity of the persons referred to in the preceding item.

(3) The Insurance Supervision Agency shall consult and exchange information with the competent supervisory authority of the Member States and the Republic of Slovenia as regards the suitability of future qualifying holders, the reputation and experience of members of the companies' management boards within the same group, as well as other information necessary or important to assess the future qualifying holder's compliance with the criteria laid down in Article 19.b of this Act.

(4) When the Insurance Supervision Agency is obliged pursuant to Paragraphs (1) or (2) of this Article, prior to taking a decision to issue an authorisation to acquire a qualifying holding, to consult the competent supervisory authorities, the substantiation of the grounds for such a

decision on issuing an authorisation to acquire a qualifying holding or rejecting the request to issue such an authorisation shall take into account, in addition to the contents to be included in any substantiation of the grounds for a decision, the Insurance Supervision Agency's views on the views and reservations of other competent authorities.

(5) When the future qualifying holder is a supervised financial undertaking in a third country, the request for authorisation to acquire a qualifying holding shall also be accompanied by the approval or opinion of the competent supervisory authority or a notification that no such approval or opinion is necessary subject to the regulations governing the future qualifying holder in its country of establishment.

### **Assessing the future qualifying holder's eligibility** **Article 19.b**

(1) In order to ensure a safe and prudential management of the insurance undertaking where the future qualifying holder intends to obtain a qualifying holding, the Insurance Supervision Agency shall, when deciding on the issue of an authorisation to acquire a qualifying holding, with taking account of the possible influence of the future qualifying holder if obtaining the required qualifying holding on the insurance undertaking's management, assess the future qualifying holder's eligibility on the basis of the following criteria:

1. reputation of the future qualifying holder;
2. reputation and experience of the persons given the possibility to manage the insurance undertaking, or otherwise influence its operation if the future qualifying holder acquires the required qualifying holding;
3. financial soundness of the future qualifying holder, in particular as regards the types of business conducted or planned by the insurance undertaking;
4. possible consequences, when the future qualifying holder acquires the required qualifying holding for the capability of the insurance undertaking to act in compliance with the risk management rules, and to meet the requirements and restrictions laid down in Chapter 5 of this Act.

(2) When assessing the future qualifying holder's eligibility on the basis of criterion laid down in item 4 of the preceding Paragraph, the Insurance Supervision Agency shall also assess the organisational structure, procedures and systems in the group of which the insurance undertaking is to become a part when the future qualifying holder acquires the required qualifying holding, and possible consequences for the possibility to exercise effective supervision, the effective exchange of information between the competent supervisory authorities, and delimitation of powers and responsibility regarding the supervision between the competent supervisory authorities.

(3) When assessing the future qualifying holder's eligibility, the Insurance Supervision Agency shall also assess when there is a suspicion:

1. that the acquisition of the required qualifying holding involved or will involve an act of money laundering as referred to in Paragraph (1) of Article 2 of ZPPDFT or terrorist financing as referred to in Paragraph (2) of Article 2 of ZPPDFT, or an attempted act of such, or
2. that such an acquisition is to increase the risk of money laundering or terrorist financing referred to in Paragraph (1) of Article 6 of ZPPDFT.

(4) The Insurance Supervision Agency shall not assess the future qualifying holder's eligibility in terms of the economic needs of the market.

(5) When the Insurance Supervision Agency discusses at the same time two or more requirements for the acquisition of a qualifying holding in the same insurance undertaking, all future qualifying holders shall be treated in a non-discriminatory manner.

### **Refusal to grant an authorisation to acquire a qualifying holding**

#### **Article 19.c**

(1) The Insurance Supervision Agency shall refuse to grant an authorisation to acquire a qualifying holding when:

1. the future qualifying holder does not comply with the criteria set out in items 1 to 3 of Paragraph (1) of Article 19.b of this Act;
2. it assesses on the basis of the criteria laid down in Article 19.b of this Act that the following is possible when the future qualifying holder acquires the required qualifying holding:
  - that there is a threat to the insurance undertaking's ability to act in accordance with the risk management rules, and to meet requirements and restrictions laid down in Chapter 5 of this Act;
  - it is likely that the exercise of effective supervision, effective exchange of information between the competent supervisory authorities, or delimitation of powers and responsibilities as regards supervision between the competent supervisory authorities would be made impossible or hindered;
3. when there is a suspicion:
  - that the acquisition of the required qualifying holding involved or will involve an act of money laundering as referred to in Paragraph (1) of Article 2 of ZPPDFT, or terrorist financing as referred to in Paragraph (2) of Article 2 of ZPPDFT, or an attempted act of such, or
  - that such an acquisition would increase the risk of money laundering or terrorist financing as referred to in Paragraph (1) of Article 6 of ZPPDFT;
4. the future qualifying holder does not submit the documents and information required for the assessment of eligibility under the criteria referred to in Article 19.b of this Act within the time limit specified as the requirement of Paragraphs (6) or (7) of Article 329.a of this Act.

(2) The Insurance Supervision Agency shall also refuse to grant an authorisation to acquire a qualifying holding to the future qualifying holder of a third country when, with regard to the regulations valid in such an entity's state or with regard to the practice of the application and implementation of regulations in such an entity's state, it is likely that the exercise of effective supervision, effective exchange of information between the competent supervisory authorities, or delimitation of powers and responsibilities as regards supervision between the competent supervisory authorities would be made impossible or hindered.

### **The time limit for the acquisition of the holding to which the authorisation refers**

#### **Article 19.č**

(1) In a decision regarding an authorisation to acquire a qualifying holding or at a later stage, the Insurance Supervision Agency may impose an obligation on the future qualifying holder to acquire, within a specified period, an insurance undertaking's shares by means of which the future qualifying holder shall acquire the range which is the subject of the already issued authorisation to acquire a qualifying holding. The time limit referred to in the provision of the preceding sentence shall be not shorter than six months after the service of the Insurance Supervision Agency's decision laying down such time limit.

(2) At the request of the future qualifying holder, the Insurance Supervision Agency may extend the time limit referred to in the preceding Paragraph.

(3) The future qualifying holder shall file a request for extension of the time limit for acquisition of the qualifying holding before the expiry of the time limit referred to in Paragraph (1) of this Article.

#### **Expiry of the authorisation to acquire a qualifying holding Article 19.d**

(1) When the Insurance Supervision Agency has laid down the time limit for acquisition of insurance undertaking's shares under Article 19.č of this Act, and the future qualifying holder fails to acquire the insurance undertaking's shares within such time limit, which would enable the future qualifying holder to obtain the qualifying holding, the authorisation shall expire in its entirety.

(2) When the Insurance Supervision Agency has laid down the time the limit for acquisition of an insurance undertaking's shares under Article 19.č of this Act, and the qualifying holder acquires a qualifying holding within such time limit, but fails to acquire a range for which the authorisation has been issued, the authorisation shall cease to be valid in the part which exceeds the range acquired by the holder.

(3) When the qualifying holder disposes of the insurance undertaking's shares after having acquired the holding in the range which is the subject of authorisation, so that its amount of holding in the insurance undertaking's voting rights or in the capital fails to represent the range for which the authorisation has been issued, the authorisation shall cease to be valid in the part which exceeds the range still held by the holder after such disposal of shares.

(4) The preceding Paragraph shall also apply as appropriate in the event of a decrease in the qualifying holder's holding on account of an increase in the share capital or other insurance undertaking's corporate activities.

(5) The Insurance Supervision Agency shall issue a declaratory decision on total or partial expiry of the authorisation to acquire a qualifying holding.

#### **Voting rights attached to the insurance undertaking's shares acquired in contravention of the law**

#### **Article 20**



(1) A holder of the insurance undertaking's shares that acquires or holds such shares contrary to this Act (hereinafter referred to as: ineligible holder) shall have no voting rights.

(2) The number of shares for which an ineligible holder may exercise his voting rights shall be calculated in the following manner:

1. when shares held by the holder result in a holding in the insurance undertaking which represents 10% or more of the insurance undertaking's voting rights or capital, without having obtained an authorisation to acquire a qualifying holding, or when his authorisation to acquire a qualifying holding has been withdrawn by subtracting one share from the number of shares which represents 10% of the insurance undertaking's voting rights or capital;
2. when shares held by the holder result in a holding which exceeds the range required for obtaining the authorisation to acquire a qualifying holding so that their number equals the number of shares which is the ceiling of the range for which the holder is granted a valid authorisation.

(3) Voting rights which an ineligible holder is not entitled to exercise shall be added to the voting rights of other shareholders in proportion to their participation in all voting rights attached to the insurance undertaking's shares.

(4) When an ineligible holder files a request for authorisation to acquire a qualifying holding within one month of acquisition, and when he is granted such authorisation by the Insurance Supervision Agency, the holder shall, as of the date of finality of the decision to grant an authorisation to acquire a qualifying holding, acquire voting rights attached to shares and to the number of shares which constitute the holding for which this authorisation is granted.

(5) The insurance undertaking shall prevent the ineligible holder from exercising his voting rights referred to in Paragraph (1) of this Article.

(6) Paragraphs (1) to (5) of this Article, and Articles 20.a and 20.b of this Act shall also apply as appropriate in the event of an increase in the qualifying holder's holding on account of a decrease in the share capital or other corporate activities of an insurance undertaking. In the application of the provisions of the preceding Paragraph, as appropriate, the one-month time limit for filling the request for an authorisation to acquire a qualifying holding shall start with the day when the qualifying holder has been informed, or could have been informed, of the increase in his holding on account of the insurance undertaking's corporate activity.

## **Order for disposal of shares**

### **Article 20.a**

(1) When the ineligible holder fails to file a request for authorisation to acquire a qualifying holding within one month from the acquisition of the insurance undertaking's shares, the Insurance Supervision Agency shall issue an order imposing on such ineligible holder the obligation to dispose of the shares held in contravention of this Act (hereinafter referred to as: order for disposal of shares). In its order for the disposal of shares, the Insurance Supervision Agency shall lay down a time limit for the disposal of shares of not less than three and not more than six months.

(2) Before the expiry of the time limit specified by the order for the disposal of shares, the ineligible holder shall submit to the Insurance Supervision Agency the following:

1. a report on the disposal of shares, which shall include information about the acquirer(s) of shares, and
2. evidence of disposal.

(3) The Insurance Supervision Agency may request from the acquirer of the shares referred to in the preceding Paragraph to declare whether the shares were acquired on his own behalf and for his own account. In the procedure of assessing whether the holder has acted in accordance with the order for the disposal of shares, the Insurance Supervision Agency may take appropriate evidence on the facts regarding for whose account the acquirer acquired the shares. In the procedure referred to in the preceding sentence, Article 328.a of this Act shall apply as appropriate.

- (4) Paragraphs (1) to (3) of this Article shall also apply, as appropriate, in the following cases:
1. when the ineligible holder files a request for authorisation to acquire a qualifying holding within one month after the acquisition of shares, and his request is rejected, dismissed or withdrawn,
  2. when the holder's authorisation to acquire a qualified holding is withdrawn.

(5) The order for the disposal of shares shall be subject to, as appropriate, the provisions of this Act concerning the order for the elimination of violations.

### **Decision prohibiting the exercise of rights deriving from shares**

#### **Article 20.b**

(1) When the ineligible holder fails to dispose of the shares within the time limit laid down by the order for disposal of shares, or if, in the procedure according to Paragraph (3) of Article 20.a of this Act, the Insurance Supervision Agency determines that the acquirer holds the shares which were the subject of the order for disposal of shares on his own behalf or for the account of an ineligible holder (hereinafter referred to as: ineligible acquirer), the Insurance Supervision Agency shall issue a decision prohibiting the ineligible holder and eventual ineligible holders from exercising any rights deriving from the insurance undertaking's shares held in contravention of this Act, and prohibiting the insurance undertaking from enabling the above-mentioned persons from exercising the rights deriving from such shares in any manner (hereinafter referred to as: decision prohibiting the exercise of rights deriving from shares).

(2) When the decision prohibiting the exercise of rights deriving from shares has been issued, the ineligible holder and potential ineligible acquirers may only exercise the rights arising from the number of shares calculated by subtracting one share from the number of shares representing the holder's qualifying holding.

- (3) The operative part of the decision prohibiting the exercise of rights deriving from shares shall include the following:
1. information about the ineligible holder, when the holder disposes of his share to an ineligible acquirer, including information about the ineligible acquirer,
  2. the number of shares for which the ineligible holder and eventual ineligible acquirers might jointly exercise rights deriving from said shares.

(4) The decision prohibiting the exercise of rights deriving from insurance undertaking's shares shall also be delivered to the insurance undertaking. The insurance undertaking shall not allow any rights deriving from the shares to which the decision applies to be exercised by the ineligible holder or ineligible acquirers after the notification of such decision.

(5) When the insurance undertaking pays a dividend in the period from servicing the decision prohibiting the exercise of the rights deriving from shares to the date of acquisition of shares which are the subject of such decision by a new holder in accordance with this Act, the insurance undertaking shall pay the dividend pertaining to the above-mentioned shares to the new holder within eight days from receiving the new holder's notice of acquisition of shares.

## **Shareholders' agreement**

### **Article 20.c**

(1) The insurance undertaking's shareholders who jointly own shares and whose share ownership falls short of a qualifying holding in the insurance undertaking, and who enter into an agreement on concerted exercise of voting rights deriving from such shares (hereinafter referred to as: shareholders' agreement) shall notify the Insurance Supervision Agency thereof within eight days after entering into such agreement.

(2) The insurance undertaking's shareholders who jointly own shares on the basis of which they constitute or exceed a qualifying holding in the insurance undertaking, and who intend to enter into a shareholders' agreement (hereinafter referred to as: qualifying shareholders' agreement) shall obtain the Insurance Supervision Agency's prior authorisation for acquisition of the qualifying holding.

(3) Parties to a qualifying shareholders' agreement that hold a valid authorisation to acquire a qualifying holding shall obtain a new authorisation to acquire a qualifying holding prior to each subsequent acquisition of the insurance undertaking's shares by which the total holding of parties to the qualifying shareholder's agreement exceeds the range that is the subject of already granted authorisation to acquire a qualifying holding.

(4) The preceding Paragraph shall also apply, as appropriate, in the following cases:

1. when a new participant intends to join the qualifying shareholders' agreement, or
2. upon entering into the shareholders' agreement referred to in Paragraph (1) of this Article for the purpose of acquiring additional shares, or when on account of a new participant's joining the agreement the total holding of parties to the agreement achieved or exceeded a qualifying holding in the insurance undertaking.

(5) The provisions of Articles 18, 19 to do 20.b, and Articles 21 and 21.a of this Act concerning the authorisation to acquire a qualifying holding, and the rights and duties of individual qualifying holders, shall also apply as appropriate to the parties to a qualifying shareholders' agreement. In the as appropriate application of the provisions referred to in the preceding sentence, the term “qualifying holder” shall be replaced by the term “parties to a qualifying shareholders' agreement”.

## **Other cases of acquiring the status of parent entity of an insurance undertaking**

### **Article 20.č**

(1) A person intending to enter into an enterprise contract under corporations law, or other legal transaction, as a basis for acquiring the status of a parent entity of an insurance undertaking shall obtain the authorisation to acquire a qualifying holding as referred to in Paragraph (2) of Article 18 of this Act prior to entering into such legal transaction, notwithstanding whether said person is, at the same time, the insurance undertaking's shareholder, i.e. notwithstanding the person's shareholding in the insurance undertaking.

(2) The provisions of Articles 19 to 20.b, and Articles 21 and 21.a of this Act shall apply, as appropriate, to the authorisation for the acquisition of a qualifying holding and to the rights and duties of the qualifying holder referred to in the preceding Paragraph.

### **Withdrawal of the authorisation to acquire a qualifying holding**

#### **Article 21**

(1) The Insurance Supervision Agency may withdraw the authorisation to acquire a qualifying holding in cases of the circumstances referred to in Paragraphs (1) or (2) of Article 19.c of this Act.

(2) The finality of the decision to withdraw the authorisation to acquire a qualifying holding shall have the legal consequences referred to in Article 20 of this Act.

### **Notifications of the qualifying holder to the Insurance Supervision Agency**

#### **Article 21.a**

(1) When a qualifying holder who has obtained the authorisation to acquire a qualifying holding intends to dispose of his shares so that his holding would be reduced below the lower limit of the range that is subject to authorisation, he shall notify the Insurance Supervision Agency of his intention in advance.

(2) When the qualifying holder's holding is reduced below the lower limit of the range that is subject to authorisation, on account of an increase in the share capital or other corporate activities of the insurance undertaking, the qualifying holder shall notify the Insurance Supervision Agency thereof.

(3) The qualifying holder shall notify the Insurance Supervision Agency forthwith of any merger or break-up to which he is a party, and of any other changes in his legal organisational form.

(4) A parent financial holding company and a mixed-activity holding company representing a parent undertaking of which the insurance undertaking is a subsidiary undertaking in accordance with the authorisation to acquire a qualifying holding shall also notify the Insurance Supervision Agency of each change in their management.

### **Provision concerning qualifying holders**

#### **Article 21.b**

The Insurance Supervision Agency shall lay down the following:

1. detailed criteria for the assessment of eligibility of the future qualifying holder as referred to in Article 19.b of this Act;
2. detailed contents of the documentation and information to be attached to the request for authorisation to acquire a qualifying holding;
3. detailed contents and method of sending notifications as referred to in Article 21.a of this Act.

### **Prior written notification of intended acquisition of a qualifying holding in a foreign financial organisation**

#### **Article 21.c**

(1) An insurance undertaking, prior to acquiring a qualifying holding in another insurance undertaking or other financial organisation with a registered office outside the territory of the Republic of Slovenia and outside the territory of a Member State (hereinafter referred to as: foreign financial organisation) shall be obliged to inform the Insurance Supervision Agency in writing of its intention at least two months before the acquisition.

(2) The insurance undertaking referred to in Paragraph (1) of this Article, prior to all further acquisitions as a result of which it will reach or exceed the level of 20%, 33% or 50% as the share of the voting rights or share capital in a foreign financial organisation, or as a result of which it will become the controlling company of a foreign financial organisation, shall be obliged to inform the Insurance Supervision Agency in writing of its intention at least three months before the acquisition.

(3) When an insurance undertaking intends to dispose of shares or shareholdings in such a manner that its share in a foreign financial organisation will be reduced below the limit referred to Paragraphs (1) or (2) of this Article, it shall be obliged to inform the Insurance Supervision Agency thereof in advance.

(4) The following need to be attached to the prior written notification referred to in Paragraph (1) of this Article:

1. a list of owners of qualifying holdings in the foreign financial organisation, including data regarding their shares, and a translation of a notarised extract from the court register or other public register for each of them;
2. a translation of the certified extract from the court register or other public register for the foreign financial organisation;
3. annual reports of the foreign financial organisation for the last two business years;
4. when the foreign financial organisation is obliged, pursuant to regulations of the country of its registered office, to submit to auditing: auditor's reports with opinions regarding the annual reports for the last two business years;
5. a list of persons connected to the foreign financial organisation with a description how they are connected;
6. the management strategy of the foreign financial organisation with an estimate of the economic efficiency of the investment.

#### **2.2.4. Board of directors of an insurance public limited company**

**Board of directors of an insurance public limited company**  
**Article 22**

(1) The board of directors of an insurance public limited company must comprise at least two members jointly acting as agent and representative of the insurance public limited company in legal transactions. Neither of the members of the board of directors of the insurance public limited company or the procurator may be empowered to individually act as an agent and representative of the insurance public limited company for the entire volume of business within its operations.

(2) The members of the board of directors of the insurance public limited company must have permanent and full-time employment in that insurance public limited company.

(3) At least one of the members of the board of directors must have a good command of the Slovene language, suitable for performing duties of a member of the board of directors of the insurance public limited company.

(4) The board of directors shall be obliged to perform the operations of the insurance public limited company in the Republic of Slovenia.

(5) Repealed.

**Members of the board of directors' employment contracts**  
**Article 23**

(1) On the day an extraordinary board of directors is appointed, all special benefits enjoyed by the members of the board of directors and other employees of an insurance public limited company on the basis of employment contracts to which the tariff section of the collective agreement is not applicable shall cease to be valid.

(2) Any provision laid down in an employment contract of a member of the board of directors or other employee of an insurance public limited company which is in contravention of Paragraph (1) of this Article shall be null and void.

(3) The special benefits referred to in Paragraph (1) of this Article shall be benefits which, in accordance with personal income tax regulations, are deemed bonuses.

**Conditions for members of the board of directors of an insurance public limited company**

**Article 24**

(1) The position of a member of the board of directors may be assumed by any person meeting the following conditions:

1. adequate professional qualifications, characteristics and experience needed to manage the operations of an insurance undertaking;

2. by means of a final judgement has not been convicted of a criminal offence committed wilfully or of one of the following criminal offences committed through negligence: negligent homicide, aggravated bodily harm, grievous bodily harm, endangering safety at work, concealment, disclosure and unauthorised acquisition of a trade secret, money laundering, disclosure of an official secret, causing public danger, and the conviction has not yet been deleted.

(2) The condition referred to in item 1 of the preceding Paragraph shall be met when a person has sufficient theoretical and practical knowledge to conduct insurance business and at least four years experience in the management of the business of an insurance undertaking or company of the size and activity comparable to an insurance undertaking, or other comparable business.

(3) Data referred to in item 2 of Paragraph (1) of this Article shall be obtained by the Insurance Supervision Agency from the candidate board member of an insurance public limited company, or they may be obtained from criminal records.

### **Authorisation to assume the function of a member of the board of directors**

#### **Article 25**

(1) Only a person who has been granted an authorisation to assume the function of a member of the board of directors of an insurance public limited company may be appointed as the member of the board of directors of an insurance public limited company.

(2) The application for the authorisation referred to in the preceding Paragraph hereunder must comprise supporting documents proving the meeting of conditions referred to in Article 24 of this Act. The Insurance Supervision Agency shall prescribe the detailed contents of documentation whereby the candidate for board member demonstrates compliance with the conditions referred to in Article 24 of this Act. The candidate must attach to the request to issue the authorisation referred to in Paragraph (1) of this Article a written statement on the appointment and cessation of his function in the supervisory and administrative bodies of other legal entities.

(3) The Insurance Supervision Agency may decide that, during the procedure regarding taking decisions on granting the authorisation, the applicant must present his/her concept of managing the operations of an insurance public limited company.

(4) The Insurance Supervision Agency shall grant the authorisation referred to in Paragraph (1) hereunder when it appears from the supporting documents referred to in Paragraph (2) hereunder and the presentation referred to in Paragraph (3) hereunder that the applicant meets the conditions set for a member of the board of directors of an insurance public limited company.

(5) The Insurance Supervision Agency may refuse to grant the authorisation when it appears from the supporting documents that, with regard to activities performed by the person or with regard to actions carried out by that person, the operation of the insurance public limited company could be threatened in accordance with the rules on risk management or that on the basis of the presentation referred to in Paragraph (3) of this Article, the Insurance Supervision Agency assesses that the candidate will not ensure the operation of the insurance public

limited company in accordance with the rules laid down in this Act and regulations issued pursuant thereto, or other acts regulating the operation of insurance public limited companies and regulations issued pursuant thereto, or when the Insurance Supervision Agency concludes that the person provided inaccurate data in the request for the issuing of authorisation or during the presentation referred to in Paragraph (3) of this Article.

(6) When a person has been granted an authorisation to assume the function of member of the board of directors, he/she shall be obliged, prior to the appointment to the same function with another insurance undertaking, to acquire the authorisation of the Insurance Supervision Agency.

The provisions of the Paragraphs (3) and (5) of this Article and Article 24(1)(2) of this Act shall apply as appropriate to the granting of the said authorisation.

(7) When a legal entity lodged an application for the authorisation to perform insurance business, the procedure of adopting a decision with regard to the authorisation referred to in Paragraph (1) of this Article shall be joined with the procedure regarding the adoption of a decision on the authorisation to perform insurance business.

(8) Authorisation from Paragraph (1) of this Article shall cease to apply:

- when, within a period of six months from the receipt of the authorisation to perform the function of a board member, the person is not appointed as a board member of the insurance public limited company to which the authorisation refers, and the procedure for issuing authorisation was combined with a procedure for issuing authorisation to perform insurance business of an insurance undertaking;
- when, within a period of three months from the receipt of the authorisation to perform the function of a board member, the person is not appointed as a board member of the insurance public limited company to which the authorisation refers;
- when the person ceases to perform the function of a board member of the insurance public limited company to which the authorisation refers, on the date of cessation of the function;
- when the employment contract of the person in the insurance public limited company to which the authorisation refers ceases, on the date of cessation.

(9) When the authorisation referred to in Paragraph (1) of this Article ceases to apply due to reasons referred to in Paragraph (8) of this Article, the Insurance Supervision Agency shall issue a decision ruling that the authorisation has ceased to apply.

(10) An insurance public limited company may grant and register a procuracy only with regard to a person meeting the conditions referred to in Article 29a(1) and (2) of this Act.

(11) When a member of the management board has been withdrawn the authorization to carry out membership functions in an insurance public limited company, the insurance public limited company may not grant a procuracy to such a person for five years from the date on which the decision on the withdrawal of the authorization becomes final, and not include the procuracy in the register.

(12) The Insurance Supervision Agency may, by means of an order, impose on board of directors and the supervisory board of an insurance public limited company the obligation to remove the procurator when:

- that person does not meet conditions referred to in Article 29a(1) and (2) of this Act;
- there is a breach of the provision of the preceding Paragraph.



## **Obligations of members of the board of directors of an insurance public limited company**

### **Article 26**

(1) Members of the board of directors of an insurance public limited company shall be obliged to ensure that the insurance public limited company operates in accordance with provisions of this Act and regulations issued pursuant thereto, or with other Acts regulating the operation of insurance public limited companies and regulations issued pursuant thereto, whereby they shall also be obliged to follow good practice of risk management.

(2) Members of the board of directors of an insurance public limited company shall be obliged to ensure the monitoring of risks to which the operations of the insurance public limited company are exposed, and adopt adequate measures designed to manage the said risks.

(3) Member of the board of directors shall be obliged to ensure the organization of both the internal control system in all the areas of the insurance public limited company's operations and internal audit, and ensure their operation in accordance with this Act and the regulations issued on the basis thereof.

(4) Member of the board of directors of an insurance public limited company shall be obliged to ensure that the insurance public limited company keeps its books of account and other records and business documentation, drafts book-keeping documents, values book items, compiles accounting and other reports, and reports to the Insurance Supervision Agency in accordance with this Act and the regulations issued on the basis thereof.

(5) Members of the board shall be obliged to inform the Insurance Supervision Agency of each appointment or cessation of their function in supervisory and administrative bodies of other legal entities in writing within a period of eight days after the occurrence of the aforementioned two facts.

## **Reporting to the supervisory board**

### **Article 27**

(1) The board of directors of an insurance public limited company shall be obliged to immediately report in writing to the supervisory board of the insurance public limited company on the following events:

1. when either the liquidity or solvency of the insurance public limited company is threatened;
2. when reasons occur for the revocation or withdrawal of the authorisation to perform insurance business and for the prohibition of the performance of individual insurance business;
3. when the financial standing of the insurance public limited company changes so that the insurance public limited company fails to achieve the minimum capital referred to in Article 110 or 111 of this Act.

(2) A member of the board of directors of an insurance public limited company shall be obliged to immediately report in writing to the supervisory board on the following:

1. appointment or expiry of term of office in supervisory boards of other legal entities;

2. legal transactions on the basis of which either the member of the board of directors him/herself or his/her close family members have directly or indirectly acquired shares or holdings in a legal entity on the basis of which the member of the board of directors, together with his/her close family members, achieved or exceeded the qualifying holding in the said legal entity or the said holding was reduced under the qualifying holding limit.
3. the withdrawal of authorisation to perform the function of board member.

## **Withdrawal of authorisation**

### **Article 28**

- (1) The Insurance Supervision Agency shall withdraw the authorisation to assume the function of member of the board of directors of an insurance public limited company:
  1. when the authorisation was obtained by stating false data;
  2. when the member of the board of directors in question acts in severe contravention of the obligations referred to in Articles 26 and 27 of this Act.
  3. when by means of a final judgement he is convicted of a criminal offence or of one of the following criminal offences committed through negligence: negligent homicide, aggravated bodily harm, grievous bodily harm, endangering safety at work, concealment, disclosure and unauthorised acquisition of a trade secret, money laundering, disclosure of an official secret, causing public danger, and the conviction has not yet been deleted.
- (2) When procedure for the withdrawal of the authorisation to assume the function of member of the board of directors has been initiated against a member of the board of directors as a result of violations due to which the procedure for the withdrawal of the authorisation to perform insurance business has been initiated against the insurance public limited company, the Insurance Supervision Agency may join both procedures.
- (3) When the authorisation to perform the function of board member has been withdrawn from a board member by means of a final judgement, or such authorisation has ceased due to the cessation of the employment contract, the supervisory board of the insurance public limited company shall be obliged to dismiss the member or members of the board without any delay, and to appoint a new member or new members.

## **2.2.5. Supervisory board of an insurance public limited company**

### **Supervisory board members of an insurance public limited company**

#### **Article 29**

- (1) The following persons cannot be appointed supervisory board members of an insurance public limited company:
  1. persons connected to legal entities in which the insurance public limited company holds more than 5% of voting rights or a holding in their share capital;
  2. members of supervisory boards or boards of directors or procurator in other insurance undertakings.
- (2) Repealed.

(3) Repealed.

(4) The prohibition referred to in item 2 of Paragraph (1) of this Article shall not apply to persons who are members of the supervisory board or board of directors, or who are procurators of the parent insurance undertaking or other parent company in an insurance group.

### **Conditions for performing the function of member of the supervisory board of an insurance undertaking**

#### **Article 29.a**

(1) Only persons meeting the following conditions may be appointed members of the supervisory board of an insurance undertaking:

1. the said person is suitably professionally trained and with the characteristics and experience required to supervise the business of the insurance undertaking;
2. the said person has not been convicted by means of a final judgement in accordance with item 2 of Paragraph (1) of Article 24 of this Act;
3. the said person was not a member of the management board of a company with regard to which the compulsory settlement, compulsory liquidation, bankruptcy or extraordinary administration proceedings had been initiated.

(2) The condition referred to in item 1 of the preceding Paragraph of this Article shall be deemed to have been met when the person has at least four years' experience in the management or supervision of the business of a company comparable in size and activity to the insurance undertaking or other comparable business, or is an expert in such fields.

(3) The Insurance Supervision Agency may require the board of directors of an insurance undertaking to convene a general meeting of the insurance undertaking and to propose the dismissal of a member of the supervisory board of the insurance undertaking when:

1. a member of the supervisory board violates his obligations under Article 31 of this Act;
2. the provisions of Article 29 of this Act are violated;
3. the said person fails to meet the conditions referred to in Paragraph (1) of this Article.

### **Powers of the supervisory board of an insurance public limited company**

#### **Article 30**

In addition to responsibilities the powers of a supervisory board pursuant to ZGD, the supervisory board of an insurance public limited company shall have the following powers:

1. approving decisions of the board of directors regarding the business policy of the insurance public limited company;
2. approving decisions of the board of directors regarding the financial plan of the insurance public limited company;
3. approving decisions of the board of directors regarding the setting-up of the internal control system;
4. approving decisions of the board of directors regarding the framework annual work plans for internal audit;
5. adopting decisions on other matters stipulated by this Act.

**Obligations of supervisory board members of an insurance public limited company**  
**Article 31**

(1) Supervisory board members of an insurance public limited company shall be obliged to:

1. supervise the adequacy of procedures applied and efficiency gained through internal audit;
2. discuss the findings of the Insurance Supervision Agency, tax inspection and other supervisory authorities in the procedures of supervision of the insurance public limited company;
3. review annual and other financial reports of the insurance public limited company, and prepare a written report thereon for the general meeting.
4. explain to the general meeting of shareholders their opinion on the internal auditors' annual report and on the annual report of the board of directors.

(2) The supervisory board members of an insurance public limited company shall be jointly liable to the insurance public limited company for any loss incurred due to an omission of their obligations pursuant to Paragraph (1) hereunder, unless they prove that their obligations were performed with all due care, conscience and honesty.

(3) The supervisory board member of an insurance public limited company shall be obliged to immediately report to the supervisory board on the following:

1. appointment or expiry of term of office in supervisory or boards of directors of other legal entities;
2. legal transactions on the basis of which either the supervisory board member him/herself or his/her close relatives directly or indirectly acquired shares or holdings of a legal entity on the basis of which the supervisory board member, together with his/her close relatives, achieved or exceeded a qualifying holding in the said legal entity or the said holding was reduced below the limit of the qualifying holding.

**Audit Commission**

**Article 31.a**

The supervisory board of an insurance undertaking shall appoint an audit commission.

**2.2.6. Regular liquidation of an insurance public limited company**

**Resolution of the general meeting of shareholders to initiate liquidation proceedings**  
**Article 32**

(1) The general meeting of shareholders of the public limited insurance undertaking may adopt a resolution to dissolve the insurance public limited company.

"(2) The general meeting of an insurance undertaking with a branch in another Member State may adopt a resolution referred to in the preceding Paragraph only after obtaining the opinion of the Insurance Supervision Agency.

(3) The Insurance Supervision Agency shall be obliged to issue an opinion within a period of 30 days from the date of a receipt of the request. In the event that the Insurance Supervision Agency fails to issue an opinion within a period of 30 days, the general meeting of the insurance undertaking may, immediately after the expiry of the period, adopt a resolution on the termination of the insurance undertaking.

(4) Unless otherwise stipulated in this Section, the provisions of ZGD on the liquidation of a public limited company on the basis of a resolution of the general meeting of shareholders shall apply to the liquidation of the insurance public limited company on the basis of the resolution referred to in Paragraph (1) of this Article.

(5) The provisions of Articles 193a, 193b, 193c and 193č and of Paragraphs (2), (3), (4) and (5) of Article 194 of this Act shall apply as appropriate to the liquidation of an insurance undertaking with a branch in another Member State, whereby the duty of a notification of the commencement of regular liquidation of the insurance undertaking shall refer to the liquidation administrator.

(3) The provisions of this Section shall also reasonably be applied when the general meeting of shareholders of an insurance public limited company adopts a resolution whereby the activities of the insurance public limited company are changed in such a way that the insurance public limited company ceases to perform insurance business.

### **Liquidator of an insurance public limited company**

#### **Article 33**

Only a natural person meeting the criteria set for the appointment of the member of the board of directors of an insurance public limited company may be appointed as the liquidator of an insurance public limited company.

### **Restrictions to the authorisation to perform insurance business**

#### **Article 34**

(1) The board of directors of an insurance public limited company shall be obliged to notify the Insurance Supervision Agency of the resolution referred to in Paragraph (1) of Article 32 of this Act on the next working day after the adoption of the resolution.

(2) On the basis of the notification referred to in the preceding Paragraph , the Insurance Supervision Agency shall issue a decision whereby:

1. the validity of the authorisation to perform insurance business is restricted to operations required to carry out the liquidation of the insurance public limited company;
2. the extent of the rules on risk management to be applied to the insurance public limited company undergoing liquidation is stipulated.

(3) Upon the initiation of the liquidation, the insurance public limited company may only be allowed to perform those insurance business laid down in the decision referred to in the preceding Paragraph.

(4) When the Insurance Supervision Agency intends to issue a decision referred to in Paragraph (2) of this Article to an insurance undertaking with a branch in a Member State, it shall be obliged to notify the competent supervisory authority of the Member State prior to issuing the decision. In the notification, it shall be obliged to state the legal consequences and practical effects of the decision issued.

(5) When in order to protect the interests of customers of the insurance undertaking or for other public interests, the issuing of the decision referred to in the preceding Paragraph cannot be delayed, the Insurance Supervision Agency shall inform the competent supervisory authority immediately after issuing the decision.

### **Repeated obtaining of the authorisation to perform insurance business**

#### **Article 35**

(1) Should the general meeting of shareholders of an insurance public limited company decide that the insurance public limited company shall continue to operate, the insurance public limited company may only resume insurance business when the authorisation to perform insurance business is granted anew by the Insurance Supervision Agency.

(2) The proposal to enter the resolution referred to in the preceding Paragraph in the companies' register must be furnished with the new authorisation to perform insurance business granted by the Insurance Supervision Agency.

### **2.3. Mutual insurance companies**

#### **2.3.1. General provisions**

##### **Definition**

#### **Article 36**

(1) A mutual insurance company shall be a legal entity which, in accordance with the principle of mutuality, performs insurance business for its members, and which has obtained an authorisation from the Insurance Supervision Agency.

(2) A mutual insurance company may also perform insurance business for non-members, should this be stipulated in its bylaws.

(3) A mutual insurance company may perform all insurance business other than reinsurance business.

##### **Application of provisions**

#### **Article 37**

With regard to a mutual insurance company, provisions of ZGD regulating basic legal institutions of the company law, registered name and head office, representation, business secrecy and non-competition obligation, and court register, shall apply as appropriate, unless otherwise provided in this Section.

## **The registered name**

### **Article 38**

The registered name of a mutual insurance company must contain an element implying that it is a mutual insurance company (“d.v.z.”).

## **2.3.2. Founding of a mutual insurance company**

### **Founding**

#### **Article 39**

A mutual insurance company shall be founded by the founders by adopting and signing the bylaws and paying the initial capital.

### **Bylaws**

#### **Article 40**

(1) The bylaws of a mutual insurance company must be drawn up in the form of a notarial deed.

(2) The bylaws of a mutual insurance company must lay down the following:

1. the registered name and head office;
2. the type of insurance business to be performed by the mutual insurance company;
3. the form and method of announcing the facts relevant to the company or its members;
4. the beginning and cessation of membership;
5. the amount of initial capital;
6. the terms and conditions, and the method of paying the funds by the members;
7. the amount and method of forming contingency reserves;
8. the terms and conditions, and the method of using profits and covering loss;
9. the number of members of the board of directors and supervisory boards;
10. the minimum number of members participating in the general meeting who can exercise minority rights.

(3) In addition to the cases under Article 68 of this Act, the Insurance Supervision Agency may refuse to grant the mutual insurance company an authorisation to perform insurance business if the members’ interests are endangered due to the provisions of the bylaws.

(4) A mutual insurance company providing supplementary health insurance, when concluding an insurance contract for supplementary health insurance, which is the basis for the acquisition of membership in a society, shall deliver to a member a copy of the applicable bylaws in written or electronic form and where appropriate inform him/her of further amendments of the bylaws.

## **Entry in the companies’ register**

### **Article 41**

(1) A mutual insurance company shall acquire legal personality upon being entered in the companies' register.

(2) With regard to mutual insurance companies, the data laid down in Article 4 of the Companies' Register Act (Official Gazette of the Republic of Slovenia, No. 13/94 – hereinafter referred to as: CRA), other than the data referred to in item 7 of Article 4 of the CRA and the data laid down in item 1 of Paragraph (1) of Article 5 of the CRA, shall be entered in the companies' register.

(3) In addition to the data referred to in the preceding Paragraph, the amount of the initial capital of the mutual insurance company shall also be entered in the companies' register.

### **2.3.3. Relations between a mutual insurance company and its members**

#### **Membership of a mutual insurance company**

##### **Article 42**

(1) Membership of a mutual insurance company shall be related to the existence of an insurance contract entered into by the company.

(2) A mutual insurance company may also enter into insurance contracts in such a way that by entering into the insurance contract the policy holder does not acquire the status of a member of the mutual insurance company especially when the contract is concluded for a period of time which is shorter than one year. By entering into supplementary health insurance contracts the policy holder, who is not simultaneously the insured person, does not acquire the status of a member of the company, but the insured person does.

#### **Rights, obligations and responsibilities of members**

##### **Article 43**

(1) Members shall not be responsible for the mutual insurance company's obligations.

(2) A member may not offset his/her obligations to the mutual insurance company as regards the payment of contributions and subsequent payments with his/her claim on the mutual insurance company.

(3) Contributions and subsequent payments of the members, as well as the obligations of the mutual insurance company in relation to its members, may only be determined upon equal assumptions and by applying the same criteria.

### **2.3.4. Liabilities of a mutual insurance company**

#### **Initial capital**

##### **Article 44**



- (1) Upon the founding of a mutual insurance company, the initial capital must be formed to cover the start-up costs, organisational costs and other costs relating to the start-up of operations. Unless otherwise stipulated in the bylaws, the initial capital may also be used to form contingency reserves.
- (2) The minimum initial capital of a mutual insurance company shall be equal to the guarantee fund referred to in Paragraph (2) of Article 112 of this Act.
- (3) The bylaws must lay down the terms and conditions and the method of repaying the funds paid to form the initial capital. Should it be stipulated in the bylaws that the funds paid to form the initial capital shall not be repaid, the method of using the said funds must be laid down.
- (4) When, following its foundation, a mutual insurance company applies for the authorisation to perform insurance business with regard to additional classes of insurance, the Insurance Supervision Agency shall be obliged to require, as a condition for granting the authorisation, an appropriate increase in the initial capital, when the expenses relating to the start-up of operations with regard to the new classes of insurance cannot be covered otherwise.

#### **Funds in accounts of members of a mutual insurance company**

##### **Article 44.a**

- (1) The bylaws of a mutual insurance company may stipulate that funds in the accounts of members of the mutual insurance company may also be considered as the initial capital of the mutual insurance company.
- (2) Funds in the accounts of members of the mutual insurance company may be considered as initial capital of the mutual insurance company when the bylaws stipulate that:
  - payments may only be made from the accounts of members when such action does not endanger the capital adequacy of the company, or after completion of the liquidation procedure once all other liabilities have been settled;
  - one month prior to the payment from the accounts of members (with the exception of repayment in the event of cessation of membership) the mutual insurance company shall be obliged to inform the Insurance Supervision Agency of the intention to make such payment;
  - the mutual insurance company may not alter the bylaws so as to affect personal accounts without the prior authorisation of the Insurance Supervision Agency.

#### **Paying and repaying the initial capital**

##### **Article 45**

- (1) A mutual insurance company may only start its operations when the initial capital has been paid in cash.
- (2) The funds paid to form the initial capital may only be repaid from the profits of individual business years. Repayments in an individual year may not exceed the amount allocated to form contingency reserves in that year.

(3) Persons providing the funds for the formation of the initial capital, other than members of the mutual insurance company, shall not have the right to the repayment of those funds prior to meeting the conditions referred to in the preceding Paragraph. The bylaws may stipulate that the said persons have the right to participate in the management of the mutual insurance company or the right to receive interest on annual receipts and to participate in the profits disclosed in the annual report.

### **Premiums and subsequent payments**

#### **Article 46**

(1) The bylaws must lay down the terms and conditions and the method of providing the funds for financing the mutual insurance company's operations by its members. The funds needed to finance the mutual insurance company's operations in an individual year shall be provided by previously determined contributions (premiums) paid by the members.

(2) Should the remaining assets of the mutual insurance company not suffice to cover losses, the bylaws must lay down whether and to what a degree the members are obliged to make subsequent payments. Should the assets of the mutual insurance company not suffice to cover the losses, the bylaws may, instead of or in addition to subsequent payments, stipulate that the insurance undertaking's obligations be reduced.

(3) Should the bylaws stipulate the obligation of subsequent payments, these subsequent payments must also be made by the person acquiring membership during the year and the persons whose membership expired during the year, which shall be made in proportion to the duration of membership in that year. Should contributions (premiums) or insurance sums serving as the basis for determining the volume of subsequent payments be changed during the business year, subsequent payments shall be measured with regard to the higher basis.

### **Contingency reserves**

#### **Article 47**

The bylaws must lay down the method of forming the reserves intended to cover operating losses (contingency reserves), and stipulate which contributions (premiums) shall annually be set aside to form contingency reserves and the minimum amount of the said contingency reserves.

### **Additional capital**

#### **Article 48**

On the basis of an approval from the general meeting, a mutual insurance company may raise additional capital by issuing the subordinate debt instruments referred to in Paragraph (3) of Article 107 of this Act.

### **Use of the annual profit**

#### **Article 49**

(1) The profits disclosed in the annual report may be distributed to the members or brought forward to the next business year, up to the portion which is not required to:

1. form contingency reserves, or
2. form any other reserves laid down in the bylaws whereby such reserves can be used for the provision of capital in the event of performance of insurance business within other classes of insurance, and for the provision of capital in the event of performance of insurance business within another insurance group, or
3. repay the initial capital or make other repayments laid down in the bylaws (Paragraph (3) of Article 45 of this Act).

(2) The bylaws must stipulate the criteria according to which the profits are distributed among the members and, in particular, whether the profits are also to be distributed to the persons whose membership expired during the year.

### **2.3.5. Bodies of a mutual insurance company**

#### **Bodies of a company**

##### **Article 50**

The bodies of a mutual insurance company in a two-tier management system shall be the board of directors, the supervisory board and the general meeting, and with regard to a one-tier management system, the board of directors and the general meeting.

#### **Board of directors of a mutual insurance company**

##### **Article 51**

(1) The board of directors of a mutual insurance company shall be appointed by the supervisory board.

(2) With regard to the management board of a mutual insurance company, provisions of ZGD regulating a public limited company management board, except for the provisions regulating board members' profit sharing, and the provisions of Articles (22) to (28) of this Act shall apply as appropriate.

#### **Supervisory board of a mutual insurance company**

##### **Article 52**

(1) A mutual insurance company must have a supervisory board consisting of at least three members. The bylaws may stipulate that the supervisory board has more than three members but not more than twenty members.

(2) With regard to the supervisory board of a mutual insurance company, provisions of ZGD regulating the supervisory board of a public limited company and the provisions of Articles (29) to (31)(a) of this Act, shall apply as appropriate.

#### **General meeting of a mutual insurance company**

### **Article 53**

- (1) The members of a mutual insurance company shall exercise their rights in the mutual insurance company by means of a general meeting, unless otherwise stipulated by law.
- (2) The general meeting of shareholders may be organised as a general meeting of all the members (meeting of members) or as a meeting of representatives, who themselves must be members of a mutual insurance company (representatives' meeting).
- (3) Notwithstanding provisions of Paragraph (2) of this Act, the general meeting of shareholders of a mutual insurance company, of which the number of its members is 1,500 or more, shall be organized only as the representatives' general meeting.
- (4) Provisions of this Act regarding the representatives' meeting shall apply for the general meeting of shareholders of a mutual insurance company of which the number of members is less than 1,500 and which is organized as the representatives' meeting.
- (5) When the number of members in the current financial year falls below 1,500 and it is lower than 1,500 for no more than 10 percent for the entire current financial year and for the year after that (the second financial year), in the year after the second financial year the members at the general meeting of members shall decide whether the mutual insurance company shall retain the representatives' meeting or its powers shall cease to exist and the members shall exercise their rights at the general meeting of members.
- (6) When the number of the members of the mutual insurance company with a general meeting organized as a general meeting of all members in the current financial year increases beyond 1,500 and it is higher than 1,500 for the entire current financial year and for the year after that, upon expiry of the second financial year the powers of the general meeting of all members shall cease to exist and the mutual insurance company has to form a representatives' meeting in the next financial year.
- (7) The general meeting shall decide on matters for which the law or the bylaws explicitly state that the general meeting should decide. The general meeting may decide on issues relating to management of business only when requested to do so by the board of directors or by the supervisory board in cases where provisions of ZGD regulating the powers of the supervisory board so permit.
- (8) When provisions of ZGD which apply to the general meeting of a company for mutual insurance pursuant to this Act specify the minority rights of shareholders in which the total share reaches a certain share of initial capital, the bylaws should determine an adequate number (the minority) of members of the general meeting.

### **Composition of representatives' meetings and alternate representatives**

#### **Article 53(a)**

- (1) The representatives' meeting shall consist of 45 representatives of members.
- (2) Each representative of a member shall have two alternate representatives.

(3) With an early termination of office of a representative of a member, the alternate representative of a member shall become a member of the representatives' meeting in accordance with the Article 53.d of this Act.

### **The system of elections into the representatives' meeting**

#### **Article 53(b)**

(1) For the election to the representatives' meeting of members a mixed system of elections shall be used.

(2) General elections (electoral period) shall be held every six years. Members of the mutual insurance company shall elect representatives of the representatives' meeting and two alternate representatives for each representative of the representatives' meeting.

(3) Upon the expiry of the first two years the office of the first third of representatives of members elected at the general elections terminates and with elections carried out by the remaining two thirds of the representatives elected at the general elections (elections with the co-option system) the first third of new representatives of members shall be elected.

(4) Upon the expiry of four years the office of the second third of representatives of members elected at the general elections terminates and with elections carried out by the remaining one third of the representatives elected at the general elections and the first third of members' representatives elected with the co-option system, the second third of new representatives of members shall be elected.

(5) Of the total number of representatives elected at general elections and composing the general meeting, one third of representatives of members whose terms of office expires at that time shall be determined by means of drawing lots following the expiry of two years of the election period. Following the expiry of a four-year election period, of the remaining two thirds of representatives of members elected by means of general elections, the half of these members whose term of office expires at that time shall be determined by means of drawing lots.

(6) The term of office of representatives of members whose term of office has not expired beforehand shall terminate by means of an election of new representatives of members at the elections with the system of co-opting or at the next general elections, and the function of alternate representatives of members whose function has not expired beforehand shall be terminated by means of the election of new alternate representatives at the next general elections.

(7) Re-election shall be permissible.

### **The representatives' meeting of a mutual insurance company which carries out the supplementary health insurance or life assurance**

#### **Article 53(c)**

- (1) For the representatives' meeting of the mutual insurance company carrying out supplementary health insurance or life assurance all provisions of this Act concerning the representatives' meeting shall be used.
- (2) Representatives' meeting of a company referred to in Paragraph (1) of this Article should also reflect the age structure of its members who are classified by age class. In classifying by age class the date of birth is taken into account. Each age class has the same number of members during the time of compiling the electoral list. Only derogations which are urgent due to potentially greater number of members born on the same day shall be permissible. There shall be five classes.
- (3) In the event where the insured person and the policy holder are not the same person, the mutual insurance company referred to in Paragraph (1) of this Act shall classify the insured persons in age classes.
- (4) From each age class the same number of representatives of members must be elected.
- (5) During the election period, elected representatives of members and alternate representative shall not transfer from one age class to another.
- (6) A voter may elect only representatives of members from his/her age class in the representatives' meeting of members.
- (7) Paragraph (5) of Article 53.b shall apply to each age class separately.

**Application of statutory provisions regarding classification into classes for a mutual insurance company not carrying out supplementary health insurance or life assurance**

**Article 53(č)**

For a mutual insurance company which does not carry out supplementary health insurance or life assurance and by means of the bylaws stipulates that the composition of representatives' meeting should reflect interests of various groups of members, provisions of Article 53.c shall apply as appropriate with regard to the classification into classes.

**Early termination of a term of office of a representative of members**

**Article 53(d)**

- (1) The term of office of a representative of members shall terminate early:
  - when the representative withdraws early from the role;
  - upon the occurrence of circumstances which exclude a passive voting right;
  - upon the initiation of bankruptcy proceedings against the representative of members.
- (2) Upon the early termination of a term of office of a representative of members the first alternate representative of members shall take up the duty of a representative of members.

(3) When the term of office of the first alternate representative of members terminates early, the function of a representative of members is taken up by the second alternate representative of members.

(4) When also the term of office of the second alternate representative of members terminates early and the number of representatives of members at the representatives' meeting in which there are no age classes or in an individual age class of representatives' meeting with age classes falls by one third, the general meeting of the remaining representatives of members, from among all members with passive voting rights, by means of elections under the system of co-opting, elects new representatives of members and two alternate representatives of members for each representative of members at the next regular sessions.

### **Voting rights**

#### **Article 53(e)**

(1) The right to vote representatives of members at general elections (hereinafter referred to as: an active voting right) shall be held by every natural person holding contractual capacity who is a member of a mutual insurance company and insured person pursuant to an agreement which has been concluded by and between a member and a mutual insurance company. A member of a mutual insurance company can not authorise another person to vote for him/her, neither is it possible to transfer the active voting right to another person.

(2) A right to be elected into the representatives' meeting at general elections and at elections with the system of co-opting (hereinafter referred to as: a passive voting right) shall be held by every natural person holding contractual capacity who is a member of a mutual insurance company for at least one year and a person who is an insured person for at least one year pursuant to an agreement which has been concluded by and between a member and a mutual insurance company.

(3) Notwithstanding the provision of Paragraph (2) of this Article representatives of members cannot be employed in a mutual insurance company, be members of managerial and supervisory bodies of a mutual insurance company, members of managerial and supervisory bodies and employees in an insurance undertaking which carries out insurance business in the same classes of insurance as the mutual insurance company, and members of managerial and supervisory bodies in a controlled or controlling company of a mutual insurance company.

### **Voting and election committee**

#### **Article 53(f)**

(1) General elections and elections with the system of co-opting and potential other related decisions shall be prepared and run and adopted by a voting and election committee.

(2) A voting and election committee shall carry out a drawing of lots as stipulated in Paragraph 5 of Article 53.b of this Act.

(3) Members of a voting and election committee are composed of a certain number of members of the board of directors, a certain number of members of supervisory board and a certain number of members of a mutual insurance company whereby the number of members of a mutual insurance company should exceed the total number of members of the board of

directors and members of the supervisory board who compose the voting and election committee.

(4) Members of the board of directors who are members of a voting and election committee shall be appointed by the board of directors, and members of the supervisory board who are members of a voting and election committee shall be appointed by the supervisory board. Members of a mutual insurance company who are members of a voting and election committee shall be elected by the meeting of members or representatives' meeting.

## **Bylaws and Rules**

### **Article 53(g)**

(1) A mutual insurance company whose general meeting is organised as a representatives' meeting shall, with regard to elections into representatives' meeting, determine in the bylaws particularly:

- the number and composition of a voting and election committee;
- the type of drawing of lots referred to in Paragraph (5) of Article 53(b) of this Act;
- the basic rules regarding the election procedure and the implementation of elections.

(2) A general meeting of a mutual insurance company whose general meeting is organised as representatives' meeting should also adopt the Rules regarding elections into the representatives' meeting. In the Rules regarding the elections into the representatives' meeting it shall regulate in a more exact manner the question referred to in Paragraph (1) of this Article and all other questions necessary for the preparation and implementation of elections.

(3) The bylaws and rules regarding elections into the representatives' meeting and their amendments shall enter into force when the Insurance Supervision Agency submits its consent to them. The bylaws and rules regarding elections into the representatives' meeting and amendments to the bylaws and rules regarding elections into the representatives' meeting of a mutual insurance company which carries out supplementary health insurance shall enter into force when the consent of the Insurance Supervision Agency is submitted to them following a prior opinion of a Minister responsible for health.

## **Convening the meeting of members and adopting decisions**

### **Article 54**

(1) The provisions of ZGD concerning the general meeting of a public limited company and regulating the option to take part in the general meeting also for non-shareholding members of the board of directors, the powers of the general meeting, the convocation of the general meeting, the content and publication of the convocation, the period of notice to convene the general meeting and participation, the provision of information, the amendments to the agenda, the shareholders' proposals and motions, the shareholders' voting proposals, the minutes of the general meeting, the shareholders' right to information and the court decision upholding the right to information, shall apply as appropriate to the convocation of the general meeting, the participation in the general meeting, the minutes of the general meeting, and the members' right to information.



(2) The general meeting of a mutual insurance company shall be convened when requested in writing by at least 5% of the mutual insurance company's members. The request of the members to convene the general meeting shall be sent to the board of directors and shall contain a draft agenda and draft decisions and provide substantiation for specific items of the agenda. The management board of the mutual insurance company shall convene a general meeting within 15 days of the receipt of the members' request to convene the general meeting. Such general meeting may not be held later than 30 days after the date of publication of the convocation of the general meeting. The general meeting convened at the request of members may only make decisions within the framework of the agenda provided in the request to convene the general meeting.

(3) When upon the receipt of a members' request to convene a general meeting the management board of a mutual insurance company fails to convene it within the period referred to in the preceding Paragraph, the court may authorise the members or their proxies to convene a general meeting.

(4) During a general meeting organised as a meeting of members, a list of the members present and their proxies shall be compiled, stating their names and addresses. The list, to be signed by the chairman, shall be made available to the participants of the general meeting for their inspection prior to the voting.

(5) In order for the general meeting to pass a resolution, a majority of the votes cast shall be required (simple majority), unless a higher majority is stipulated by law or the bylaws. The bylaws may lay down different requirements for voting.

(6) When a member's voting right is exercised by his proxy, all proxy forms shall be submitted to a mutual insurance company not later than seven days prior to the general meeting. The proxy forms shall be retained by the mutual insurance company.

(7) A member of the general meeting organised as a meeting of members shall not be allowed, either in his/her own name or as a proxy or representative of another member, to participate in decision-making with regard to either him/her being relieved of his/her obligations or a claim by the company being filed against him/her.

(8) Each general meeting shall elect a chairperson. A proposal for appointing the chairperson shall be given by the management board of the mutual insurance company or by at least one third of the members present or represented at the general meeting.

### **Convening the representatives' meeting and adopting decisions**

#### **Article 54(a)**

(1) With regard to the convocation and decision-making of a general meeting of a mutual insurance company which is organised as a representatives' meeting the Article 54 of this Act shall apply as appropriate.

(2) Notwithstanding the provision of Paragraph (1) of this Article a general meeting of a mutual insurance company which is organised as a representatives' meeting should be convened when required in writing by at least 5% of members of the mutual insurance company or one third of the representatives of members. A general meeting of a mutual

insurance company with more than 50,000 members should be convened when so required by at least 1.5% of the members of a mutual insurance company.

(3) With regard to a general meeting of a mutual insurance company which is organised as a representatives' meeting the provisions of ZGD shall not apply with regard to the application of participation at the general meeting.

(4) The management board of a mutual insurance company with a general meeting organised as a representatives' meeting should, on the fifth day from the publication of the convocation, inform in writing each representative of members about the convocation of the general meeting and attach documents as required in the provisions of ZGD governing the provision of information.

(5) Notwithstanding the provisions of ZGD governing amendments to the agenda, proposals of shareholders and motions, shareholders' voting proposals, at least 5% of members of a mutual insurance company or every representative of members may give proposals to the general meeting for amending the agenda, draft decisions to items on the agenda and voting proposals. When a mutual insurance company holds more than 50,000 members, at least 1.5% of members of the mutual insurance company is needed to give proposals to the general meeting to supplement the agenda, draft decisions to items on the agenda and voting proposals.

(6) A representative of members can neither transfer his/her rights related to the function of a representative of members to another representative of members or anybody else, nor authorise somebody to exercise them.

## **Proxies**

### **Article 54.b**

(1) Natural persons having contractual capacity and legal persons who intend to exercise the proxy voting right (hereinafter referred to as: proxy) at the general meeting of a mutual insurance company organised as a general meeting of all members shall have a written authorisation. Proxy forms shall be solicited separately for each general meeting.

(2) The proxy form shall specify the name and surname of the member, the number of the insurance contract which is the basis for membership, the name, surname and unique personal identification number or title and registration number of the proxy holder, the draft decisions, the proxy holder's proposal for voting on specific draft decisions with reasons stated in the proxy form, an invitation to a mutual insurance company's member to give instructions for exercising the voting rights and an indication that the mutual insurance company's member may revoke the authorisation at any time prior to voting at the general meeting.

(3) Members of managerial and supervisory bodies and employees of the mutual insurance company, and members of managerial and supervisory bodies of the insurance company who are engaged in the same class of insurance business as the mutual insurance company and its controlled or controlling companies, shall not solicit proxies or act as proxy holders exercising voting rights at a general meeting of a mutual insurance company organised as a general meeting of members, unless they vote under an authorisation of persons referred to in

Paragraph (3) of Article 10 of this Act when they are members of the mutual insurance company.

(4) A proxy holder shall disclose to a member of a mutual insurance company, in writing as an appendix to the proxy form, all circumstances of importance to the member when assessing the risk of the proxy acting in interests disagreeing with the interest of the member (hereinafter referred to as: conflict of interest).

(5) The conflict of interest may primarily arise when the proxy holder:

- is a related entity pursuant to this Act;
- is in contractual relation with a mutual insurance company;
- has received a donation from a mutual insurance company.

(6) Proxy holders who have decided to solicit proxy forms in an organised manner shall inform a mutual insurance company thereof no less than 21 days before the session of the general meeting of the mutual insurance company. Any solicitation of proxy forms involving more than ten members of the mutual insurance company shall be deemed to constitute organised solicitation of proxy forms. The notice shall specify contact data of a proxy holder and a proxy holder's proposal for voting on specific draft decisions, and shall also disclose circumstances constituting a potential conflict of interest referred to in Paragraph (4) of this Article. A mutual insurance company shall publish the notices in the media or electronic media of the company or on the company's website, if existing, not later than 18 days prior to the date of the general meeting.

(7) A proxy holding more than ten proxy forms shall inform the mutual insurance company about the number of solicited proxies not later than seven days prior to the general meeting. The notice shall include the members' instructions to the proxy for voting and the number of members.

(8) The notice referred to in the preceding Paragraph shall be published by a mutual insurance company in the media or electronic media of the company or on the company's website, if existing, not later than five days prior to the date of the general meeting.

(9) Proxies solicited contrary to the provisions of this Article shall be void.

### **Extraordinary and special audits**

#### **Article 55**

With regard to extraordinary and special audits of a mutual insurance company, the provisions of the law governing takeovers, specifically the provisions concerning special audit and compensation claims shall be reasonably applied. When the abovementioned provisions refer to shareholders, these shall, when reference is made to extraordinary or special audits of a mutual insurance company, be deemed to be members of the general meeting.

### **Rendering resolutions adopted by the general meeting null and void**

#### **Article 56**

Provisions of ZGD regulating nullity or contestability, except for the provisions regulating the contestation of resolutions on share capital increase, shall apply as appropriate to the procedure to annul or contest the resolutions of the general meeting of a mutual insurance company. Where the above provisions refer to shareholders and the procedure to annul or contest the resolutions of the general meeting of a mutual insurance company is concerned, in the case of provisions of ZGD regulating the initiation of a legal action to contest a resolution of the general meeting, these shareholders shall be deemed to be members of a mutual insurance company, whereas in any other event they shall be deemed to be members of the general meeting.

### **2.3.6. Dissolution of a mutual insurance company**

#### **Reasons for dissolution**

#### **Article 57**

(1) A mutual insurance company shall be dissolved:

1. upon the expiry of the period for which it was founded;
2. on the basis of a resolution of the general meeting (voluntary liquidation);
3. when either bankruptcy proceedings or the compulsory liquidation of the company is concluded.

(2) A three-quarters majority of votes cast shall be required for the adoption of a resolution on the dissolution of the company by the general meeting.

(3) The approval of the Insurance Supervision Agency shall be required for the resolution referred to in the preceding Paragraph to be valid. The Insurance Supervision Agency shall only be allowed to refuse to grant an approval when, in the event of the dissolution of a mutual insurance company, the interests of the insured persons are not sufficiently safeguarded.

#### **Voluntary Liquidation**

#### **Article 58**

(1) On the basis of a valid resolution on the dissolution of a company adopted by the general meeting, the company shall carry out liquidation proceedings.

(2) During liquidation proceedings, a mutual insurance company shall be subject to the same regulations as were valid prior to the commencement of liquidation, unless otherwise stipulated by the provisions of this Act or the purpose of the liquidation.

(3) During liquidation proceedings, the company shall be allowed neither to effect new insurances nor to increase and prolong existing policies.

(4) The funds paid to form the initial capital and funds on the accounts of members of a company which were considered as core capital may only be repaid after the remaining obligations of the company to its members arising from insurance have been met or adequate security has been provided to meet the said obligations.

(5) The assets left after the repayment or the provision of the insurance for the repayment of obligations referred to in the previous Paragraph shall be distributed to persons having the status of members of a mutual insurance company at the moment of the adoption of the resolution to dissolve the company. The distribution shall be subject to the criteria laid down by the bylaws with regard to the distribution of profits to members.

(6) With regard to liquidators, the provisions relating to the board of directors of a mutual insurance company shall be applied as appropriate.

(7) Unless otherwise provided in the preceding Paragraphs, in addition to the provisions of Articles 32 to 35 of this Act together with the provisions of Articles 193(a), 193(b), 193(c), 193(č), 193(d) and 193(e) of this Act applied as appropriate, whereby the duty to inform on the initiation of the voluntary liquidation of a mutual insurance company shall refer to the company's general meeting, the following provisions of ZGD shall apply as appropriate to the voluntary liquidation of a mutual insurance company: provisions on the content of a liquidation resolution, liquidation procedure, indication in the registered name in case of a liquidation procedure, powers of a liquidator, termination of a liquidation procedure and continuation of a bankruptcy procedure, time limit for the distribution of assets in a liquidation procedure, liquidator's duties at the end of the distribution process, liquidator's damage liability, and on the protection of creditors.

## **Transfer of insurance contracts**

### **Article 59**

(1) In order to transfer insurance contracts, the approval of the general meeting shall be required, in addition to the terms and conditions laid down in Articles 80 to 82 of this Act. Unless no higher majority is laid down by the bylaws, a three-quarter majority of all the votes cast shall be required for the resolution to transfer insurance contracts to be adopted by the general meeting.

(2) The Insurance Supervision Agency may also refuse to grant an authorisation to transfer insurance contracts when, due to the transfer of insurance contracts, the members' interests arising from their membership of the mutual insurance company are not sufficiently safeguarded.

## **Amalgamation**

### **Article 60**

(1) Two or more mutual insurance companies may amalgamate, whereby:

1. the assets of one or several companies (acquired company) are transferred to another company (acquiring company), whereby members of the acquired companies become members of the acquiring company (acquisition);
2. a new mutual insurance company is established, to which the assets of acquired companies are transferred, whereby members of the acquired companies become members of the newly-established acquiring company (merger).

(2) In order to amalgamate, an approval of the general meetings of the amalgamating companies shall be required. Unless no higher majority is laid down by the bylaws, a three-

quarters majority of all the votes cast shall be required for the resolution on amalgamation to be adopted by the general meeting.

(3) Unless otherwise provided in the preceding Paragraphs, the following provisions of ZGD shall apply as appropriate to the concentration of mutual insurance companies: provisions on the acquisition agreement, acquisition report, acquisition audit, preparation and conduct of a general meeting in case of acquisition, type of acquisition agreement, proposal for and actual registration of an acquisition, protection of creditors, protection of holders of special rights, damage liability of management and supervisory boards, claims to compensation and their prescription, nullity and contestability of general meeting's resolution on the approval of acquisition, repudiation of the resolution on the approval of acquisition, elimination of grounds for contesting general meeting's resolution on the approval of acquisition, judicial scrutiny of exchange ratio, waiver of the right to additional cash payment, joint representative, settlement and settlement expert board for the review of the exchange ratio, effects of a final court decision and settlement, interest on additional cash payments and issue of additional shares, publication of a final court decision or settlement, and on the procedure costs and merger. When the abovementioned provisions speak of shareholders or shares it shall be deemed that members or rights and obligations of members are also meant.

#### **Authorisation for amalgamation**

#### **Article 60.a**

(1) Prior to merging with other mutual insurance companies, mutual insurance companies shall be obliged to obtain authorisation from the Insurance Supervision Agency. The provisions of Articles 66 to 68 of this Act shall apply as appropriate to decisions on an authorisation for amalgamation.

(2) The Insurance Supervision Agency shall reject applications for an authorisation for amalgamation when the body responsible for protection of competition rejects a request for consent to the amalgamation or prohibits the amalgamation pursuant to the law governing the protection of competition.

(3) When the amalgamation leads to the creation of a new legal entity that will carry out insurance business, the new legal entity shall be obliged, prior to the registration of the amalgamation in the court register, to obtain an authorisation of the Insurance Supervision Agency to carry out insurance business.

(4) When a mutual insurance company is taken over by a company that is not a mutual insurance company, or when part of the assets and liabilities of a mutual insurance company on the basis of a division and takeover are acquired by an acquiring company that is not a mutual insurance company, and when the acquiring company in the aforementioned instances will carry out insurance business, the acquiring company shall be obliged, prior to the registration of the amalgamation in the court register, to obtain an authorisation of the Insurance Supervision Agency to carry out insurance business.

(5) In instances referred to in Paragraphs (3) and (4) of this Article, the Insurance Supervision Agency shall combine the procedure regarding making decision on an authorisation for the amalgamation and the procedure regarding making decisions on an authorisation to carry out insurance business.

(6) The provisions of the previous Paragraphs shall also apply as appropriate in the event of division of a mutual insurance company.

### **Transfer of assets to an insurance public limited company**

#### **Article 61**

(1) The total assets of a mutual insurance company may, without preceding liquidation, be transferred to an insurance public limited company.

(2) With regard to the transfer of the assets of a mutual insurance company to an insurance public limited company, the provisions of ZGD regulating acquisition shall be applied as appropriate. The mutual insurance company shall be deemed to be an acquired company and the insurance public limited company an acquiring company.

(3) Unless no higher majority is laid down by the bylaws, a three-quarters majority of all votes cast shall be required for the resolution approving the acquisition contract to be adopted by the general meeting of the mutual insurance company.

### **Transformation into a public limited company**

#### **Article 62**

(1) A mutual insurance company may be transformed into a public limited company on the basis of a resolution adopted by the general meeting. Unless no higher majority is laid down in the bylaws, a three-quarters majority of all votes cast shall be required for the resolution to be adopted by the general meeting.

(2) Each member may, by the end of the third day prior to the general meeting, object to transformation by sending a registered letter.

(3) The board of directors shall be obliged, no later than by the time the general meeting is convened, to inform all members about the contents of the proposed resolution on the transformation according to the method of the company's notifications laid down in the bylaws. By means of the said notification, the members must be informed about the right to object referred to in the preceding Paragraph and the rights arising from the objection lodged.

(4) The approval of the Insurance Supervision Agency shall be required for transformation. The Insurance Supervision Agency shall refuse to grant the said approval when, through transformation, the members' interests are endangered.

(Note: Authentic interpretation of the first sentence of Paragraph (4):

"An approval of the Insurance Supervision Agency shall be regarded as mandatory to commence and implement the transformation procedure of a mutual insurance company into a public limited company.")

### **Resolution on transformation**

#### **Article 63**

(1) A resolution on transformation must lay down the share capital, the amounts for which the shares will be issued, and other amendments to the bylaws necessary for the transformation. The nominal amount of the share capital must not exceed the value of the mutual insurance company's assets decreased by its obligations. The amounts for which the shares are issued must be equal to the minimum amount for which the shares may be issued pursuant to ZGD.

(2) Unless otherwise stipulated by the resolution on transformation, the members of a mutual insurance company shall participate in the share capital. When no provision is made in the resolution as to the fact that all members of the mutual insurance company participate with equal holdings, the holding of an individual member may only be determined on the basis of one or several criteria as follows:

1. the amount of the insurance sum;
2. the amount of the contribution (premium);
3. the amount of coverage required in the event of life assurance;
4. the criteria for the distribution of profits;
5. the period of membership.

(3) Should the participation of an individual member not reach the minimum nominal amount of a share, his/her holding in the share capital shall be disregarded. Other holdings shall be rounded out so as to be divisible by the minimum nominal amount of a share, whereby the entire share capital shall be divided.

(4) Should the nominal amount through which a member participates in the share capital of the public limited company exceed the holding stipulated on the basis of the first or second Paragraphs hereunder, the amount in excess must be paid to the public limited company by the member. Should the nominal amount through which a member participates in the share capital of the public limited company be lower than the holding stipulated on the basis of Paragraphs (1) and (2) hereunder, or should a member not participate in the share capital of the public limited company, the difference or the holding must be paid to the member by the public limited company.

### **Carrying-out of transformation**

#### **Article 64**

(1) Unless otherwise provided in the preceding Paragraphs, the following provisions of ZGD shall apply as appropriate to the conversion of a mutual insurance company into a public limited company: provisions on the formation of a public limited company with reference to special benefits for particular shareholders and to formation costs, formation report, formation audit and disagreements between founders and formation auditors, and provisions of ZGD regulating the notification of conversion.

(2) A public limited company shall exist from the moment of its entry in the companies' register. From that moment on, members of the mutual insurance company shall also be shareholders pursuant to the resolution on transformation.

(3) Any member who, according to the method referred to in Paragraph (2) of Article 62, has lodged an objection against transformation may make his/her shares available to the company. In such an event, provisions of ZGD regulating members raising objections shall be reasonably applied.



### **3. PERFORMANCE OF INSURANCE BUSINESS**

#### **3.1. Authorisations relating to the performance of insurance business**

##### **3.1.1. Types of authorisation**

###### **Types of authorisation**

###### **Article 65**

(1) An insurance undertaking shall be obliged, prior to its founding being entered in the companies' register, to obtain an authorisation to perform insurance business from the Insurance Supervision Agency (hereinafter referred to as: authorisation to perform insurance business).

(2) When an insurance undertaking merges with another insurance undertaking or another legal entity, or when an insurance company is divided, the acquiring insurance undertaking or the insurance undertaking being divided shall be obliged, prior to the registration of the merger or division in the court register, to obtain an authorisation of the Insurance Supervision Agency (hereinafter: an authorisation for a merger or division). The provisions of Article 60(a) and of Articles 66 to 68 of this Act shall apply as appropriate to the decision on the authorisation for the merger or division.

(3) An insurance undertaking shall be obliged, prior to establishing a branch abroad, to obtain an authorisation from the Insurance Supervision Agency (hereinafter referred to as: an authorisation to establish a branch abroad).

(4) An insurance undertaking shall be obliged, prior to transferring its insurance contracts to another insurance undertaking, to obtain an authorisation from the Insurance Supervision Agency.

(5) In order to enter into an agreement whereby a significant portion of its operations is transferred to another insurance undertaking or legal entity, an insurance undertaking shall be obliged to obtain an authorisation from the Insurance Supervision Agency (hereinafter referred to as: an authorisation for outsourced operations). Insurance undertakings shall be obliged to obtain an authorisation for the transfer of outsourced operations for each alteration to the contract on outsourced operations, when any of the elements of the contract are thereby altered.

(6) Decisions regarding the authorisations referred to in Paragraph (2) hereunder shall be taken by the Insurance Supervision Agency, together with decisions with regard to the authorisation to perform insurance business, unless an application for the authorisation referred to in Paragraph (2) hereunder was made after the acquiring insurance undertaking obtained an authorisation to perform insurance business.

##### **3.1.2. Authorisation to perform insurance business**

###### **Application for an authorisation to perform insurance business**

## **Article 66**

(1) An application for an authorisation to perform insurance business must be accompanied with the following:

1. a scheme of operations;
2. the bylaws of the insurance undertaking in the form of an authenticated notarial deed;
3. a list of shareholders, stating names, surnames and addresses or company names and head offices, the total nominal amounts of shares held, and the percentages of participation in the share capital of the insurance undertaking;
4. with regard to shareholders-legal entities who are holders of qualifying holdings:
  - a copy from the companies' register or other relevant public register;
  - when the shareholder in question is a public limited company, a copy from the shareholders' register shall also be needed or, when bearer shares were issued, an authenticated copy of the notarial attestation of the last general meeting; with regard to those shareholders being foreign legal entities, the abovementioned documents must be presented as authenticated translations;
  - financial statements for the last two business years;
5. a list of persons connected to the holders of qualifying holdings, including a description of the types of relation;
6. outsourcing agreements, when the insurance undertaking intends to authorise other entities to perform individual operations;
7. a description of the method of distribution of revenue and expenditure between both groups of insurance classes.

(2) An application for an approval to perform insurance business must be accompanied with a confirmation from the certified actuary stating that the insurance undertaking will, with regard to the type and volume of operations to be performed, be able to ensure capital adequacy.

### **Consultation with the competent authorities of other EU Member States**

#### **Article 66.a**

(1) Before issuing an authorization to carry on insurance business, the Insurance Supervision Agency shall consult the competent supervisory authorities of the other Member State when the insurance undertaking, the subject of the authorization application, is:

1. a subsidiary of an insurance undertaking or any other regulated financial organisation that has been authorized by the other Member State to conduct insurance services, banking services or services relating to securities;
2. a subsidiary of a parent undertaking of the insurance undertaking or any other regulated financial organisation that has been authorized by the other Member State to conduct insurance services, banking services or services relating to securities;

(2) Before issuing an authorization to carry out insurance business, the Insurance Supervision Agency shall consult the competent supervisory authorities of other Member States, even though the insurance undertaking, the subject of the authorization application, is controlled by the same natural or legal person as is the insurance undertaking or any other regulated financial organisation that has been authorized by the other Member State to conduct insurance services, banking services or services relating to securities.

(3) The Insurance Supervision Agency shall consult the competent supervisory authorities of Member States and exchange information with them particularly as regards the suitability of

shareholders, goodwill and experience of the members of management boards within the same group, as well as regarding the compliance with staffing, technical and organisational requirements for the performance of insurance business.

### **Taking decisions with regard to granting an authorisation to perform insurance business**

#### **Article 67**

(1) The Insurance Supervision Agency shall decide on granting an authorisation for each class of insurance within which the insurance undertaking will be allowed to perform insurance business.

(2) The Insurance Supervision Agency shall grant an authorisation to perform insurance business within an individual class of insurance when it is established that the insurance undertaking meets the conditions for performing insurance business within the class of insurance in question.

(3) In the operative provisions, the Insurance Supervision Agency shall explicitly state the classes of insurance to which the authorisation applies. Should the authorisation apply to all classes of insurance under an individual insurance subgroup, the Insurance Supervision Agency, when granting the authorisation, may state the insurance subgroup

(4) Notwithstanding the provisions of Paragraphs (1) to (3) of this Article, the Insurance Supervision Agency shall adopt decisions with regard to an authorisation to perform insurance business involving reinsurance for all classes of insurance, explicitly stating that the authorisation only applies to reinsurance business.

### **Refusal to grant an authorisation to perform insurance business**

#### **Article 68**

(1) The Insurance Supervision Agency shall refuse to grant an authorisation to perform insurance business when:

1. the shareholders who are holders of qualifying holdings do not have the authorisation referred to in Paragraph (1) of Article 18 of this Act;
2. the members of the board of directors do not have the authorisation to assume the function of the member of the board;
3. it is evident from the insurance undertaking's bylaws and other documentation that the insurance undertaking is not organised in accordance with this Act;
4. it is evident from the insurance undertaking's bylaws and other documentation that the conditions for the operation of the insurance undertaking as stipulated by this Act and the regulations issued on the basis thereof were not established;
5. when it is evident from the documents and other circumstances known that the insurance undertaking will not be qualified, in terms of personnel, organisation and technical matters, to perform the volume of insurance business envisaged in its scheme of operations;
6. when the provisions of the insurance undertaking's bylaws are in contravention of either the provisions of this Act or the provisions of the regulations issued on the basis thereof;
7. when the calculated premiums and provisions do not suffice for permanent and full coverage of the insurance undertaking's obligations arising from insurance contracts;

8. when the insurance undertaking fails to meet other conditions laid down by this Act, another act or any regulations issued on the basis thereof which refer to the performance of insurance business or to the performance of insurance business within the class of insurance to which the application for authorisation refers.

(2) Notwithstanding the provision of the preceding Paragraph hereunder, the Insurance Supervision Agency shall refuse to grant an authorisation to perform insurance business in the section relating to compulsory insurance in transport or supplementary health insurance when general or special policy conditions are in contravention of the act regulating compulsory insurance in transport or supplementary health insurance.

### **Expiry of an authorisation to perform insurance business**

#### **Article 69**

(1) An authorisation to perform insurance business shall expire:

1. when the insurance undertaking does not take up its business within twelve months of the date of the authorization,
2. when the insurance undertaking suspends its insurance business for more than six months,
3. upon the initiation of bankruptcy proceeding or compulsory liquidation;
4. upon the conclusion of the regular liquidation of the insurance undertaking;
5. upon the transferral of all insurance contracts to another insurance undertaking.

(2) Should any of the reasons referred to in the preceding Paragraph arise, the Insurance Supervision Agency shall issue a decision establishing that the authorisation has expired.

(3) An insurance undertaking shall not be allowed to make any new transactions with regard to the performance of insurance business:

1. in cases under items 1 and 2 of Paragraph (1) hereunder, from the day the resolution referred to in Paragraph (2) hereunder was served;
2. in the case under item 3 of Paragraph (1) hereunder, from the day the notice announcing the commencement of bankruptcy proceeding is put on the notice board or from the day the insurance undertaking is served the decision whereby the Insurance Supervision Agency decides to commence compulsory liquidation;
3. in the case under item 4 of Paragraph (1) hereunder, from the day the resolution referred to in Paragraph (1) of Article 32 of this Act is adopted;
4. in the case under item 5 of Paragraph (1) hereunder, from the day the insurance undertaking obtains the authorisation to take over insurance contracts to be granted by the Insurance Supervision Agency.

### **Scheme of operations**

#### **Article 70**

(1) The scheme of operations referred to in item 1 of Paragraph (1) of Article 66 of this Act must contain:

1. the basic features of business policy;
2. an indication of individual classes of insurance within which the insurance undertaking intends to perform insurance business;
3. the guiding principles as to reinsurance, including the tables of maximum coverage for all classes of insurance;
4. a calculation of the minimum capital amount referred to in Articles 110 and 111 of this Act;

5. the planned volume of set-up costs, organisational costs and development expenses, and the sources of financing those expenses;
6. a liquidity assessment and the financial resources intended to meet obligations and to ensure capital adequacy;
7. an expert report regarding expected business results for a period of at least three years, in particular on the expected premium income, expected indemnities or benefits, expected costs for commissions and other operating costs, as well as expected technical provisions and the reserves to be set aside.

(2) When the scheme of operations in question refers to insurance business involving reinsurance, it must include the components referred to in items 1, 4, 5 and 7 of the preceding Paragraph hereunder and information or evidence of:

1. risks which the reinsurance undertaking desires to cover,
2. types of reinsurance arrangements the reinsurance undertaking desires to conclude through ceding,
3. key principles regarding retrocession.

(3) When the insurance undertaking plans to deal in compulsory insurance in transport or supplementary health insurance, its scheme of operations must also include general and special policy conditions, premium systems and other insurance bases for the calculation of insurance premiums and the formation of technical provisions.

(4) When the insurance undertaking plans to deal in insurance business involving the class of insurance referred to in item 18 of Paragraph (2) of Article 2 of this Act, its scheme of operations must also include the specification of funds available to the insurance undertaking which are necessary to meet the non-pecuniary obligations (provision of assistance) of the insurance undertaking arising from this class of insurance.

### **Commencement of insurance business within individual classes of insurance**

#### **Article 71**

An insurance undertaking must inform the Insurance Supervision Agency of the commencement or termination of insurance business within the individual classes of insurance for which it obtained the authorisation.

### **Extension of business to other classes of insurance**

#### **Article 72**

(1) An insurance undertaking which has been granted an authorisation to perform insurance business with regard to certain classes of insurance shall be obliged, when it intends to commence operations within other classes of insurance, to obtain an authorisation from the Insurance Supervision Agency to extend its business to other classes of insurance.

(2) With regard to the authorisation to extend business to other classes of insurance referred to in the preceding Paragraph hereunder, the provisions of Articles 66 to 70 of this Act shall be reasonably applied.

(3) The Insurance Supervision Agency shall refuse to grant an authorisation to extend business to other classes of insurance:

1. when it is established that, by extending operations to the class of insurance to which the application refers, the operation of the insurance undertaking could be threatened in accordance with the rules on risk management;
2. when the insurance undertaking fails to meet other criteria for performing insurance business within the class of insurance to which the application refers.

### **3.1.3. Certified actuaries**

#### **Certified actuaries**

#### **Article 73**

- (1) A certified actuary shall be a person holding an authorisation to perform the tasks of certified actuary to be granted by the Insurance Supervision Agency.
- (2) The Insurance Supervision Agency shall grant an approval to perform the tasks of certified actuary when the following conditions are met:
  1. the applicant has passed a proficiency examination which tests the expertise required to perform the tasks of certified actuary;
  2. the applicant has not been given a final non-suspended prison sentence of at least three months for a criminal offence against property and the economy;
  3. that the applicant has not previously had authorisation to perform the tasks of a certified actuary withdrawn.
- (3) The Insurance Supervision Agency shall lay down the conditions for acquiring and testing the expertise required to perform the tasks of certified actuary.
- (4) The Insurance Supervision Agency shall withdraw an authorisation to perform the tasks of a certified actuary in the following cases:
  1. when the authorisation was obtained by stating false data;
  2. when the certified actuary has been given a final non-suspended sentence of at least three months for a criminal offence against property and the economy;
  3. when the certified actuary severely violates the rules of the actuarial profession.
- (5) In its decision on a withdrawal of an authorization, the Insurance Supervision Agency may also state that the authorization shall not be withdrawn unless, within the time period determined by the Insurance Supervision Agency which, however, may not be less than six months or more than three years (hereinafter referred to as: trial period), the certified actuary commits another violation giving grounds to the withdrawal of the authorization (hereinafter referred to as: a conditional withdrawal of an authorization). A trial period shall start on the day when the decision on the withdrawal of the authorization becomes final.
- (6) The Insurance Supervision Agency shall revoke a conditional withdrawal of an authorization and make a final withdrawal when, during the trial period, a certified actuary commits another violation giving grounds to the withdrawal of the authorization.
- (7) The Insurance Supervision Agency shall be obliged to inform the insurance undertakings for which the person from whom the authorisation was withdrawn performs the tasks of a certified actuary of the withdrawal of the authorisation.

(8) Supervision of certified actuaries shall be carried out by the Insurance Supervision Agency. The provisions of Articles 172, 173, 174, 175, 177, 179, 180, 183 and 184 of this Act shall apply as appropriate to the supervision of certified actuaries.

### **Appointment of Certified Actuary**

#### **Article 74**

- (1) An insurance undertaking which has obtained an authorisation to perform insurance business shall be obliged to appoint a certified actuary.
- (2) A person either performing a function of a board of directors member or a procurator of the insurance undertaking, or participating directly or indirectly in the insurance undertaking with more than a 0.1% share of the voting rights or capital share, may not be appointed a certified actuary.
- (3) The insurance undertaking shall be obliged to inform the Insurance Supervision Agency of the appointment of a certified actuary.
- (4) When the insurance undertaking either fails to appoint a certified actuary within three months or appoints a person who does not meet the conditions for the appointment of a certified actuary, a certified actuary shall be appointed by the Insurance Supervision Agency.

### **Discharge of a certified actuary**

#### **Article 75**

- (1) When following the appointment of a certified actuary, the person appointed has his authorisation to perform the tasks of a certified actuary withdrawn by the Insurance Supervision Agency, or when, with regard to a person appointed, the circumstances referred to in Paragraph (2) of Article 74 of this Act arise, the insurance undertaking shall be obliged to appoint a new certified actuary.
- (2) When in the case referred to in the preceding Paragraph hereunder, the insurance undertaking fails to appoint a new certified actuary, the Insurance Supervision Agency shall, by issuing a decision on a remedy of violations, request the insurance undertaking to appoint a new certified actuary by a deadline which must not be shorter than sixty days.
- (3) When the insurance undertaking fails to appoint a new certified actuary by the deadline referred to in the preceding Paragraph hereunder, a certified actuary shall be appointed by the Insurance Supervision Agency.

### **Tasks of certified actuary**

#### **Article 76**

- (1) A certified actuary shall be obliged to examine whether premiums are calculated and technical provisions set aside in accordance with regulations, and whether they are calculated or set aside so as to ensure the long-term meeting of all the insurance undertaking's obligations arising from the insurance contracts.

(2) The board of directors shall be obliged to provide a certified actuary with all the data needed to perform the tasks referred to in the preceding Paragraph hereunder.

(3) A certified actuary shall be obliged to submit to a supervisory board and a board of directors, together with the opinion regarding the annual report referred to in Article 158 of this Act, a report on the findings of the certified actuary with regard to the supervision carried out in the preceding business year pursuant to Paragraph (1) hereunder. The said report must, in particular, include the reasons for issuing a favourable opinion, an opinion with a reservation or an unfavourable opinion of a certified actuary regarding annual statements.

(4) When in performing the tasks referred to in Paragraph (1) hereunder it is established by a certified actuary that premiums have not been calculated or the technical provisions not set aside in accordance with the regulations, or they are calculated or set aside in such a way that the long-term meeting of the insurance undertaking's obligations arising from the abovementioned insurance contracts is threatened, he/she shall be obliged to immediately report to the board of directors of the insurance undertaking. When the board of directors fails to take into consideration the certified actuary's report in an appropriate manner, the certified actuary shall be obliged to immediately inform the Insurance Supervision Agency accordingly.

(5) On ceasing to perform the function of a certified actuary in an insurance undertaking, the certified actuary shall be obliged to inform the Insurance Supervision Agency thereof within 8 days of such cessation.

### **Register of certified actuaries**

#### **Article 76.a**

(1) The Insurance Supervision Agency shall keep a register of certified actuaries.

(2) The register of certified actuaries shall be public, and shall not be subject to the provisions of Article 101 of this Act. The Insurance Supervision Agency shall publish the register of certified actuaries on its website.

(3) A certified actuary entered in the register of certified actuaries shall notify the Insurance Supervision Agency of any change in relation to data entered in the register of certified actuaries within eight days of the change.

(4) The register shall include the following information: name, surname, serial number, and date of issue of the authorisation to perform the tasks of certified actuary.

(5) The Insurance Supervision Agency shall lay down the procedure for entry and deletion of the required data.

(6) An entry of a certified actuary in the register of certified actuaries does not signify that the Insurance Supervision Agency supervises the certified actuary's work. The Insurance Supervision Agency's supervision shall be provided only for those certified actuaries who perform their certified actuary's work in insurance undertakings.



### **3.1.4. Outsourced operations**

#### **Agreement on the outsourced operations**

##### **Article 77**

(1) An agreement on outsourced operations shall be an agreement whereby an insurance undertaking transfers a significant portion of its operations to another insurance undertaking or legal entity.

(2) Agreements referred to in the preceding Paragraph of this Article shall be deemed in particular agreements whereby an insurance undertaking transfers indefinitely or for an extended period of time, in full or to a considerable extent, the performance of the following operations (hereinafter referred to as: outsourced operations):

1. representation in the conclusion of insurance contracts;
2. management of assets covering technical provisions of the insurance undertaking or funds covering mathematical provisions;
3. processing of loss events;
4. management of accounting;
5. maintenance and management of databases of personal data referred to in Paragraph (2) of Article 154 of this Act;
6. computer data processing.

(3) An agreement on outsourced operations must stipulate that the entity accepting outsourced operations is obliged to provide the insurance undertaking with the data referred to in Paragraph (2) of Article 79 of this Act, which the insurance undertaking may only use for the purpose referred to in Paragraph (2) of Article 79.

#### **Authorisation for outsourced operations**

##### **Article 78**

(1) The Insurance Supervision Agency shall refuse to grant an authorisation for outsourced operations when, with regard to the type and volume of outsourced operations, the interests of insurers, insured persons or other beneficiaries could be threatened or when, due to outsourced operations, the carrying-out of supervision of the insurance business performed by the insurance undertaking would be rendered impossible or considerably hindered.

(2) The Insurance Supervision Agency may make the validity of the authorisation dependent on certain conditions, when this is necessary to safeguard the interests of insurers, insured persons or other beneficiaries.

#### **Supervision of the performance of outsourced operations**

##### **Article 79**

(1) The provisions of this Act referring to the supervision of insurance undertakings shall apply as appropriate also to entities performing outsourced operations.

(2) An insurance undertaking shall be obliged, at the request of the Insurance Supervision Agency, to provide the latter with all data on the legal status, financial standing and operations of the entity with which the agreement on the outsourced operations was entered into.

(3) The Insurance Supervision Agency shall withdraw the authorisation for outsourced operations:

1. when circumstances referred to in Paragraph (1) of Article 78 of this Act arise;
2. when the insurance undertaking fails to meet the criteria stipulated pursuant to Paragraph (2) of Article 78 of this Act.

### **3.1.5. Transfer of insurance contracts**

#### **Transfer of insurance contracts**

#### **Article 80**

(1) An insurance undertaking may, by means of an agreement, transfer to another insurance undertaking (hereinafter referred to as “acquiring insurance undertaking”) insurance contracts within an individual group or class of insurance (hereinafter referred to as: “an insurance portfolio”) together with the transfer of assets covering technical provisions equalling the provisions to be set aside for the insurance portfolio being transferred, or funds covering mathematical provisions to be set aside for the insurance portfolio being transferred.

(2) The approval of policy holders shall not be required to transfer insurance contracts.

(3) The agreement referred to in Paragraph (1) hereunder shall take effect on the day when the insurance undertaking obtains an authorisation from the Insurance Supervision Agency to transfer insurance contracts. Prior to this, the transfer of the insurance portfolio to the acquiring insurance undertaking shall not be permitted.

(4) The acquiring insurance undertaking shall be obliged to inform policy holders of the transfer of insurance contracts by means of announcements in the mass media in the territory in which risks are covered by the insurance contracts being transferred, except in the case of an insurance of export credits in which case it must inform policy holders by means of announcements in the mass media in the territory where its head office is located. Reinsurance undertakings shall not be obliged to inform policy holders by means of announcements in the mass media.

(5) An insurance undertaking may transfer insurance contracts to the following:

1. another insurance undertaking with its head office in the Republic of Slovenia;
2. its branch or a branch of another insurance undertaking with its head office in the Republic of Slovenia, provided the branch has its head office in a Member State;
3. a Member State insurance undertaking or its branch in the Republic of Slovenia or another Member State;
4. a branch of a foreign insurance undertaking, provided the head office of the branch is in the Republic of Slovenia;
5. a branch of a foreign insurance undertaking, provided the head office of the branch is in a Member State and that the contracts being transferred only cover the risks situated in that Member State.

(6) The insurance undertaking shall be obliged to transfer insurance contracts to the acquiring insurance undertaking no later than within three months of the date of receipt of an authorisation of the Insurance Supervision Agency to transfer insurance contracts, otherwise the authorisation to transfer insurance contracts shall cease.

(7) The insurance undertaking shall be obliged, within a period of 30 days from the date of transfer of insurance contracts, to submit evidence to the Insurance Supervision Agency that the insurance contracts have been transferred to the acquiring insurance undertaking.

(8) When the insurance undertaking fails, within a period of four months from the date of receipt of the authorisation to transfer insurance contracts, to submit to the Insurance Supervision Agency the evidence referred to in Paragraph (7) of this Article, or when such evidence does not demonstrate that the insurance contracts were transferred within the period referred to in Paragraph (6) of this Article, the Insurance Supervision Agency shall issue a decision stipulating that the authorisation for the transfer of insurance contracts has ceased to apply.

### **Application for authorisation to transfer insurance contracts**

#### **Article 81**

An application for an authorisation to transfer insurance contracts must contain:

1. a list of insurance contracts according to the individual groups or classes of insurance to be transferred, together with general policy conditions with regard to the said insurance contracts and the relevant calculations relating to provisions;
2. a list of assets covering technical provisions or assets of funds covering mathematical provisions, stating their values and the data on the basis of which it is possible to examine the calculation of the said volumes;
3. in cases referred to in items 1, 2 and 4 of Paragraph (5) of Article 80 of this Act: amendment to the scheme of operations of the acquiring insurance undertaking which is necessary due to the transfer of insurance contracts;
4. an agreement on the transfer of insurance contracts.

### **Taking decisions with regard to granting an authorisation to transfer insurance contracts**

#### **Article 82**

(1) The Insurance Supervision Agency shall refuse to grant an authorisation to transfer insurance contracts when the volume of assets covering technical provisions or assets of funds covering mathematical provisions is lower than that of the provisions to be set aside for the insurance portfolio to be transferred, or when there exist other reasons due to which the interests of policy holders could be threatened.

(2) In cases referred to in items 1, 2 and 4 of Paragraph (5) of Article 80 of this Act, the Insurance Supervision Agency shall also refuse to grant an authorisation when the acquiring insurance undertaking fails to meet the conditions for performing insurance business within groups or classes of insurance to be transferred or when, due to the taking-over of the

portfolio, the operation of the acquiring insurance undertaking may be threatened according to the rules on risk management.

(3) When the insurance undertaking transfers insurance contracts to its branch in a Member State, the Insurance Supervision Agency shall be obliged, prior to making a decision on granting the authorisation, to request an opinion from the competent supervisory authority of the Member State. When, within three months of the receipt of the request, the competent supervisory authority of the Member State does not respond, it shall be deemed that it does not object to the transfer of insurance contracts.

(4) In the case referred to in item 3 of Paragraph (5) of Article 80 of this Act, the Insurance Supervision Agency may only grant an authorisation to transfer insurance contracts when the competent supervisory authority of the Member State in question issues a confirmation according to which the Member State insurance undertaking would also achieve minimum capital adequacy after the insurance contracts have been transferred.

(5) When, in the case referred to in the preceding Paragraph hereunder, the insurance in question also covers risks situated in another Member State, the Insurance Supervision Agency may only grant an authorisation to transfer insurance contracts when an approval of the transfer is provided by a competent supervisory authority of that Member State. When, within three months of the receipt of the application for an approval, the competent supervisory authority of that Member State does not adopt a decision with regard to the approval, it shall be deemed that it approves of the transfer.

(6) The provisions of Paragraph (4) hereunder shall also apply as appropriate when insurance contracts are transferred to the branch of a Swiss insurance undertaking in the Republic of Slovenia.

(7) When, in order to transfer insurance contracts of its Member State branch, a foreign insurance undertaking requires an approval of the Insurance Supervision Agency, the Insurance Supervision Agency shall be obliged to adopt a decision with regard to such an approval.

(8) When a Member State insurance undertaking plans to transfer insurance contracts to its branch in the Republic of Slovenia, the Insurance Supervision Agency shall be obliged, within three months of the receipt of the application for an opinion, to inform the competent supervisory authority of the Member State about possible objections against the transfer.

(9) If confirmation from the Insurance Supervision Agency within the meaning of the fourth Paragraph hereunder is required with regard to the transfer of insurance contracts of a Member State insurance undertaking, the Insurance Supervision Agency shall be obliged to issue an appropriate confirmation or to adopt a decision to refuse to issue such a confirmation.

(10) When an insurance undertaking of one Member State plans to transfer insurance contracts to an insurance undertaking of another Member State, where the transferred insurance contracts also cover risks situated in the Republic of Slovenia, the Insurance Supervision Agency may refuse to grant an approval within the meaning of Paragraph (5) hereunder when interests of policy holders under the transfer are not sufficiently safeguarded. A decision to refuse to grant an approval must be adopted within three months of the receipt of the notification by the competent supervisory authority of the Member State with regard to the planned transfer.

## **3.2. Policy conditions and notification of policy holders**

### **Insurance contracts and general policy conditions**

#### **Article 83**

(1) When insurance covers risks situated in the Republic of Slovenia, the respective insurance contract must, in particular, contain provisions regarding:

1. events on the basis of which the insurance undertaking's obligation to pay the benefit arising from the insurance contract, and cases in which, due to special reasons, the insurance undertaking's obligation is excluded;
2. the performance, and the volume and maturity of the insurance undertaking's obligations;
3. the fixing and payment of the premium, and the legal consequences when the premium is not paid;

4. the duration of an insurance contract, stating in particular:

- whether and how the insurance contract is tacitly renewed;
- whether, in what way and at what moment the insurance contract may be either cancelled or released partly or in full, and what are the insurance undertaking's obligations in such events.

Where life assurance is concerned, the notice of termination of contract shall not be less than fourteen and not more than thirty days of the date when the insurance contract was made;

5. the forfeiture of claims arising from insurance contracts in the event of missing deadlines;
6. with regard to life assurance, the terms and conditions, as well as the volume of prepayments and loans as per an insurance policy, the terms and conditions governing the participation of policy holders in the insurance undertaking's profits, together with the criteria for calculating the said participation, and the conditions and methods of calculating redemption value and redemption.

7. with regard to life assurance (item 21 of Paragraph (2) of Article 2 of this Act) from the insurance class of life assurance whereby an insured person assumes the investment risk and benefits attributed to the policy-holder, the insured person or any other beneficiary pursuant to the insurance contract are directly linked to the value of a unit of assets of investment funds, also regarding:

- the amount or the method of calculation of the risk premium and premium for additional risks;
- the amount of all direct and indirect costs including the disclosure of a methodology or the method of calculation of these costs (costs which are not disclosed in the insurance contract cannot be calculated or taken account of);
- the amount and the method of calculation of all direct and indirect costs which decrease the value of a unit of assets of investment funds;
- the amount of envisaged future liabilities of an insurance undertaking pursuant to the insurance contract which is calculated by means of applying compound interest calculation for the following nominal annual rates of returns of 0%, 4% and 8% or annual rates of return in real terms of 0%, 0.5 % and 4.5 %, when a demonstration also includes the presentation of the impact of inflation.

8. with regard to life assurance (item 21 of Paragraph (2) of Article 2 of this Act) from the insurance class of life assurance whereby an insured person assumes the investment risk and benefits attributed to the policy-holder, the insured person or any other beneficiary pursuant to the insurance contract are directly linked to the change of an index of securities or other reference value, also regarding:

- the amount or the method of calculation of the risk premium and premium for additional risks
- the amount of all direct and indirect costs including the disclosure of a methodology or the method of calculation of these costs (costs which are not disclosed in an insurance contract cannot be calculated or taken account of);
- the method of calculation or determination of the value of index or another reference value including the disclosure of all direct and indirect costs which influence the value of the index or another reference value,
- the amount of envisaged future liabilities of the insurance undertaking pursuant to the insurance contract which is calculated by means of applying compounding for the following nominal annual rates of returns of 0%, 4% and 8% or annual rates of return in real terms of 0 %, 0.5 % and 4.5 %, when a demonstration also includes the presentation of the impact of inflation.

9. with regard to life assurance (item 21 of Paragraph (2) of Article 2 of this Act) from the insurance class of life assurance whereby an insured person assumes the investment risk and benefits attributed to the policy-holder, insured person or any other beneficiary pursuant to the insurance contract are directly linked to the value of a unit of assets of fund covering mathematical provisions, also regarding:

- the amount or the method of calculation of the risk premium and premium for additional risks
- the amount of all direct and indirect costs including the disclosure of a methodology or the method of calculation of these costs (costs which are not disclosed in an insurance contract cannot be calculated or taken account of);
- the amount and the method of calculation of all direct and indirect costs which reduce the value of a unit of assets of the fund covering mathematical provisions (costs which in an insurance contract are not disclosed cannot be calculated and attributed to burden the fund covering mathematical provisions);
- the amount of envisaged future liabilities of an insurance undertaking pursuant to the insurance contract which is calculated by means of applying compounding for the following nominal annual rates of returns of 0%, 4% and 8% or annual rates of return in real terms of 0 %, 0.5 % and 4.5 %, when a demonstration also includes the presentation of the impact of inflation.

10. with regard to health insurances for which provisions for old age or mathematical provisions are formulated also regarding conditions and method of calculation of these provisions and related changes of a premium due to the aging of an insured person, regarding rights arising from already formed provisions for the old age or mathematical provisions in the event of a termination of insurance or in the event of a change of insurance within the framework of the same insurer or in the event of a change of the insurer and regarding influences of other factors on the changing of the premium.

(2) When the entity in question is a mutual insurance company, the obligatory provisions referred to in the preceding Paragraph hereunder may be included in the bylaws and not in insurance contracts.

(3) The provisions of an insurance contract referred to in Paragraph (1) hereunder may only derogate from the general policy conditions to the disadvantage of the policy holders:

1. when solid grounds exist with regard to the subject matter insured and
2. when written consent to the said derogation was given by the insurer in question.

(4) In the event of the legal expenses insurance referred to in item 17 of Paragraph (2) of Article 2 of this Act, the insurance contract must not stipulate that the insurance undertaking shall only cover the costs of legal representation through a lawyer or another person to be appointed by the insurance undertaking.

(5) Insurance contract must not contravene the compulsory provisions of other acts regulating insurance contract or individual types of insurance contract.

(6) Insurance undertakings shall give equal treatment to every insurance provider or potential insured person wishing to access insurance services, however with the possibility to apply the insurance industry criteria in the process of risk selection and assessment as well as determination of premiums and payment of policy proceeds or to consider only the following personal circumstances or characteristics of the insured person: age, medical condition, disability, occupation and other personal circumstances which may justifiably influence the level of the assumed risk, by leaving out gender, maternity and pregnancy.

(7) Notwithstanding the provisions of the preceding Paragraph, in their risk selection and assessment procedure at the time of underwriting, in the determination of premiums and in the payments of the proceeds in relation to policies of the life assurance group and of the accident and health insurance classes, insurance undertakings may take into consideration the personal circumstance of gender where, based on appropriate and accurate actuarial and statistical data, it is applied as a determinant risk assessment factor. The Statistical Office of the Republic of Slovenia shall ensure the regular collection, publication and updating of accurate data significant for the use of gender as a deciding actuarial factor.

(8) Notwithstanding the provisions of the preceding Paragraph, supplementary health insurance is provided under the provisions of the law governing health care and health insurance.

(9) The Insurance Supervisory Agency shall lay down in more detail the content regarding the provisions of the insurance contract referred to in Paragraph (1) of this Article.

## **Notification of policy holders when concluding insurance contracts**

### **Article 84**

(1) Should the policy holder in question be a natural person, the insurance undertaking or shall be obliged, when concluding the insurance contract referred to in Article 83 of this Act, to notify the former in writing of the following data:

1. the registration name, legal form of organisation, head office and address of the insurance undertaking, and the branch through which the insurance contract is being concluded;
2. the general policy conditions applying to the relationship of insurer and insured, and the law regulating the insurance contract;
3. when general policy conditions do not apply to the relationship of insurer and insured: the performance, and the volume and maturity of the insurance undertaking's obligations;
4. the duration of the insurance contract;
5. the amount of the premium, together with a breakdown of premiums according to individual risks (when risks pertaining to several classes of insurance are covered by the contract), and the amounts of contributions, taxes and other charges incurred in addition to the premium, and the total amount to be paid;

6. the time period in which the provider of the service is bound by the offer;
7. the right to cancel or terminate;
8. the title and address of the supervisory authority competent for the supervision of the insurance undertaking.

(2) Where life assurance or accident insurance with the right to a refund of one part of the insurance premium are concerned, the notification of policy holders must, in addition to the data referred to in the preceding Paragraph hereunder, also include data with regard to:

1. the bases and criteria for participation in profits;
2. the table of surrender values;
3. the minimum insurance sum necessary for switching to paid-up insurance (capitalisation) and the rights arising from the said insurance;
4. where insurance in which investment risk is borne by the insured person is concerned: the assets of funds covering mathematical provisions set aside for the said insurance, and the investment structure of those funds covering mathematical provisions;
5. the fiscal regulation applicable to insurance.

### **Notification of policy holders during the period of validity of an insurance contract**

#### **Article 85**

(1) During the period of validity of the insurance contract referred to in Article 83 of this Act, the insurance undertaking shall be obliged to notify policy holders of the following:

1. any change to the company name, the legal form of organisation, the head office or address of the insurance undertaking, or the branch through which the insurance contract was concluded;
2. any change to the data referred to in items 3 to 5 of Paragraph (1) of Article 84 of this Act or the data referred to in items 1 to 4 of Paragraph (2) of Article 84 of this Act, when the changes in question are due to amended regulations;

(2) During the period of validity of the insurance contract referred to in Paragraph (2) of Article 84 of this Act, the insurance undertaking or insurance broker shall be obliged, once a year, to notify policy holders of their participation in profits.

### **Contents of general policy conditions and notifications**

#### **Article 86**

The texts of the general policy conditions and notifications referred to in Articles 84 and 85 of this Act must be unequivocally compiled, clearly organised, understandable and in the Slovene language.

### **3.3. Performance of insurance business outside the territory of the Republic of Slovenia**

#### **Performance of insurance business in Member States**

##### **Article 87**

(1) An insurance undertaking may perform the insurance business for which it was granted an authorisation by the Insurance Supervision Agency in the territory of a Member State, either



through a branch or directly, when it meets the requirements stipulated in the regulations of the country in question.

(2) When an insurance undertaking underwrites insurance policies covering risks situated in a Member State, it shall be deemed that it performs insurance business in that Member State.

(3) In determining the Member State in which risks are covered, Paragraph (2) of Article 6 of this Act shall be applied as appropriate.

## **Commencement of insurance business in Member States**

### **Article 88**

(1) An insurance undertaking which intends to start performing insurance business in a Member State shall be obliged to notify the Insurance Supervision Agency accordingly, stating the Member State to which its intentions refer. The said notification must include a description of the insurance business to be performed, together with their types and volume in terms of individual classes of insurance. Should the insurance undertaking plan to establish a branch in the Member State, the notification must also contain:

1. the names of the persons authorised to manage the branch's operations;
2. the address of the branch in the Member State at which it will be possible to obtain the documentation on the branch;
3. amended scheme of operations setting out the classes in which it intends to provide insurance, and the structural organisation of the branch.

(2) The Insurance Supervision Agency shall be obliged, no later than within one month, to submit the notification referred to in the preceding Paragraph hereunder to the competent supervisory authority of the Member State, and to notify the insurance undertaking accordingly.

(3) Together with the notification referred to in the preceding Paragraph hereunder, the Insurance Supervision Agency shall be obliged to submit to the competent supervisory authority of the Member State the following:

1. a statement that the insurance undertaking in question meets the required minimum capital adequacy;
2. data on the classes of insurance within which, pursuant to the authorisation to perform insurance business, the insurance undertaking is allowed to perform insurance business.

(4) The insurance undertaking shall be allowed to start performing insurance business upon expiry of a two-month period, counted from the day of receipt of the notification of the Insurance Supervision Agency referred to in Paragraph (2) hereunder.

(5) Notwithstanding the provision of Paragraph (2) hereunder, the Insurance Supervision Agency shall refuse to submit the notification to the supervisory authority of the Member State when it is established, on the basis of the data presented and the documentation referred to in Paragraph (1) hereunder, and taking into account the planned volume of business, that the insurance undertaking in question does not meet the required minimum capital adequacy or that upon commencement of the said insurance business in the Member State the operation of the insurance company could be threatened in accordance with the rules on risk management.

(6) The Insurance Supervision Agency shall prohibit an insurance undertaking from performing insurance business in the Member State if the circumstances referred to in the preceding Paragraph hereunder arise.

**Changes with regard to data specified in the notification**  
**Article 89**

(1) The provision referred to in Article 88 of this Act shall also be reasonably applied when an insurance undertaking which, pursuant to Paragraph (4) of Article 88 of this Act, has started to perform insurance business in a Member State intends to extend its business to other classes of insurance which were not mentioned in the notification referred to in Paragraph (1) of Article 88 of this Act or if other circumstances or conditions are changed of which the competent supervisory authority of the Member State must be informed through the notification referred to in Paragraph (2) of Article 88 by the Insurance Supervision Agency.

(2) Notwithstanding the provision of the preceding Paragraph hereunder, the Insurance Supervision Agency shall immediately inform the competent supervisory authority of a Member State if an insurance undertaking fails to achieve minimum capital adequacy.

**Supervision of the performance of insurance business in Member States**  
**Article 90**

(1) The Insurance Supervision Agency shall supervise the branch of an insurance undertaking in the Member State or the direct performance of insurance business in the Member State.

(2) The Insurance Supervision Agency may request that the competent supervisory authority of the Member State in which the insurance undertaking in question performs insurance business examine the branch's operations in that Member State if the procedure of supervision is thereby accelerated or simplified, or when this is in accordance with the requirements on the efficiency, effectiveness and economy of the procedure or reduced costs. Authorised persons of the Insurance Supervision Agency may, under the same conditions, participate in the supervision performed by the competent supervisory authority of the Member State.

(3) Should an insurance undertaking performing insurance business in the Member State, despite an admonition from the competent supervisory authority of the Member State, continue to violate the regulations of that Member State, the Insurance Supervision Agency shall take supervisory measures pursuant to this Act. The Insurance Supervision Agency shall be obliged to immediately notify the competent supervisory authority of the Member State of the measures taken.

(4) Should the Insurance Supervision Agency withdraw the authorisation to perform insurance business from an insurance undertaking, it shall be obliged to immediately inform accordingly the competent supervisory authorities of the Member States in which the insurance undertaking in question is performing insurance business.

**Reporting on insurance business in Member States**

## **Article 91**

- (1) An insurance undertaking performing insurance business in a Member State shall be obliged to report to the Insurance Supervision Agency on insurance business in individual Member States. Reports shall be made separately for those insurance businesses performed through its branch and those performed directly.
- (2) The report referred to in the preceding Paragraph hereunder must contain data on the amounts of premiums, claims and commissions, without reinsurance reductions.
- (3) The detailed contents of reports and the methods of and deadlines for reporting shall be laid down by the Insurance Supervision Agency.
- (4) At the request of the competent supervisory authority of the Member State, the Insurance Supervision Agency shall submit aggregate information on the contents of the reports referred to in Paragraph (1) hereunder to the competent supervisory authority of the Member State.

## **Performance of insurance business in foreign countries**

### **Article 92**

- (1) Insurance undertakings may perform insurance business in a foreign country either through a branch or directly, provided they respect the regulations of such country.
- (2) In order to establish a branch abroad, an insurance undertaking shall be obliged to obtain an authorisation from the Insurance Supervision Agency.
- (3) In taking decisions with regard to granting an authorisation to establish a branch abroad, the provisions referred to in Paragraphs (1) and (4) to (6) of Article 88 of this Act shall apply as appropriate.
- (4) The Insurance Supervision Agency may also refuse to grant an authorisation to establish a branch abroad when, taking into account regulations of the country in which the insurance undertaking in question intends to establish a branch or taking into account the practice usually pursued in implementing the said regulations, it is likely that the performance of supervision under the provisions of this Act will be hindered.
- (5) Insurance undertakings shall be obliged, within an interval of eight days of commencing the performance of insurance business in a foreign country, to inform the Insurance Supervision Agency thereof.

## **3.4. Free performance of insurance business by Member State insurance undertakings**

### **Insurance Undertakings of Member State**

#### **Article 93**

- (1) An insurance undertaking entitled to perform insurance business within individual classes of insurance in Member States shall also be allowed to perform insurance business in the said

classes of insurance in the territory of the Republic of Slovenia, either through a branch or directly.

(2) The insurance undertaking referred to in the preceding Paragraph hereunder or its branch in the territory of the Republic of Slovenia shall be regulated by the following provisions of Acts and regulations issued pursuant thereto:

1. 83. Articles 83 to 86 of this Act;
2. 228. Article 228 of this Act;
3. the provisions of the Acts referred to in Paragraphs (6) and (7) of Article 2 of this Act;
4. the provisions of other acts that, in order to protect the public interests, regulate consumer protection, the prevention of money laundering or other areas, and that apply to insurance undertakings with registered office in the Republic of Slovenia.

## **Commencement of insurance business**

### **Article 94**

(1) A Member State insurance undertaking may take up direct insurance business in the Republic of Slovenia, when the competent supervisory authority of the Member State submits the following documentation to the Insurance Supervision Agency:

1. a statement of the supervisory authority of the home Member State confirming that the Member State insurance undertaking has the necessary capital at its disposal;
2. a list of classes of insurance which the insurance undertaking is authorized to underwrite;
3. a list of classes of insurance which the insurance undertaking is going to be underwriting in the territory of the Republic of Slovenia;
4. a name and address of the head office of the insurance undertaking or addresses of its branch offices if different from the head office's address.

(2) A branch of a Member State insurance undertaking may take up its insurance business in the Republic of Slovenia upon the expiry of a period of two months from the date on which the Insurance Supervision Agency received notification from the competent supervisory authority of the Member State, with the following documentation:

1. scheme of operations setting out, *inter alia*, the classes of planned business and the structural organisation of the branch;
2. a list of the classes of insurance business which the insurance undertaking is authorized to underwrite;
3. an address of the Member State branch where documentation is available and to where it can be sent;
4. a name of the person authorized to manage the branch;
5. a statement of the supervisory authority of the home Member State indicating that the Member State insurance undertaking has the necessary capital at its disposal.

(3) Where, in order to protect public interest in relation to Article 93(2)(3) and (4) of this Act, it is necessary to lay down additional requirements for conducting insurance business either through a branch or directly, the Insurance Supervision Agency shall communicate such requirements to the competent supervisory authority of the Member State within two months from the receipt of complete notification referred to in the preceding Paragraph. In this case a branch of a Member State insurance undertaking may take up its insurance business in the territory of the Republic of Slovenia upon receipt of the communication of the Insurance Supervision Agency or on expiry of a period of two months from the date on which the

Insurance Supervision Agency received the notification of the competent supervisory authority of the Member State referred to in the preceding Paragraph of this Article.

(4) A Member State's insurance undertaking intending to perform insurance business directly in the Republic of Slovenia may commence performing such business from the date when the competent supervisory authority of the member state informs it that the data referred to in Paragraph (1) of this Article has been forwarded by it to the Insurance Supervision Agency.

(5) Item 2 of the Paragraph (1) and Paragraph (2) hereunder shall apply as appropriate to any change regarding the classes of insurance in which the Member State's insurance undertaking in question performs insurance business.

(6) A Member State's insurance undertaking shall be obliged to terminate its insurance business in the Republic of Slovenia in the following cases:

1. when the competent supervisory authority of the Member State decides that the Member State insurance undertaking in question does not have sufficient capital at its disposal for the further performance of insurance business through the branch; or
2. when the Member State insurance undertaking's authorisation to perform insurance business has expired; or
3. when the branch of the member state insurance undertaking fails to comply with the conditions referred to in Paragraph (2) of this Article.

(7) Notwithstanding the provision of Paragraphs (1) and (2) hereunder, the Member State insurance undertaking may start to perform compulsory insurance in transport when it submits to the Insurance Supervision Agency a document, to be issued by the Slovene Insurance Association, stating that the Member State insurance undertaking in question:

1. is a member of the Slovenian Insurance Association;
2. has joined the guarantee fund and compensation office as prescribed by the Act governing compulsory insurance in transport and has undertaken financing of the guarantee fund and compensation office and fulfilment of other obligations required for the operation of the guarantee fund and compensation office.

(8) Notwithstanding the provisions of Paragraph (1) and (2) of this Article, the member state insurance undertaking may only commence performing compulsory insurance in transport or voluntary health insurance if it informs the Insurance Supervision Agency in advance of the general and special insurance conditions at least one month before it starts to apply them.

(9) When the Agency concludes that the insurance conditions referred to in the preceding Paragraph do not comply with regulations, it shall order the Member State' insurance undertaking to harmonise insurance conditions with regulations. If the member state insurance undertaking fails to comply with the order within the interval specified by the order, the Insurance Supervision Agency shall inform thereof the competent supervisory authority of the member state of the insurance undertaking.

## **Supervision of insurance business performed by insurance undertaking of Member States**

### **Article 95**

- (1) A supervision of an insurance undertaking of Member States performing insurance business in the territory of the Republic of Slovenia shall be carried out by the competent supervisory authority of the Member State.
- (2) The competent supervisory authority of the Member State or persons authorised by it may, in the territory of the Republic of Slovenia, examine the operations of the insurance undertaking of that Member State.
- (3) In the case referred to in Paragraph (1) hereunder, the competent supervisory authority or persons authorised by it shall have the same powers as the Insurance Supervision Agency under the provisions of Articles 301 to 306 of this Act.
- (4) The Insurance Supervision Agency shall be obliged, at the request of the competent supervisory authority of the Member State, to carry out supervision of the operations of the insurance undertaking of that Member State in the territory of the Republic of Slovenia.
- (5) Notwithstanding the provisions of the preceding Paragraphs hereunder, the Insurance Supervision Agency shall be obliged to carry out supervision of the operations of the insurance undertaking of that Member State in the territory of the Republic of Slovenia pursuant to the provisions of Articles 301 to 306 of this Act, in order to supervise operation in accordance with the provisions of Paragraph (2) of Article 93 of this Act.

#### **Supervisory measures to be taken with regard to Member State insurance undertakings** **Article 96**

- (1) Should a Member State insurance undertaking violate the provisions of Paragraph (2) of Article 93 of this Act in the territory of the Republic of Slovenia, the Insurance Supervision Agency shall, by issuing an order, impose a remedy of violations.
- (2) Should the Member State insurance undertaking fail to comply with the decision referred to in Paragraph (1) hereunder by the deadline determined in the said decision, the Insurance Supervision Agency shall inform the competent supervisory authority of that Member State.
- (3) For violations committed by the Member State's insurance undertaking in the territory of the Republic of Slovenia, the Insurance Supervision Agency may take an additional measure of prohibiting the concluding of new insurance contracts when the conditions laid down in item 10 of Paragraph (2) of Article 181 of this Act are met.
- (4) Prior to taking the measure referred to in the preceding Paragraph hereunder, the Insurance Supervision Agency shall be obliged to inform the competent supervisory authority of the Member State accordingly.
- (5) Notwithstanding provisions of the preceding Paragraph hereunder, the Insurance Supervision Agency may temporarily prohibit the Member State's insurance undertaking from concluding new insurance contracts without prior notification to the competent supervisory authority of the Member State, when this may not be delayed in order to safeguard the interests of policy holders, insured persons or other beneficiaries.

(6) The Insurance Supervision Agency shall be obliged to inform the competent supervisory body of the Member State and the European Commission of a temporary prohibition from making insurance contracts as soon as possible.

### **3.5. Performance of insurance business by foreign insurance undertakings**

#### **Performance of insurance business by foreign insurance undertakings**

##### **Article 97**

(1) A foreign insurance undertaking may only perform insurance business in the territory of the Republic of Slovenia through a branch.

(2) Notwithstanding the provisions of the preceding Paragraph:

1. a foreign insurance undertaking which holds an authorisation to perform insurance business involving reinsurance in the territory of the Republic of Slovenia may perform reinsurance operations through a branch or directly only when conditions referred to in Paragraph (6) of this Act are met;

2. a foreign insurance undertaking which holds an authorisation to perform insurance operations regarding vehicle insurance, marine and transport insurance or aircraft or other flying machine insurance may perform insurance operations referred to in these insurance subgroups in the territory of the Republic of Slovenia indirectly only when conditions referred to in Paragraph (6) of this Article are met. Notwithstanding the previous clause, in the territory of the Republic of Slovenia, a foreign insurance undertaking may not directly perform insurance operations regarding the insurance of passengers in public transport against the consequences of accidents and motor third-party liability as regulated in the act governing the field of compulsory insurances in transport.

(3) A branch of a foreign insurance undertaking must meet the following conditions:

1. the business of the branch must be managed by two managers, to which the provisions of Articles 22 to 26 and 28 of this Act shall apply as appropriate;

2. the branch must be adequately staffed and technically equipped in order to perform insurance business;

3. the branch must have sufficient equity at its disposal; the provisions of Articles 110 or 111 of this Act shall apply as appropriate to the branch's equity;

4. a branch shall be obliged, in the territory of the Republic of Slovenia, to have at its disposal adequate assets at least in the amount of one-half of the guarantee capital, as prescribed in Article 112 of this Act, and to deposit a monetary sum as a guarantee for settlement of liabilities from insurance contracts concluded in the territory of the Republic of Slovenia, or which cover risks in the Republic of Slovenia, in the amount of one-quarter of the branch's guarantee capital (hereinafter referred to as: guarantee deposit). The surplus of own assets of the branch above the higher of the required minimum capital or guarantee capital must be invested, depending on which is higher, on the territory of a Member State.

(4) With regard to branches of foreign insurance undertakings, the following provisions of this Act and the regulations issued on the basis hereof shall apply:

1. Articles 83 to 86;

2. Article 227;

3. the provisions of the Acts referred to in Paragraphs (6) and (7) of Article 2 of this Act;

4. the provisions of Chapters 5, 7 and 8.

(5) With regard to the insurance undertaking referred to in item 2 of Paragraph (2) of this Act, provisions of Articles 93., 94., 95. and 96. of this Act shall apply as appropriate.

(6) A direct performance of services in accordance with Paragraph (2) of this Article shall be allowed when:

1. the Supervision Insurance Agency on the basis of an application of a foreign insurance undertaking which intends to directly perform insurance business in the territory of the Republic of Slovenia or on the basis of an application of a competent supervisory authority of a foreign country establishes by means of a decision that requirements regarding the operation of insurance undertakings in the country where its head office is located are at least equal as in the EU;
2. a supervisory authority of a foreign insurance undertaking, by means of an agreement, shall undertake to co-operate in an appropriate manner with the Insurance Supervision Agency

(7) The Insurance Supervision Agency shall lay down, by means of rules, all the necessary data and documents which shall be attached to an application referred to in item 1 of the preceding Paragraph and the periods of time for making a notification of the aforementioned data.

(8) With regard to the supervision of a foreign insurance undertaking and a branch established by it in the territory of the Republic of Slovenia, the provisions of Chapter 11 of this Act shall apply as appropriate.

#### **Authorisation to establish a branch**

##### **Article 98**

(1) A foreign insurance undertaking shall be allowed to establish a branch in the territory of the Republic of Slovenia when it is granted an authorisation by the Insurance Supervision Agency.

(2) An application for an authorisation to establish a branch must include:

1. the articles of association of a branch;
2. a copy from the companies' register or other relevant register kept in the country where the holding insurance undertaking's head office is located;
3. the bylaws or regulations of the holding insurance undertaking;
4. audited annual reports of the holding insurance undertaking for the last three business years;
5. when the copy referred to in item 2 does not state the owners of the holding insurance undertaking: an appropriate document giving an authentic record of the owners and their shares in the management of the holding insurance undertaking;
6. a copy from the companies' register or other relevant register kept in the country where the head offices of those legal entities are located which participate in the management of the holding insurance undertaking with holdings of more than 10%;
7. the scheme of operations, containing the contents referred to in Article 70 of this Act;
8. a statement that the branch in question will record and keep all documents relating to the branch's operation at the head office of that branch;
9. supporting documents with regard to the provision of sufficient equity and guarantee deposit;



10. documents on the basis of which it is possible to establish whether the branch in question is qualified, in terms of personnel, technical matters and organisation, to perform the services referred to in the application for authorisation.

(3) The Insurance Supervision Agency shall, in the authorisation to establish a branch of a foreign insurance undertaking, lay down the method of providing guarantee deposit.

(4) With regard to taking decisions on the authorisation to establish a branch of a foreign insurance undertaking, Articles 66 to 68 of this Act shall apply as appropriate.

(5) The Insurance Supervision Agency shall also refuse to grant an authorisation to establish a branch of a foreign insurance undertaking

1. when, taking into account the regulations of the country in which that insurance undertaking's head office is located or taking into account the practice usually pursued in implementing the said regulations, it is likely that the performance of supervision under the provisions of this Act will be hindered; or
2. when insurance undertakings with head offices in the Republic of Slovenia cannot perform insurance business in that country or when, due to the regulations of that country or the practice usually pursued in implementing the said regulations, they do not have competitive possibilities in performing insurance business equal to those of domestic insurance undertakings, whereby the said restriction does not apply to the insurance undertakings with a head office in an OECD Member State.

### **Special provisions for branches of Swiss insurance undertakings**

#### **Article 99**

(1) With regard to a branch of a Swiss insurance undertaking in the territory of the Republic of Slovenia, the following provisions of this Act shall not apply:

- item 7 of Article 68 in relation to Paragraph (4) of Article 98 of this Act;
- items 3 and 4 of Paragraph (3) of Article 97 of this Act;
- item 2 of Paragraph (5) of Article 98 of this Act.

(2) Prior to taking a decision to grant an authorisation to establish a branch of a Swiss insurance undertaking, the Insurance Supervision Agency shall be obliged to notify the competent supervisory authority of the Swiss Confederation and request its opinion. When, within three months of the receipt of the application, the competent supervisory authority of the Swiss Confederation does not reply, it shall be deemed that it does not object to the establishment of a branch.

(3) Prior to taking a decision to withdraw an authorisation to establish a branch of a Swiss insurance undertaking, the Insurance Supervision Agency shall be obliged to notify the competent supervisory authority of the Swiss Confederation and request its opinion. When, prior to obtaining the opinion referred to in the preceding sentence, the Insurance Supervision Agency prohibits the branch of the Swiss insurance undertaking from concluding insurance contracts, it shall be obliged to immediately inform the competent supervisory authority of the Swiss Confederation accordingly.

## **CO-OPERATION WITH SUPERVISORY AUTHORITIES AND BODIES OF THE EUROPEAN UNION**

### **Co-operation of domestic supervisory authorities**

#### **Article 100**

(1) The Insurance Supervision Agency and the bodies responsible for the supervision of other financial organisations shall be obliged, at the request of an individual supervisory authority, to submit to that authority all data with regard to an insurance undertaking or other financial organisation which is needed during the procedures relating to the supervision of the financial organisation, the granting of authorisations, and the adoption of decisions in other individual matters.

(2) Supervisory authorities shall be obliged to notify each other on their own initiative of any irregularities or other circumstances discovered during supervision or their other duties and powers when those findings are relevant to the work of other supervisory authorities.

(3) Supervisory authorities shall strive, to the greatest possible extent, to apply uniform supervision practices and, within this framework, also to make a comparable methodological approach in the supervision of risk management and to exchange information mutually in the best possible manner.

(4) Detailed contents and a method of the supervisory authorities' co-operation shall, on the basis of the prior opinion of supervisory authorities, be stipulated by the Minister of Finance.

(5) Data acquired in accordance with the preceding Paragraphs hereunder or through an exchange of data between the supervisory authorities of both the Member States and foreign countries must be protected as confidential and may only be used for the purposes for which it was acquired.

### **Co-operation with the supervisory authorities of Member States**

#### **Article 100.a**

(1) The Insurance Supervision Agency shall co-operate with the supervisory authorities of other Member States. It shall provide them with information that is essential or relevant to the exercise of their supervisory tasks. To achieve this the Insurance Supervision Agency shall:

1. up on the request of another supervisory authority, communicate all information essential or relevant to the exercise of supervision by this supervisory authority,
2. communicate on its own initiative all information essential or relevant to the exercise of supervision by this authority.

(2) The information referred to in the preceding Paragraph shall be regarded as essential when it could materially influence the assessment of the financial soundness of the supervised financial firm in another Member State.

(3) Paragraphs (1) and (2) of this Article shall also apply as appropriate to the co-operation of the Insurance Supervision Agency and other supervisory bodies of the Republic of Slovenia with the competent supervisory authority of the Member State when it requires consultation or

information in deciding on a request for obtaining a qualifying holding in a supervised financial undertaking in such Member State, which was lodged by:

1. an insurance undertaking with its head office in the Republic of Slovenia,
2. a credit institution, stock broking company, or asset management company with its head office in the Republic of Slovenia, or
3. a parent entity to the persons referred to in points 1 or 2 of this Paragraph.

## **Data-processing and submission of information**

### **Article 101**

(1) The Insurance Supervision Agency shall be competent to collect and process data with regard to the facts and circumstances relevant to its tasks and responsibilities stipulated in this Act.

(2) The data referred to in the preceding Paragraph hereunder which is relevant to the Insurance Supervision Agency's tasks and responsibilities stipulated by this Act, shall, in particular, be deemed to be data with regard to the following:

1. authorisations to perform insurance business, and other authorisations granted by the Insurance Supervision Agency in accordance with this Act;
2. members of the board of directors and supervisory boards of insurance undertakings, their organisation, and the operation of internal audits;
3. branches or direct insurance business by insurance undertakings in the Member States, and branches or direct insurance business by Member States' insurance undertakings in the Republic of Slovenia;
4. branches of insurance undertakings in foreign countries and branches of foreign insurance undertakings in the Republic of Slovenia;
5. compliance with the provisions on risk management referred to in Chapters 5 and 6 of this Act, and the regulations issued on the basis thereof;
6. the reports referred to in Article 140 of this Act;
7. the holders of qualifying holdings referred to in Article 18 of this Act;
8. the audited annual reports referred to in Article 167 of this Act;
9. the implemented supervisory measures referred to in Article 178 of this Act;
10. information acquired by the Insurance Supervision Agency through the exchange of information with the competent supervisory authorities of Member States.

(3) The Insurance Supervision Agency shall be allowed to submit the data referred to in the preceding Paragraph hereunder to:

1. domestic supervisory authorities within the framework of co-operation pursuant to Article 100 of this Act;
2. competent authorities of Member States, when this is necessary for their work as regards a supervision of insurance business and when those authorities are obliged to protect confidential data to the extent laid down in Paragraph (4) of Article 100 of this Act;
3. competent supervisory authorities of foreign countries, when this is necessary for their work as regards the supervision of insurance operations upon condition of reciprocity, and when those authorities are obliged to protect confidential data to the extent laid down in Paragraph (4) of Article 100 of this Act;
4. central banks of Member States when they need those data for the purpose of performing the duties within their powers and when they are obliged to protect confidential data to the extent laid down in Article 100(4) of this Act;

5. central banks of foreign countries when they need those data for the purpose of performing the duties within their powers, upon condition of reciprocity, and when they are obliged to protect confidential data to the extent laid down in Article 100(4) of this Act;
6. competent supervisory authorities of Member States when they need those data for the purpose of performing their duties of supervision of payment systems and if they are obliged to protect confidential data to the extent laid down in Article 100(4) of this Act;
7. competent supervisory authorities of foreign countries when they need those data for the purpose of performing their duties of a supervision of payment systems, upon condition of reciprocity, and when they are obliged to protect confidential data to the extent laid down in Article 100(4) of this Act;
8. the court of justice, when this is necessary for the insurance undertaking's bankruptcy proceedings;
9. the Slovenian Institute of Auditors, when this is necessary for the supervision of the auditing house by which the financial statements of the insurance undertaking in question were audited.
10. The Ministry of Finance of the Republic of Slovenia, when this is necessary for the preparation of regulations, the management of statistics or the management of strategy in the area of the financial and tax systems, whereby the obligation to protect confidential data shall apply at least in the extent laid down in Paragraph (1) of Article 260 of this Act.

(4) Notwithstanding the provision of the preceding Paragraph hereunder, the Insurance Supervision Agency may only submit the data referred to in item 10 of Paragraph (2) hereunder when this was expressly allowed by the authority which submitted the data to the Insurance Supervision Agency. These data may only be used for the purposes for which the authorisation was given.

(5) The Insurance Supervision Agency shall be obliged to inform the European Commission and the supervisory authorities of other Member States regarding entities referred to in Paragraph (3) of this Article to whom the data referred to in Paragraph (2) of this Article must be submitted.

### **Informing the European Commission of refusals to submit notification**

#### **Article 102**

The Insurance Supervision Agency shall be obliged to inform the European Commission of refusals to submit the notification referred to in Paragraph (5) of Article 88 of this Act.

### **Informing the European Commission of relations with foreign countries**

#### **Article 103**

(1) The Insurance Supervision Agency shall be obliged to inform the European Commission and competent supervisory authorities of Member States of:

1. any authorisation granted to an insurance undertaking whose direct or indirect controlling company is a legal entity whose head office is located in a foreign country;
2. any authorisation to acquire qualifying holdings granted on the basis of which a foreign entity becomes the controlling company of the insurance undertaking in question.

(2) The information referred to in item 1 of the preceding Paragraph shall imply a notification in which the Insurance Supervision Agency shall also indicate the organisational structure of the group.

(3) The Insurance Supervision Agency shall inform the European Community of any significant obstacle which the insurance undertaking has encountered in performing insurance business in foreign countries.

(4) Should the European Commission decide that the supervisory authorities of Member States should halt or suspend the adoption of decisions with regard to matters relating to entities from individual foreign countries, the Insurance Supervision Agency shall be obliged, by issuing a resolution, to suspend the procedure for up to three months, when the decisions to be adopted refer to:

1. applications for an authorisation to be issued to an insurance undertaking whose direct or indirect controlling company is a legal entity whose head office is situated in the foreign country to which the decision of the European Commission refers;
2. applications for authorisation to acquire qualifying holdings on the basis of which a foreign entity whose head office is located in the foreign country to which the decision of the European Commission refers becomes the controlling company of the insurance undertaking in question.

(5) During the period of suspension pursuant to Paragraph (3) hereunder, the period of time allowed for adopting the decision referred to in Paragraph (1) of Article 329 of this Act shall not run.

(6) Should the European Council decide that the halt or suspension of procedures referred to in Paragraph (3) hereunder should be prolonged, the Insurance Supervision Agency shall be obliged, by issuing a resolution, to prolong the halting of the procedure referred to in Paragraph (3) hereunder for a period stipulated in the decision of the European Council.

(7) The measures referred to in Paragraphs (3) and (5) hereunder shall not apply:

1. to the setting-up of an insurance undertaking as a controlled company of the insurance undertaking which, at the moment of adopting the decision referred to in Paragraphs (3) or (5) hereunder, is entitled to perform insurance business in the Member State, or controlled companies of the insurance undertaking in question;
2. to the acquisition of qualifying holdings whose prospective holder will be the insurance undertaking which, at the moment of adopting the decision referred to in Paragraphs (3) or (5) hereunder, is entitled to perform insurance business in a Member State, or a controlled company of the insurance undertaking in question.

(8) The Insurance Supervision Agency shall be obliged, at the request of the European Commission, to inform the European Commission of any application for an authorisation referred to Paragraph (1) or of any application for the acquisition of qualifying holding on the basis of which a foreign holder will become the controlling company of the insurance undertaking in question, when the European Commission requires that data for establishing the facts relevant to the adoption of the decision referred to in Paragraphs (3) or (5) hereunder.

## **5. RISK MANAGEMENT**

## **5.1. General provisions**

### **Risk management**

#### **Article 104**

(1) An insurance undertaking must ensure that at any point in time it disposes of adequate capital with regard to both the volume and type of insurance business performed, and the risks to which it is exposed in performing those operations (capital adequacy).

(2) An insurance undertaking shall be obliged to operate so as to provide that the risks to which it is exposed in its individual or all types of insurance business never exceed the restrictions stipulated in this Act and in the regulations issued on the basis thereof.

(3) An insurance undertaking shall be obliged to operate so as to be able, at any point in time, to settle debts due (liquidity) and to meet all its obligations permanently (solvency).

## **5.2. Capital of insurance undertakings**

### **Capital of insurance undertakings**

#### **Article 105**

In order to establish whether the provisions with regard to risk management are complied with, an insurance undertaking's capital (hereinafter referred to as: the capital) shall be calculated in accordance with the methodology stipulated in the following articles of this Section.

### **Core Capital**

#### **Article 106**

(1) In calculating the core capital of an insurance undertaking, account shall be taken of the following items:

1. paid-up share capital of a public limited company, except on the basis of cumulative preferred shares paid-up share capital or the initial capital and assets in the accounts of members of a mutual insurance company;
2. capital reserves, except for capital reserves linked to cumulative preferred shares;
3. reserves from profits, except reserves for treasury shares and own holdings;
4. net profit brought forward from previous years;
5. surplus on revaluation of assets which are not financed from technical provisions.

(2) In calculating core capital, account shall be taken of the following items as deductions:

1. own shares and own holdings;
2. intangible long-term assets;
3. net losses brought forward from previous years and losses of the current year;
4. difference between undiscounted and discounted reserves for outstanding claims.

(3) Notwithstanding the provisions of item 4 of the preceding Paragraph of this Article, the difference between undiscounted and discounted reserves for outstanding claims shall not be

taken into account as a deduction item for insurance risks from clauses 1 and 2 of Paragraph (2) of Article 2 of this Act or for reserves from annuities in other insurance classes.

(4) The core capital must always be equal to at least the guarantee capital referred to in Article 112 of this Act.

## **Additional capital**

### **Article 107**

(1) In calculating the additional capital of an insurance undertaking, account shall be taken of the following items:

1. paid-up share capital on the basis of cumulative preferred shares;
2. capital reserves linked to cumulative preferred shares;
3. subordinated debt instruments;
4. equalisation provisions formed by insurance undertakings at their own judgement;
5. other items.

(2) In the calculation of additional capital, the items of the preceding Paragraph of this Article shall be taken into account only up to the extent laid down by the rule referred to in Article 109 of this Act, with reference to either the capital of the insurance undertaking referred to in Article 106 of this Act or the solvency margin of the insurance undertaking referred to in Articles 110 and 111 of this Act, whichever is lower. Upon a substantiated application by the insurance undertaking, and with the approval of the Insurance Supervision Agency, the following items shall belong among other items referred to in item 5 of the preceding Paragraph:

- the value of mathematical provisions calculated by excluding or taking into account a part of the acquisition costs included in the premium, and reduced by the mathematical provision calculated by taking into account the acquisition costs included in the premium. The calculation of the mathematical provision may not take into account the acquisition costs exceeding 3.5% of the sum insured. In calculating the differences of mathematical provisions, negative values shall be set to zero;
- half of the unpaid called-up share capital of a public limited company, or of the initial capital of a mutual company.

(3) Subordinated debt instruments shall be securities and other financial instruments from which the holder has, in the event of bankruptcy or liquidation of the issuer, the right to payment only after the payment of other creditors of the issuer, or which with regard to maturity and other properties are suitable for a coverage of potential losses due to risks to which the insurance undertaking is exposed in its business.

## **Calculation of capital**

### **Article 108**

(1) In calculating the insurance undertaking's capital, the sum of core capital and additional capital shall be reduced by the following items:

1. participation in other insurance undertakings, reinsurance undertakings, insurance holding companies, banks, stock broking companies, management companies and other financial

institutions, insofar as in accordance with regulations they calculate capital adequacy in which the insurance undertaking participates in accordance with Paragraph (1) of Article 9 of this Act;

2. investments in subordinated debt instruments and other investments in entities referred to in the previous clause that are taken into account in determining the capital adequacy of such entities in the calculation of their capital and in which the insurance undertaking participates in accordance with Paragraph (1) of Article 9 of this Act;
3. illiquid assets.

(2) Illiquid assets shall be the insurance undertaking's investments in the shares of the Stock Exchange, the Clearing and Depository Corporation, claims arising from payments in the guarantee fund kept by the Clearing and Depository Corporation, claims arising from payments in other funds intended for mutual guarantee in meeting the obligations of several entities, and other assets which cannot be turned into money within the period needed to satisfy debts due in time.

### **Risk management regulations**

#### **Article 109**

The Insurance Supervision Agency shall lay down detailed risk management rules to determine:

1. the method and extent of considering individual items in calculating the insurance undertaking's capital and its capital adequacy;
2. detailed features and types of items to be taken into account in calculating the insurance undertaking's capital and its capital adequacy;
3. detailed features of both the subordinated debt instruments referred to in Paragraph (3) of Article 107 of this Act and the illiquid assets referred to in Paragraph (2) of Article 108 of this Act and assets in accounts of members of a mutual insurance company referred to in Article 44(a) of this Act;
4. detailed rules relating to the calculation of the insurance undertaking's minimum capital referred to in Articles 110, 111 and 139 of this Act;
5. detailed rules and minimum standards, and possibly also the methodology, for the calculation of technical provisions;
6. detailed types and features of assets covering technical provisions and assets of funds covering mathematical provisions, and detailed rules relating to the spreading and limiting of those investments, and their valuation and balancing;
7. guidelines for the calculation of own holdings of the insurance undertaking in the tables of maximum coverage, and guidelines for establishing the maximum probable loss;
8. the detailed method of calculating liquidity ratios and the minimum liquidity which the insurance undertaking is obliged to provide;
9. the detailed contents of the reports referred to in Article 140 of this Act, as well as deadlines and methods of reporting.

### **5.3. Capital adequacy**

#### **Minimum capital of insurance undertaking dealing in non-life insurance**

#### **Article 110**



(1) The capital of insurance undertaking dealing in non-life insurance and the capital of reinsurance undertaking must, at any point in time, equal at least the capital requirements calculated by using the premium ratio or claims factor, whichever is higher.

(2) Capital requirements shall be calculated through the use of the premium quotient as follows:

1. the sum of insurance premiums achieved in the last business year up to the total amount of 50,000,000 euros is multiplied by 0.18, while the total of such insurance premiums in excess of 50,000,000 euros is multiplied by 0.16;
2. the sum of both products referred to in item 1 of this Paragraph shall be multiplied by the share that for the last three business years equals the ratio between:
  - the total amount of claims regarding the payment of compensation in this period, reduced by claims covered by co-insurance or reinsurance, and
  - the total amount of claims regarding the payment of compensation in this period, including claims covered by co-insurance or reinsurance, but not less than 0.5;
3. the total of insurance premiums equal to the larger of gross premiums written and the gross premiums revenue shall be taken into account as the total insurance premiums achieved in the last business year. The provisions of items 4, 5 and 6 of this Paragraph shall be taken into account prior to the determination of the total referred to in the previous sentence;
4. the calculation of the sum of insurance premiums achieved in the last business year shall take into account the gross premiums written or the gross revenues from the insurance classes referred to in items 11, 12 and 13 of Paragraph (2) of Article 2 of this Act increased by 50%;
5. the sum of insurance premiums shall also include insurance contracts accepted in co-insurance and in reinsurance;
6. premiums for insurance cancelled in the business year and the full amount of taxes on insurance services and contributions included in the sum of insurance premiums shall be deducted from the sum of insurance premiums.

(3) Capital requirements shall be calculated through the use of the claims factor in the following manner:

1. the annual sum of claims for the payment of compensation, including claims covered by reinsurance, shall be multiplied by 0.26 for the total amount up to 35,000,000 euros, and the sum of such claims exceeding 35,000,000 euros shall be multiplied by 0.23;
2. the sum of both products from clause 1 of this Paragraph shall be multiplied by the share which for the last three business years equals the ratio between:
  - total amount of claims for the payment of compensation in this period, reduced by claims covered by co-insurance or reinsurance, and
  - the total amount of claims for payment of compensation in this period, including claims covered by co-insurance or reinsurance, but not less than 0.5;
3. in insurance classes from clauses 11, 12 and 13 of Paragraph (2) of Article 2 of this Act, the calculated amount of damages, reserves for outstanding claims and claims from paid-out compensation or insurance payments shall be increased by 50%;
4. the annual sum of claims for the payment of compensation shall be calculated by dividing the amount of gross compensations paid for the period laid down in Paragraphs (4) and (5) of this Article, increased by the amount of gross reserves for outstanding claims at the end of the period and reduced by the amount of gross reserves for outstanding claims at the start of the period and reduced by the amount of established rebate claims in the aforementioned period, by the number of years in the period;

5. the annual sum of claims for the payment of compensation in the calculation shall also include contracts accepted in co-insurance and reinsurance.

(4) In calculating the annual amounts of claims regarding the payment of compensation referred to in item 1 of the preceding Paragraph hereunder, the period of the last three financial years shall be taken into account.

(5) Notwithstanding the provision of the preceding Paragraph hereunder, the period of the last seven financial years shall be applied in calculating the annual amounts of claims regarding the payment of compensation in cases where an insurance undertaking, either exclusively or predominantly, underwrites insurance policies covering risks arising from credit, storm, hail or frost.

(6) Notwithstanding the provision of Paragraph (1) hereunder, capital requirements with regard to health insurance to which probability tables and calculations similar to life assurances apply shall be equal to one third of the capital requirements referred to in Paragraph (1) hereunder or equal to the capital requirements calculated under Paragraph (2) of Article 111 of this Act, provided they are higher and that the following conditions are met:

1. when insurance premiums are calculated on the basis of probability calculations, using actuarial bases;
2. when, with regard to these insurance, old-age provisions are set aside by the insurance undertaking;
3. when premiums include a safety supplement;
4. when, after the expiry of a three-year period at most, the insurance undertaking has lost the right to terminate the insurance contract in question;
5. when the insurance contract in question stipulates the possibility of raising premiums or decreasing the insurance undertaking's obligations.

(7) Notwithstanding the provision of Paragraph (1) hereunder, capital requirements for the first year of an insurance undertaking's operation shall be calculated by applying the premium ratio.

(8) Notwithstanding the provision of Paragraph (1) hereunder, the capital of an insurance undertaking must never be below the amount of the guarantee fund referred to in Article 112 of this Act.

(9) In calculating the total amount of claims regarding the payment of compensation referred to in Paragraphs (2) and (3) hereunder, in addition to reported claims, assessed claims for which, reserves for outstanding claims shall be set aside pursuant to Article 116 of this Act, shall be taken into account.

(10) In the event that the calculated minimum capital of the insurance undertaking for the current year is less than the calculated minimum capital for the previous year, the minimum capital of the insurance undertaking must be at least equal to the minimum capital of the insurance undertaking for the past year multiplied by the ratio between net reserves for outstanding claims at the end of the current year and the net reserves for outstanding claims at the end of the past year, but by no more than 1.

(11) The Government of the Republic of Slovenia shall publish such modified amounts which are used in establishing solvency margin requirements referred to in Paragraph 2(1) and 3(1)

after the European Commission have published in the Official Journal of the European Community the modified amounts of those referred to in Article 1(3) of the Directive 2002/13/EC of the European Parliament and of the Council of 5 March 2002 amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings (OJ L 77, 20.3.2002, p. 17).

(12) Notwithstanding the provisions of Paragraph (2)(1) and (3)(1) hereunder the amount for reinsurance undertakings shall equal EUR 50,000,000 using the premium ratio or EUR 35,000,000 using the claims factor.

### **Minimum capital of insurance undertaking providing life assurance**

#### **Article 111**

(1) The capital of an insurance undertaking performing insurance business in the life assurance group shall be calculated as laid down by Paragraphs (2), (3), 4), (5), (6), and (7) of this Article.

(2) The capital of an insurance undertaking performing insurance business in insurance classes referred to in items 19 and 20 of Paragraph (2) of Article 2 of this Act must be at least equal to the capital requirement calculated as the sum of the first and second results.

The first result shall be calculated in the following manner:

1. the sum of mathematical provisions formed on the last day of the past business year, including mathematical provisions formed for insurance covered by reinsurance, shall be multiplied by 0.04;
2. the product from the previous clause shall be multiplied by the share which for the last business year equals the ratio between:
  - the total amount of mathematical provisions on the last day of the past business year reduced by the mathematical provisions for insurance covered by reinsurance, and
  - the total amount of mathematical provisions formed on the last day of the past business year, including mathematical provisions formed for insurance covered by reinsurance,but not less than 0.85.

The second result shall be calculated only for insurance where the risk capital is not negative, in the following manner:

1. the amount of risk capital on the last day of the previous year, including risk capital for insurance covered by reinsurance, shall be multiplied by 0.003;
2. the product from the previous clause shall be multiplied by the share that for the last business year equals the ratio between:
  - the total amount of risk capital on the last day of the previous business year reduced by the amount of risk capital for insurance covered by reinsurance, and
  - the total amount of risk capital on the last day of the previous business year, including risk capital for insurance covered by reinsurance, but not less than 0.5.
3. Notwithstanding the provisions of the second indent of the previous clause, in the calculation of capital requirements for life assurance for death, the amount referred to in the second indent of the previous item shall be multiplied by 0.001 when the insurance is concluded for a maximum of three years, or by 0.0015 when the insurance is concluded for more than three years and a maximum of five years.

(3) For insurance with capitalisation of payments referred to in item 23 of Paragraph (2) of Article 2 of this Act, the capital requirements shall be equal to the first result from the preceding Paragraph of this Article.

(4) For insurance referred to in item 21 of Paragraph (2) of Article 2 of this Act, and for the business of the management of pension funds (Paragraph (8) of Article 14 of this Act), the capital requirements shall be calculated in the following manner:

a.) 4% of the technical provisions in the amount established in accordance with the first result referred to in Paragraph (2) of this Article, when the insurance undertaking takes on investment risk;

b.) 1% of the technical provisions in the amount established in accordance with the first result referred to in Paragraph (2) of this Article, if the insurance undertaking does not take on investment risk, but the management costs are defined and fixed for a period longer than five years;

c.) 25% of the net administration costs for the previous business year with regard to the provision of such insurance, when the insurance undertaking does not take on investment risk and the administrative costs are not defined and fixed;

d.) 0.3% of the risk capital in the amount established in accordance with the second result referred to in Paragraph (2) of this Article, when the insurance undertaking covers the risk of death.

(5) For tontine referred to in item 22 of Paragraph (2) of Article 2 of this Act, the capital requirements shall be equal to 0.01 of the value of capitalised assets.

(6) For additional insurance defined in Paragraph (12) of Article 14 of this Act, account shall be taken in the calculation of the minimum capital of the premiums and claims factor in accordance with Article 110 of this Act.

(7) For insurance classes referred to in item 24 of the Paragraph (2) of Article 2 of this Act, the minimum capital shall be calculated as the sum of the first result referred to in Paragraph (2) of this Article and the amount calculated in accordance with Article 110 of this Act.

(8) Risk capital referred to in Paragraph (3) of this Article shall be a difference between the insured sum in the event of death and the mathematical provisions formed.

(9) Notwithstanding the provisions of Paragraph (1) of this Article, the capital of the insurance undertaking may never be less than the amount of the guarantee capital referred to in Article 112 of this Act.

### **Guarantee fund capital**

#### **Article 112**

(1) The guarantee capital shall account for one-third of the minimum capital referred to in Articles 110 or 111 of this Act.

(2) Notwithstanding the provisions of the preceding Paragraph of this Article, the guarantee capital of an insurance undertaking authorised to perform insurance business in the non-life insurance group may not be less than:

1. the sum of 2,000,000 euros

2. the sum of 3,000,000 euros if the insurance undertaking is authorised to perform insurance business for all or some of the insurance classes referred to in items 10 to 15 of Paragraph (2) of Article 2 of this Act.

(3) Notwithstanding the provisions of Paragraph (1) of this Article, the guarantee capital may not be less than 3,000,000 euros when the insurance undertaking is authorised to perform insurance business covering all or some of the risks from the life assurance insurance group.

(4) Notwithstanding the provisions of Paragraph (1) of this Article, the guarantee capital of a reinsurance undertaking may not be less than 3,000,000 euros.

(5) The Government of the Republic of Slovenia shall publish the modified amounts of the guarantee fund referred to in Paragraphs (2), (3) and (4) of this Article after the European Commission have published in the Official Journal of the European Community the modified amount of that laid down in Article 1(4) of Directive 2002/13/EC of the European Parliament and of the Council of 5 March 2002 amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings (OJ L 77, 20.3.2002, p. 17) or of the amount laid down in Article 29 of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345, 19.12.2002, p. 1) or the amounts laid down in Article 40(2) of Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EEC and 2002/83/ES (OJ L 323, of 9 December 2005, p. 1).

## **5.4. Technical provisions**

### **Technical provisions**

#### **Article 113**

(1) An insurance undertaking shall be obliged, with regard to all insurance business performed, to form appropriate technical provisions intended to meet future obligations arising from insurance contracts and cover possible losses on account of risks relating to insurance business performed.

(2) An insurance undertaking shall be obliged to form the following types of technical provision:

1. provisions for unearned premium;
2. provisions for bonuses, discounts, and cancellations;
3. reserves for outstanding claims;
4. the equalisation provisions;
5. other technical provisions.

(3) An insurance undertaking underwriting life assurance policies or other policies to which probability tables and calculations apply which are similar to life assurance shall be obliged, with regard to those insurance contracts, to form mathematical provisions as well.

(4) An insurance undertaking underwriting policies in which the investment risk is borne by the insured person shall be obliged, with regard to those insurance policies, to set aside special provisions as well.

## **Provisions for unearned premium**

### **Article 114**

Provisions for unearned premium with regard to individual types of insurance shall be formed in the amount of that part of the premium billed which refers to insurance coverage for an insurance period following the conclusion of the accounting period for which provisions are calculated.

## **Provisions for bonuses, discounts and cancellations**

### **Article 115**

Provisions for bonuses and discounts shall be formed up to an amount equalling the payments which policy holders, insured persons or other beneficiaries are entitled to receive and which arise from:

1. the right to participate in profits arising from their insurance or other rights on the basis of the insurance contract (bonuses);
2. the right to a partial reduction in premiums (discounts),
3. the right to reimbursement of one part of the premium relating to the unused insurance period due to an early termination of insurance (cancellation).

## **Reserves for outstanding claims**

### **Article 116**

(1) Reserves for outstanding claims shall be formed in the amount of the assessed obligations which the insurance undertaking is obliged to settle on the basis of those insurance contracts where the event insured against occurred by the end of the accounting period, irrespective of whether such an event was reported, including all the fees and charges arising from those contracts and charged to the insurance undertaking.

(2) Reserves for outstanding claims must, in addition to assessed obligations involving reported damages which occurred but have not been settled, also include assessed obligations involving damages which occurred but have not been reported.

## **Mathematical provisions**

### **Article 117**

(1) Mathematical provisions shall be set aside in the amount of the present value of the assessed future obligations of the insurance undertaking arising from insurance contracts reduced by the present assessed value of future premiums to be paid on the basis of those contracts.

(2) Mathematical provisions shall be calculated by means of appropriate actuarial valuation, taking into account all future obligations of the insurance undertaking arising from individual insurance contracts, including the following:

1. payments guaranteed to which the policy holder, insured person or any other beneficiary are entitled;
2. bonuses to which a policy holder, insured person or any other beneficiary is entitled either alone or together with other policy holders, insured persons or other beneficiaries, irrespective of the form they take;
3. all rights from which the policy holder, insured person or any other beneficiary is allowed to choose on the basis of the insurance contract;
4. charges, including commissions.

(3) In selecting the methods of actuarial valuation, account must also be taken of the methods of valuating the assets covering technical provisions which the insurance undertaking applies.

(4) Mathematical provisions must be calculated for each insurance contract individually. Appropriate approximations or generalisations may only be applied when it is likely that the result arrived at by means of them will be approximately the same as that of an individual calculation.

(5) When, on the basis of the insurance contract, a policy holder, insured person or any other beneficiary has the right to the payment of the surrender value, the mathematical provisions formed with regard to that insurance contract must not be below the surrender value.

(6) Reserves for old age are mathematical provisions of health insurance formed in an amount sufficient to cover liabilities of annuity insurance. They are intended to cover the deficit due to the non-adjustment of premiums in the lifetime of insurance, when the health risk increases due to increasing age. Notwithstanding the provisions of the first sentence of this Paragraph, reserves for old age may be formed in an amount sufficient to cover liabilities for a period at least until the policy holder reaches such an age from which the insured person has the same insurance risk as that under the insurance contract already fully covered under the Act itself. Probability tables and calculations similar to those for life assurance shall be used in the calculation of reserves for old age. The provisions of this Paragraph shall not apply to the insurance business referred to in Article 14(11) of this Act.

(7) Insurance undertakings shall be obliged, in an appendix to the annual reports, to provide an explanation of the bases and methods applied in calculating mathematical provisions.

## **Equalisation provisions**

### **Article 118**

(1) An insurance undertaking shall set up its equalisation provisions only for the credit insurance class referred to in Article 2(2)(14) of this Act.

(2) The method of setting up equalisation provisions referred to in the preceding Paragraph of this Article shall be laid down by the Insurance Supervision Agency in accordance with Annex D to Council Directive 87/343/EC of 22 June 1987 amending, as regards credit insurance and suretyship insurance, First Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 185, of 4 July 1987, p. 72).

## **Other technical provisions**

### **Article 119**

Other technical provisions shall be formed with regard to the anticipated future obligations and risks of major damages arising from insurance covering nuclear damage liability and pharmaceuticals producers' liability, earthquake, flood, as well as other obligations and risks for which none of the provisions referred to in items 1 to 4 of Paragraph (2), and Paragraphs (3) and (4) of Article 113 of this Act are formed.

## **5.5. Assets covering technical provisions**

### **5.5.1. General provisions**

#### **Assets covering technical provisions**

### **Article 120**

(1) The assets covering technical provisions shall be the insurance undertaking's assets intended to cover future obligations arising from policies underwritten by the insurance undertaking, and possible losses on account of risks with regard to insurance business provided by the insurance undertaking and for which the insurance undertaking is obliged to form technical provisions.

(2) Insurance undertakings shall be obliged to invest assets covering technical provisions in accordance with the provisions of this Section and the regulations issued pursuant to item 6 of Article 109 of this Act. The value of assets covering technical provisions must be at least equal to the amount of technical provisions.

(3) In selecting the types of investments of the assets covering technical provisions, the insurance undertaking shall be obliged to take into account the types of insurance business provided by the insurance undertaking so as to ensure safety, profitability and tradability of investments, as well as appropriate maturity, diversity and risk spread of these investments.

#### **Types of investment permitted**

### **Article 121**

(1) Assets covering technical provisions may only be in the form of the following investments:

1. securities issued by the Republic of Slovenia, the Bank of Slovenia, a Member State, an OECD Member State, an international financial organisation or an entity for which one of the former acts as guarantor;
2. bonds or other debt securities traded on an organised securities exchange in the Republic of Slovenia, a Member State or an OECD Member State;
3. bonds or other debt securities not traded on an organised securities exchange, when they are issued by a legal entity whose head office is in the Republic of Slovenia, a Member State or an OECD Member State;
4. shares and other variable yield equity securities traded on an organised securities exchange in the Republic of Slovenia, a Member State or an OECD Member State;



5. shares and other variable yield equity securities not traded on an organised securities exchange, when they are issued by a legal entity whose head office is in the Republic of Slovenia, a Member State or an OECD Member State, and when they are issued as securities;
6. investment coupons of mutual funds or shares of investment companies which only place their assets in securities and other liquid financial investments;
7. claims arising from loans collateralised by a mortgage on real estate, when the lien is entered in a land register or other public register in the Republic of Slovenia or a Member State, and when the claim does not exceed 60% of the value of real estate as appraised by an expert appraiser or in any other appropriate manner, when one or more liens have already been registered on the real estate, the amount of the claim may not be higher than 60% of the value of the real estate reduced by the value of the lien or liens already registered;
8. claims arising from loans given to banks whose head offices are in the Republic of Slovenia, a Member State or an OECD Member State and whose payment, including interest, is guaranteed by a bank whose head office is in the Republic of Slovenia, a Member State or an OECD Member State;
9. claims arising from loans collateralised by a lien on securities referred to in items 1, 2 and 4 hereunder;
10. claims arising from other loans collateralised appropriately;
11. advance payments with regard to the surrender value on the basis of insurance policies and loans collateralised by the surrender value of the insurance policy;
12. immovable property and other real rights to immovable property (for instance, right to erect a building):
  - when they are entered in a land register or other public register in the Republic of Slovenia or a Member State;
  - when they are performing, or it is expected that they will be performing in the future;
  - when the purchase price was determined on the basis of an appraisal by an expert appraiser or in any other appropriate way;
  - when they are free of all burdens, except material use;
13. investments in deposits or certificates of deposits held in a bank whose registered office is in the Republic of Slovenia, a Member State or an OECD Member State;
14. cash in hand or sight deposits;
15. claims relating to tax refund;
16. claims on insolvency, solidarity and guarantee funds;
17. tangible fixed assets, other than sites and buildings, valued in relation of depreciation and by the principle of prudence, when they:
  - are located in or on the property or they are in any other way linked to the property which is a permissible investment of assets covering technical provisions;
  - produce a return, and
  - are encumbrance free;
18. debts owed by reinsurers, including reinsurers' shares of technical provisions.

(2) The securities referring to permissible investments of the assets covering technical provisions shall bear no indication of lien.

(3) By issuing a regulation pursuant to the item 6 of Article 109 of this Act, the Insurance Supervision Agency may also lay down other types of investment which are in terms of safety, profitability and tradability appropriate for assets covering technical provisions and also specify restrictions with regard to these investments.

(4) The Insurance Supervision Agency may, with especially well-substantiated grounds and at the request of an individual insurance undertaking, allow the latter to place its assets covering technical provisions in investments other than those allowed under Paragraph (1) hereunder and the regulation issued pursuant to item 6 of Article 109 of this Act. The validity of the authorisation must be limited for a time period to be determined by the Insurance Supervision Agency, taking into account the reasons leading to the issuing of the authorisation. In so doing, the Insurance Supervision Agency shall primarily take account of the credit rating of the security or the issuer thereof.

(5) Banks and other institutions with authorisation from the competent body of the Republic of Slovenia or another state for the performance of banking services shall be deemed banks under this Article.

(6) Organised market under this Act shall be deemed the market as defined by the act governing the market in financial instruments.

### **Restrictions on individual investments**

#### **Article 122**

(1) The value of individual types of investment regarding assets covering technical provisions must not exceed the following portions of the total technical provisions, including technical provisions with regard to those classes of insurance covered by reinsurance which are planned to be covered by the assets covering technical provisions:

1. investments in securities of the same issuer referred to in items 2 to 5 of Paragraph (1) of Article 121 of this Act, and claims arising from the loans referred to in items 7 to 9 of Paragraph (1) of Article 121 must not, in total, exceed 5% of technical provisions;
2. notwithstanding the restriction from the previous item of this Paragraph, investments in securities from a single issuer referred to in item 2 of Paragraph (1) of Article 121 of this Act may reach 40% of the technical provisions when such securities meet the following conditions:
  - in accordance with a special law, they are subject to special public supervision with the intention of protecting the rights of holders of such securities;
  - they were issued by a bank or other credit institutions as defined under the law governing financial conglomerates with registered office in the Republic of Slovenia or in a member state,
  - monetary assets or purchase prices gained by their issue have, in accordance with a special Act, been invested solely in assets which, throughout the entire period until their maturity, shall enable a settlement of liabilities arising on their basis, and which in the event of inability to meet liabilities they are used with a priority for the repayment of the principal and interest due;
3. investments in securities of the same issuer referred to in item 3 of Paragraph (1) of Article 121 of this Act may not exceed 1% of the technical provisions, except in the event when upon a new issue of securities, the issuer stipulates in the prospectus that the new securities will, after the acquisition of all authorisations, be listed on the organised securities market. In this case, such investments may not exceed 5% of the technical provisions, but for no longer than six months from the date of purchase;
4. investments in securities referred to in items 3 and 5 of Paragraph (1) of Article 121 of this Act must not, in total, exceed 10% of technical provisions;

5. investments in securities referred to in items 4 and 5 of Paragraph (1) of Article 121, and investments in those investment coupons of mutual funds or investment companies referred to in item 6 of Paragraph (1) of Article 121 of this Act which, according to the rules of the fund, must have more than one-half of investments in securities not having a guaranteed return, must not, in total, exceed 30% of technical provisions;
6. investments in securities of the same issuer referred to in item 5 of Paragraph (1) of Article 121 of this Act must not exceed 1% of technical provisions;
7. investments in securities referred to in item 5 of Paragraph (1) of Article 121 of this Act must not, in total, exceed 5% of technical provisions;
8. investments in those investment coupons of mutual funds or investment companies referred to in item 6 of Paragraph (1) of Article 121 of this Act which, according to the rules of the fund, must have more than one-half of investments in securities having a guaranteed return must not, in total, exceed 40% of technical provisions;
9. investments in claims arising from those loans to individual borrowers referred to in item 10 of the Paragraph (1) of Article 121 of this Act must not exceed 2% of technical provisions, whilst total claims arising from those loans must not exceed 5% of technical provisions;
10. investments into one piece of property or into more pieces of property, which are so close to one another that they represent a single investment, and investments into a single tangible fixed asset referred to in Article 121(1)(17) of this Act, may not exceed 10% of technical provisions, while total investments into property and into other real rights referred to in Article 121(1)(12) of this Act and all investments into the tangible fixed assets referred to in Article 121(1)(17) of this Act, may not exceed 30% of technical provisions;
11. investments in deposits or certificates of deposits held at banks referred to in item 13 of Paragraph (1) of Article 121 of this Act combined may not exceed 30% of the technical provisions, whereby investments in deposits or certificates of deposits held at an individual bank may not combined exceed 10% of the technical provisions. Notwithstanding the provision of the previous sentence, investments in an individual savings bank or savings-credit service may not exceed 2% of the technical provisions;
12. cash in hand or sight deposits referred to in item 14 of Paragraph (1) of Article 121 of this Act must not, in total, exceed 3% of technical provisions;
13. investments into claims relating to tax refund referred to in Article 121(1)(15) of this Act may not exceed 5% of technical provisions;
14. investments in claims on insolvency, solidarity and guarantee funds referred to in Article 121(1)(16) of this Act may not exceed 5% of technical provisions. Notwithstanding the provision of the preceding sentence, investments in claims on insolvency, solidarity and guarantee funds respectively may not exceed 2% of the technical provisions.

(2) The Insurance Supervision Agency may, with especially well-substantiated grounds and at the request of an individual insurance undertaking, allow the latter, with regard to individual types of investment, to exceed the restrictions set forth in Paragraph (1) hereunder and in the regulation issued on the basis of item 6 of Article 109 of this Act. The validity of the authorisation must be limited for a time period to be determined by the Insurance Supervision Agency, taking into account the reasons leading to the issuing of the authorisation.

(3) Notwithstanding Paragraphs (1) and (2) hereunder, the following restrictions regarding individual investments shall apply to reinsurance undertakings with their head offices in the Republic of Slovenia:

1. investments into shares and other transferable securities, treated as shares, bonds or debt securities traded on the organised securities market may not together exceed 30% of technical reserves;

2. an individual reinsurance undertaking may not invest more than 5% of technical reserves into shares and other transferable securities, treated as shares, bonds or debt securities or other cash instruments and capital market instruments of the same company or more than 10% of the total technical reserves into shares and other transferable securities, treated as shares, bonds or debt securities or other cash instruments and capital market instruments in into companies which belong in the same group;
3. investments in assets not traded on the organised securities market shall in any event be kept to prudent levels.

(4) The Insurance Supervision Agency may define detailed rules defining the conditions for using outstanding amounts of a specialised company as assets to cover technical reserves in accordance with this Article.

### **Localisation of the assets covering technical provisions**

#### **Article 123**

- (1) Insurance undertakings may invest assets covering technical provisions in the whole territory of Member States and in the territory of OECD Member States.
- (2) Notwithstanding the provisions of the previous Paragraph, insurance undertakings may, in connection with insurance concluded to cover risks on the territory of a state that is not a Member State or an OECD Member State, invest assets covering technical provisions on the territory of such state.
- (3) The Insurance Supervision Agency may, with especially well-substantiated grounds and at the request of an individual insurance undertaking, allow this insurance undertaking to use as its assets covering technical provisions an investment which does not meet the condition referred to in Paragraph (1) of this Article.

### **Matching of investments**

#### **Article 124**

- (1) An insurance undertaking shall be obliged to match their investments regarding assets covering technical provisions which are exposed to risks of possible losses due to changed interest rates, exchange rate fluctuations and other trading risks with their liabilities arising from insurance contracts whose amount is dependent on the same changes.
- (2) When making investments regarding assets covering technical provisions, insurance undertakings shall be obliged to take account of the maturity of their liabilities arising from insurance contracts.
- (3) Notwithstanding the provisions of Paragraph (1) of this Article, insurance undertakings shall be obliged to harmonise investments regarding assets covering technical provisions with their liabilities on the basis of insurance contracts the amount of which depends on changes in the exchange rates of foreign currencies to at least 80%.
- (4) Notwithstanding the preceding Paragraph hereunder, reinsurance undertakings with their head offices in the Republic of Slovenia must restrict investments regarding assets covering

technical provisions into foreign currencies to 30% of the technical reserves except for those investments used to cover liabilities nominated in foreign currencies.

### **The use of derivatives**

#### **Article 124.a**

(1) Insurance undertakings may, in connection with investments of assets covering technical provisions, use futures, options and other derivatives, when they contribute to lowering the risk referred to in Paragraph (1) of Article 124 of this Act or ease the efficient management of the insurance portfolio.

(2) Insurance undertakings shall report on the use of derivatives to the Insurance Supervision Agency within the framework of regulations issued pursuant to this Article, in which the Insurance Supervision Agency also prescribes detailed rules for the use of derivatives.

### **5.5.2. Fund covering mathematical provisions**

#### **Fund covering mathematical provisions**

##### **Article 125**

(1) The fund covering mathematical provisions shall be those assets covering technical provisions intended to cover an insurance undertaking's obligations arising from those classes of insurance for which mathematical provisions must be formed.

(2) It shall be permitted to use assets of the fund covering mathematical provisions only to settle claims arising from those classes of insurance for which the fund covering mathematical provisions was formed.

#### **Required cover**

##### **Article 126**

(1) Required cover shall comprise mathematical provisions. With regard to health insurance and life assurance, including life assurance where the investment risk is borne by the insured person, required cover shall, in addition to mathematical provisions, also comprise provisions for unearned premium, reserves for outstanding claims, and provisions for bonuses and discounts.

(2) Required cover must be calculated separately for each class of insurance referred to in Paragraph (2) of Article 127 of this Act.

#### **Obligation to set aside the fund covering mathematical provisions**

##### **Article 127**

(1) An insurance undertaking which underwrites policies in those classes of insurance for which mathematical provisions must be formed shall be obliged to set aside the fund covering

mathematical provisions and to manage assets of the fund covering mathematical provisions separately from other assets.

(2) Insurance undertakings shall be obliged to form a special fund covering mathematical provisions for each of the following insurance classes which it concludes:

1. for insurance from the life assurance group, except insurance referred to in items 2 to 5 of this Paragraph;
2. for insurance from the life assurance class whereby the insured person takes on the investment risk and the entitlements belonging to the policy holder, insured person or other beneficiary on the basis of the insurance contract are directly linked to the value of a unit of the assets of investment funds or linked to changes in the index of securities, with the exception of transfer premiums, reserves for outstanding claims and additional technical provisions for guaranteed minimum payments;
3. for insurance from the life assurance class whereby the insured person takes on the investment risk and the entitlements belonging to the policy holder, insured person or other beneficiary on the basis of the insurance contract are directly linked to the value of a unit of the assets of the fund covering mathematical provisions, with the exception of transfer premiums, reserves for outstanding claims and additional technical provisions for guaranteed minimum payments, separately for each type of insurance contract;
4. for the tontine insurance class;
5. for insurance from the insurance class of loss of earnings due to accident or illness;
6. for health insurance, for which reserves for old age are formed;
7. for insurance from other insurance classes which require the formation of mathematical provisions.

(3) Whenever an insurance undertaking, in accordance with the preceding Paragraph of this Article, forms multiple funds covering mathematical provisions, the provisions of this Act pertaining to the fund covering mathematical provisions and payments from the assets of the fund covering mathematical provisions shall apply separately for each of the fund covering mathematical provisions formed by the insurance undertaking.

(4) The value of the assets of the fund covering mathematical provisions must, at all points in time, be at least equal to the level of required coverage.

(5) Insurance undertaking shall be obliged to ensure that the value of assets of the fund covering mathematical provisions is, at all points in time, at least equal to the level of required coverage. At the end of each quarter, insurance undertakings shall be obliged to acquire additional assets for the account of the fund covering mathematical provisions when this is required in order to match the value of the assets of the fund covering mathematical provisions with the amount of required cover.

### **Investments with regard to the fund covering mathematical provisions**

#### **Article 128**

(1) The provisions of Article 121 to 124 of this Act shall apply to investments with regard to the fund covering mathematical provisions.

(2) The restrictions on individual investments laid down in Article 122 of this Act and in the regulation issued on the basis of item 6 of Article 109 of this Act shall apply separately to each fund covering mathematical provisions set aside by the insurance undertaking.

### **Special provisions with regard to insurance where the investment risk is borne by the insured person**

#### **Article 129**

(1) When entitlements attributed to a policy holder, insured person or any other beneficiary pursuant to their insurance contracts are directly dependent on the value of a unit of a mutual or investment fund, investments relating to funds covering mathematical provisions set aside by the insurance undertaking with regard to those insurance contracts must, to the greatest extent possible, involve investments in investment coupons or other securities representing units of assets of that mutual or investment fund.

(2) When entitlements attributed to a policy holder, insured person or any other beneficiary pursuant to their insurance contracts are directly dependent on the changing of the index of securities or another reference value, investments relating to the fund covering mathematical provisions set aside by the insurance undertaking with regard to those insurance contracts must, to the greatest extent possible, involve investments in appropriate securities which, in terms of their characteristics and tradability, correspond to those serving as the basis to determine the index or other reference value.

(3) The Insurance Supervision Agency shall prescribe in detail the types of and restrictions on investments of the fund covering mathematical provisions with regard to an insurance from the life assurance class in which the insured person takes on the investment risk and the entitlements belonging to the policy holder, insured person or any other beneficiary on the basis of the insurance contract are directly linked to the value of a unit of the assets of the fund covering mathematical provisions.

(4) The provision of Article 128 of this Act shall not apply to insurances referred to in Paragraphs (1), (2) and (3) hereunder.

(5) Notwithstanding the provisions of the preceding Paragraph of this Article, with regard to insurance referred to in Paragraphs (1), (2) and (3) of this Article in the event that the entitlements of the policy holders, insured persons or other beneficiaries also cover minimum guaranteed payment to which the policy holder, insured person or any other beneficiary is entitled irrespective of the changes in the reference value referred to in Paragraphs (1), (2) or (3) of this Article, the provisions of Article 128 of this Act shall apply for that part of the investments of the fund covering mathematical provisions matching the level of technical provisions which the insurance undertaking is obliged to form in connection with such guaranteed payments.

### **Separating assets of the fund covering mathematical provisions from assets of the insurance undertaking**

#### **Article 130**

(1) The insurance undertaking shall be obliged to separate assets of the fund covering mathematical provisions from its own assets in accordance with the method which, according to the type of those assets, is laid down in the following Articles of this Act.

(2) An execution on assets of the fund covering mathematical provisions referred to in Paragraph (1) hereunder shall only be allowed with regard to insurance or the settlement of a claim of a policy holder, insured person or of any other beneficiary under an insurance contract for which the fund covering mathematical provisions was set aside.

(3) As regards life assurance and those types of health or accident insurance to which similar probability tables and calculations apply as apply to life assurance, execution on assets of the fund covering mathematical provisions shall be restricted to that portion of assets of the fund covering mathematical provisions whose value:

1. is in equal relation to the required coverage with regard to that insurance from which the claim arises, as is the relation between the total assets of fund covering mathematical provisions and the required coverage for all policies underwritten by the insurance undertaking within the class of insurance for which fund covering mathematical provisions was set aside;

2. does not exceed the required coverage with regard to the insurance from which the claim arises.

### **Separating investments in securities**

#### **Article 131**

(1) The insurance undertaking shall ensure that a special account is opened by the Clearing and Depository Corporation for each mathematical provision fund operated by an insurance undertaking, which shall provide a separate presentation of the balances of the securities for this mathematical provision fund, which are traded on the regulated market, and securities which are not traded on the regulated market when issued in book-entry form.

(2) With regard to those securities which are not traded on an organised securities market and were issued as written documents, the insurance undertaking shall be obliged, by entering into an agreement with a bank which was granted an authorisation for safekeeping securities which were not offered publicly, to authorise that bank to keep safe those securities on behalf of individual mathematical provision fund managed by it.

(3) With regard to the safekeeping referred to in the preceding Paragraph of this Article, the provisions of Paragraph (1) of this Article shall apply as appropriate.

(5) The Clearing and Depository Corporation or the bank referred to in the preceding Paragraph hereunder shall be obliged, at the request of the Insurance Supervision Agency, to inform the latter of the balance of securities kept for the account of funds covering mathematical provisions and to allow their inspection.

### **Investments in bank deposits or loans**

#### **Article 132**



(1) With regard to investments relating to funds covering mathematical provisions in the form of bank deposits or loans, an insurance undertaking shall be obliged to enter into an agreement with a bank or creditor in its own name and on behalf of the fund covering mathematical provisions. It must be evident from the said agreement that it is made on behalf of the fund covering mathematical provisions.

(2) When the loan referred to in the preceding Paragraph hereunder is collateralised by a mortgage on real estate, an insurance undertaking shall be obliged to ensure that the lien be entered in the land register to the credit of the fund covering mathematical provisions as a pledgee.

(3) When the loan referred to in Paragraph (1) hereunder is collateralised by a mortgage on securities issued in book-entry form, an insurance undertaking shall be obliged to ensure that the lien be entered in the central register of securities in book-entry form to the credit of the fund covering mathematical provisions as a pledgee.

(4) In all other types of collateral relating to the loan referred to in Paragraph (1) hereunder which are not regulated by Paragraphs (2) and (3) hereunder, the pledge must be established to the credit of the fund covering mathematical provisions as a pledgee in accordance with the rules applying to the establishment of a lien on assets pledged.

### **Transaction account of the mathematical provision fund**

#### **Article 133**

Insurance undertakings shall, for each fund covering mathematical provisions which they are obliged to form, be obliged to open with a bank a transaction account of the mathematical provision fund, through which payments are accepted and payments arising from the overall operation of the mathematical provision fund are carried out and the monetary assets of the mathematical provision fund are managed.

## **5.6. Other measures of risk management**

### **Obligation to reinsure**

#### **Article 134**

An insurance undertaking shall be obliged to reinsure that portion of risks underwritten which, according to the tables of maximum coverage, exceed the shares in equalising risks.

### **Programme of planned reinsurance**

#### **Article 135**

(1) An insurance undertaking shall be obliged, for each business year, to adopt a programme of planned reinsurance.

(2) The programme of planned reinsurance must include:

1. calculated own shares by individual class of insurance;

2. a table of maximum coverage compiled on the basis of the calculations referred to in the preceding item;
3. procedures, bases and criteria for establishing the highest probability of loss with regard to individual risks underwritten.

(3) In the calculations referred to in item 1 of the preceding Paragraph hereunder, the insurance undertaking shall take into account in particular:

1. the volume of capital and minimum capital;
2. the total volume of business;
3. charged insurance premiums within groups and classes of insurance;
4. portions of insurance in individual classes of insurance according to the bases referred to in items 2 and 3 hereunder;
5. adjustments due to deviations within individual classes of insurance.

## **Coinsurance**

### **Article 136**

(1) An insurance undertaking must not co-insure a volume of risks exceeding its own portions as per individual classes of insurance in accordance with the tables of maximum coverage referred to in item 2 of Paragraph (2) of Article 135 of this Act.

(2) The underwritten risks volume referred to in the preceding Paragraph implies the risks that remain within the insurance undertaking's retention when its underwritten risks are reinsured.

(3) An insurance undertaking with its head office in the Republic of Slovenia may conclude co-insurance for all risks from classes of insurance for which it has the authorisation to perform insurance business.

## **Co-insurance in the framework of the European Union and foreign states**

### **Article 136.a**

(1) For the purpose of this Article the term a coinsurance within the European Union means the insurance which satisfies the following conditions:

- a) an insurance covers the risks falling in the general insurance group other than insurance classes referred to in Article 2(2)(1), (2), (17) and (18) of this Act;
- b) an insurance covers risk by means of a single contract, upon the payment of the full premium, for the same period by two or more insurers, each for its own share, whereby one of the insurers shall be the leading insurer;
- c) an insurance covers risk located within the European Union ,
- d) a leading insurer is an insurance undertaking with a registered office in the territory of a Member State of the European Union that has acquired an authorisation to perform insurance business in the insurance class to which the risk cover refers;
- e) at least one of the insurers participates in the contract through the registered office of an insurance undertaking or branch established in a Member State of the European Union that is not the member state of the leading insurer;
- f) a leading insurer fully takes on the leading role in the co-insurance procedure and stipulates the insurance conditions, including the premium, and issues the policy.

(2) Each insurer covering risk in terms of the provisions of Paragraph (1) of this Article shall form technical provisions in accordance with the regulations of the state in which they are established, or where no such regulations exist, in accordance with the ordinary practice in such country.

(3) Notwithstanding the provisions of the preceding Paragraph, reserves for outstanding claims must be at least equal to those stipulated by a leading insurer in accordance with the regulations of the Member State in which it is established.

(4) Each insurer covering risk in terms of the provisions of Paragraph (1) of this Article that has its registered office in the Republic of Slovenia shall form investments to cover liabilities from the preceding Paragraph of this Article, in accordance with this Act and regulations issued pursuant thereto.

(5) A co-insurance within the framework of foreign countries shall be an insurance which meets the following conditions:

- a) an insurance covers the risks falling in the general insurance group other than insurance classes referred to in Article 2(2)(1), (2), (17) and (18) of this Act;
- b) an insurance covers risk through a single contract, upon the payment of the full premium, for the same period by two or more insurers, each for its own share, whereby one of the insurers shall be a leading insurer;
- c) a co-insurance contract may only be concluded in the form of a reinsurance contract;
- d) an insurance covers risks arising in foreign countries;
- e) a leading insurer is an insurance undertaking with a registered office in the territory of a Member State of the European Union or in the territory of a foreign country that has acquired an authorisation to perform insurance business in the insurance class to which the risk cover refers;
- f) a leading insurer fully takes on the leading role in the co-insurance procedure and lays down insurance conditions, including the premium, and issues the policy.

(6) Each insurer covering risk in terms of the provisions of Paragraph (6) of this Article shall form technical provisions in accordance with the regulations of the country in which it is established, or where no such regulations exist, in accordance with ordinary practice in such country.

(7) Notwithstanding the provisions of the preceding Paragraph, reserves for outstanding claims must be at least equal to those stipulated by the leading insurer in accordance with the regulations of the member state in which it is established.

(8) Each insurer covering risk in terms of the provisions of Paragraph (6) of this Article that has its registered office in the Republic of Slovenia shall form investments to cover liabilities referred to in Paragraph (8) of this Article, in accordance with this Act and regulations issued pursuant thereto.

(9) The provisions of preceding Paragraphs shall not apply to the coinsurance underwritten within the European Communities and foreign countries and which does not satisfy the conditions referred to in Paragraph (1) or (5) of this Article.

## **Statistical standards in insurance**

### **Article 137**

(1) In the statistical processing of policies underwritten, risk covered by them, events insured against and claims, insurance undertakings shall be obliged to adhere to insurance statistical standards.

(2) Insurance statistical standards shall be adopted by the Slovene Insurance Association, by means of a prior agreement with the Insurance Supervision Agency.

## **Liquidity management**

### **Article 138**

(1) An insurance undertaking shall be obliged to manage its assets and liabilities so as to be able, at any point in time, to settle debts due.

(2) In order to secure against liquidity risk, an insurance undertaking shall be obliged to devise and implement the policy of regular liquidity management, which involves:

1. the planning of both known and potential cash outflows and sufficient cash inflows;
2. the regular monitoring of liquidity;
3. the adoption of appropriate measures to prevent or eliminate causes of non-liquidity.

(3) An insurance undertaking shall be obliged to calculate the liquidity ratios of funds on a daily basis.

## **Calculating and establishing**

### **Article 139**

(1) An insurance undertaking shall be obliged to quarterly calculate and monitor:

1. the amount of capital;
2. capital requirements;
3. capital adequacy;
4. the amount of technical provisions;
5. the value and types of investments not financed from technical provisions;
6. the value of the assets covering technical provisions;
7. the types, spreading, adjustment and localisation of investments of the assets covering technical provisions or funds covering mathematical provisions;
8. statistical insurance data;
9. the balance sheet total and the business result.

(2) The capital requirements for individual quarters shall be calculated by applying Articles 110 and 111 of this Act, wherein the premium and claim factor shall take account of a sliding year, and the calculation of the total sum of claims for the payment of compensation referred to in Paragraph (9) of Article 110 of this Act and the first and second results referred to in Article 111 of this Act shall take account of the state on the last day of the quarter.

## **Report on measuring risks**

## **Article 140**

An insurance undertaking shall be obliged to report to the Insurance Supervision Agency on the data referred to in Article 139 of this Act.

### **Prohibition from distributing profits**

## **Article 141**

In the following cases, an insurance undertaking shall not be allowed to distribute the profits either as interim or final dividends or payments arising from participation in the profits of the board of directors, supervisory board or employees:

1. when the insurance undertaking's capital is below the minimum capital laid down in Articles 110 or 111 of this Act;
2. when, on account of dividend payout, the insurance undertaking's capital would decrease under the minimum capital laid down in Articles 110 or 111 of this Act;
3. when the insurance undertaking fails to achieve the minimum liquidity stipulated by the regulation referred to in item 8 of Article 109 of this Act;
4. when, on account of a dividend payout, an insurance undertaking was not able to achieve the minimum liquidity stipulated by the regulation referred to in item 8 of Article 109 of this Act;
5. when the Insurance Supervision Agency has imposed on an insurance undertaking the elimination of violations in relation to an inappropriate disclosure of items on the assets and liabilities sides of the balance sheet whose appropriate disclosure would affect the insurance undertaking's profit and loss account, whereupon the insurance undertaking failed to comply with this decision regarding the elimination of violations.

### **Measures of board of directors to ensure minimum capital**

## **Article 142**

(1) When an insurance undertaking's capital fails to achieve the minimum capital referred to in Articles 110 or 111 of this Act on account of increased capital requirements or other causes, the board of directors of the insurance undertaking shall be obliged to adopt immediately those measures for ensuring minimum capital within its responsibility or to propose measures within the responsibility of other bodies of the insurance undertaking.

(2) The board of directors shall be obliged to report to the Insurance Supervision Agency on measures or proposed measures from the preceding Paragraph of this Article within 8 days of their adoption.

### **Measures of the Insurance Supervision Agency**

## **Article 142.a**

(1) In the event that the rights of insurers, insured persons or other beneficiaries are endangered, the Insurance Supervision Agency may require an insurance undertaking to produce a financial plan with proposed measures for the next three years, which must comprise:

1. estimated administration costs with emphasis on current general costs and provisions,
2. detailed estimate of revenues and expenditures from direct insurance business and reinsurance,

3. balance-sheet plan,
4. estimate of financial assets required to ensure capital adequacy and to cover all the liabilities of the insurance undertaking,
5. outline of reinsurance policy.

(2) The Insurance Supervision Agency may require higher minimum capital than prescribed in the Act in instances where the deteriorated financial position of an insurance undertaking endangers the rights of insurers, insured persons or other beneficiaries. The level of minimum capital shall be determined on the basis of the financial plan with proposed measures for the next three years.

(3) The Insurance Supervision Agency may require a reduction in the value of assets of the insurance undertaking taken into account in determining the capital of the insurance undertaking when major changes in the market value of assets have occurred since the end of the last business year.

(4) The Insurance Supervision Agency may request adjustment of the calculation of the capital of the insurance undertaking for the amount of reinsurance when with regards to the previous business year the nature or fundamental elements of reinsurance contracts have changed significantly and the reinsurance contracts do not ensure adequate transfer of risk.

(5) The Insurance Supervision Agency shall prescribe the detailed method for determining endangerment of the rights of insurers, insured persons or other beneficiaries.

(6) When the Insurance Supervision Agency required measures pursuant to Paragraph (1), it may not issue to the insurance undertaking the authorisation referred to in Paragraph (3) of Article 80 of this Act and the statement referred to in item 1 of Paragraph (3) of Article 88 of this Act.

## **6. SUPERVISION OF INSURANCE GROUPS**

### **Additional control**

#### **Article 143**

(1) Supervision of an insurance undertaking constituting an insurance group shall also be performed by the Insurance Supervision Agency to the extent stipulated in this Chapter.

(2) The Insurance Supervision Agency shall also supervise insurance holdings, joint-venture insurance holdings, and entities in which the insurance undertaking participates or which participate in an insurance undertaking whose head office is in the Republic of Slovenia, Member state or foreign state.

### **Insurance groups**

#### **Article 144**

(1) An insurance group under this Act is a group in which an insurance undertaking or an insurance holding company or joint-venture insurance holding company with registered office in the Republic of Slovenia is a controlling undertaking (hereinafter referred to as: a

controlling insurance undertaking, insurance holding company or joint-venture insurance company) of one or more insurance undertakings with a registered office in the Republic of Slovenia, a Member State or a foreign state (hereinafter referred to as: controlled insurance undertakings).

(2) An insurance undertaking, insurance holding company or joint-venture insurance holding company shall be deemed to be a controlling undertaking of another undertaking in terms of the preceding Paragraph of this Article:

1. when it has majority voting rights in the other undertaking, or
2. when it has a right to appoint or dismiss the majority of members of the board of directors or supervisory board of the other undertaking, or
3. when it has a right to exert a controlling influence over the other undertaking on the basis of an enterprise contract or on other legal grounds, or
4. when it has at least 20% of the voting rights in the other undertaking and the majority of members of the board of directors or supervisory board of such undertaking who performed such function in the previous business year and who continue to perform such function when the consolidated report must be produced and were appointed exclusively in order to exercise the voting rights of the controlling undertaking, or
5. when it is a shareholder or partner in the other undertaking and when on the basis of agreement with other shareholders or partners of such undertaking it controls the majority of voting rights in such undertaking, or
6. when it has a capital holding in such undertaking of at least 20%.

(3) An insurance group shall also exist when an insurance or joint-venture insurance holding company has its registered office in a Member State and at least one insurance undertaking with a registered office in the Republic of Slovenia is controlled by the financial holding company in one of the manners from the preceding Paragraph of this Article.

(4) Notwithstanding Paragraph (2) of this Article, insurance undertakings with registered offices in the Republic of Slovenia that are also controlled undertakings of another insurance undertaking with a registered office in the Republic of Slovenia shall not be deemed to be controlling insurance undertaking in an insurance group.

### **Terms relating to an insurance group**

#### **Article 145**

(1) An insurance holding company is a controlling entity whose main activity is the acquisition of holdings and participation in subsidiaries which are exclusively or predominantly insurance undertakings, pension companies and reinsurance undertakings with their head offices in the European Union or in a foreign country, where at least one of them is an insurance or reinsurance undertaking, whereby the insurance holding company is not a mixed financial holding company as defined under the law governing financial conglomerates.

(2) A mixed insurance holding company is a controlling entity other than insurance undertaking or pension company with its head office in the European Union, insurance undertaking based in a foreign country, reinsurance undertaking or insurance holding company referred to in the preceding Paragraph, or a mixed financial holding company as

defined under the law governing financial conglomerates, and which controls at least one insurance subsidiary.

### **Obligations of an insurance undertaking in an insurance group**

#### **Article 146**

(1) Insurance undertakings constituting an insurance group shall be obliged to inform the controlling insurance undertaking, insurance holding or joint-venture holding of all data and information which the latter requires in order to meet its obligations to the Insurance Supervision Agency or a Member State supervisory authority in relation to the supervision of the insurance group.

(2) The Insurance Supervision Agency may also obtain information required for the performance of supervision from related companies of insurance undertakings, companies that participate in an insurance undertaking and related companies that participate in the insurance undertaking in the event that the Insurance Supervision Agency requested such information from the insurance undertaking, which did not supply it.

(3) Insurance undertakings constituting an insurance group shall be obliged to ensure appropriate internal controls of correctness of the data and information referred to in Paragraph (1) hereunder.

(4) At the request of a Member State supervisory authority, the Insurance Supervision Agency shall be obliged to audit the operations of the insurance undertaking or companies referred to in Paragraph (2) of this Article and check the data referred to in Paragraph (2) hereunder which is required by the Member State's supervisory authority in supervising the insurance group.

(5) Upon the request referred to in the preceding Paragraph, the Insurance Supervision Agency may conduct an operation audit of the insurance undertaking or companies referred to in Paragraph (2) of this Article, in order to check the details and information referred to in Paragraph (1) of this Article, whereby they shall, in line with their powers:

- themselves check the information supplied to the supervisory authority of a Member State by the insurance undertaking or a company referred to in Paragraph (2) of this Article;
- allow an auditor or any other expert to check the information concerned, or
- allow the supervisory authority of a Member State that has made the request, to check the information concerned by them.

(6) The Insurance Supervision Agency shall make it possible for the competent supervisory authority that has made the request, to take part in the checks referred to in the preceding Paragraph.

### **Reporting on business operations within an insurance group**

#### **Article 147**

(1) In order to supervise whether business operations within an insurance group are performed under normal market conditions, insurance undertakings constituting an insurance group shall



be obliged to report to the Insurance Supervision Agency on important operations made within the insurance group or between an insurance undertaking and the following entities:

1. legal entities controlled by the insurance undertaking;
2. legal entities controlling the insurance undertaking;
3. legal entities controlled by the legal entities referred to in the preceding item hereunder;
4. natural persons participating in:
  - the insurance undertaking or legal entities in which insurance undertaking participates;
  - legal entities participating in the insurance undertaking;
  - legal entities participating in the legal entities referred to in the preceding indent.

(2) The following, in particular, shall be deemed to be the important operations referred to in the preceding Paragraph hereunder:

1. loans and credits;
2. guarantees and other operations resulting in off-balance liabilities;
3. legal transactions relating to investments in securities, other financial instruments and real property;
4. other legal transactions considerably influencing the calculation of adjusted capital requirements;
5. reinsurance transactions;
6. agreements on the division of costs.

(3) In order to detect, measure, monitor and control the operations referred to in the preceding Paragraph, an insurance undertaking shall put in place adequate risk control procedures and internal control systems which include also reliable reporting and accounting procedures.

(4) The Insurance Supervision Agency shall be allowed to audit the operations performed by the entities referred to in Paragraph (1) hereunder in order to check the data relating to operations in the insurance group.

(5) The audit referred to in Paragraph (3) hereunder shall also be carried out by Insurance Supervision Agency at the request of a Member State's supervisory authority, whereby the data will be checked which the Member State supervisory authority requires in exerting supervision of the insurance group.

**Adjusted capital requirements with regard to controlling insurance undertakings**  
**Article 148**

(1) A controlling insurance undertaking of an insurance group shall also be obliged to calculate the adjusted capital requirements and compile annual reports on adjusted capital requirements.

(2) Controlled insurance undertakings and controlled insurance holdings shall be obliged to submit to the controlling insurance undertaking all data required by it to calculate adjusted capital requirements.

(3) A controlling insurance undertaking of an insurance group shall be obliged to report to the Insurance Supervision Agency on adjusted capital requirements.

(4) The provisions of Chapter 10 of this Act relating to the auditing of annual reports of insurance undertakings shall apply as appropriate to the auditing of annual reports on the adjusted capital requirements of the controlling insurance undertaking.

## **Adjusted capital requirements with regard to controlling insurance holdings**

### **Article 149**

- (1) A controlling insurance holding of an insurance group shall also be obliged to calculate adjusted capital requirements and compile annual reports on adjusted capital requirements.
- (2) Controlled insurance undertakings and controlled insurance holdings shall be obliged to submit to the controlling insurance undertaking all data required by it to calculate adjusted capital requirements.
- (3) A controlling insurance holding of an insurance group shall be obliged to report to the Insurance Supervision Agency on adjusted capital requirements.
- (4) The provisions of Chapter 10 of this Act relating to the auditing of annual reports of insurance undertakings shall apply as appropriate to the auditing of annual reports on the adjusted capital requirements of the controlling insurance holding.

## **Requirements for Membership in the Management Board of an Insurance Holding Company**

### **Article 149.a**

- (1) A member of the Management Board of an Insurance Holding Company may be any person meeting the requirements under Article 24(1) and (2) of this Act.
- (2) Where an Insurance Holding Company is subject to additional supervision under the law governing financial conglomerates, the authority responsible for the appointment and removal of persons referred to in the preceding Paragraph of this Article shall, in line with the powers granted to it under ZGD or the bylaws of the undertaking, ensure compliance with the requirements referred to in the preceding Paragraph.
- (3) The authority referred to in the preceding Paragraph of this Article shall inform the Insurance Supervision Agency about non-compliance with the requirements referred to in Paragraph (1) of this Article within three days of its detection.

## **Reporting to the Insurance Supervision Agency and the disclosure of data**

### **Article 150**

- (1) Insurance undertakings shall be obliged to regularly inform the Insurance Supervision Agency of any fact or circumstance relevant to the process of establishing whether the entity in question is an insurance group under this Act.
- (2) The insurance undertaking of an insurance group shall be obliged to compile a special annex to the annual report disclosing the data on controlled or controlling undertakings of the insurance group.

## **Regulation on the supervision of insurance groups**

### **Article 151**

The Insurance Supervision Agency shall prescribe:

1. the detailed contents of the reports referred to in Paragraph (1) of Article 147 of this Act, as well as deadlines and methods of reporting;
2. the method of calculating adjusted capital requirements with regard to the controlling insurance undertakings referred to in Paragraph (1) of Article 148 of this Act, and with regard to the controlling insurance holdings referred to in Paragraph (1) of Article 149 of this Act;
3. the detailed contents of the reports referred to in Paragraph (3) of Article 148 and Paragraph (3) of Article 149, as well as deadlines and methods of reporting.

## **7. PROTECTION OF CONFIDENTIAL DATA**

### **Confidential data**

#### **Article 152**

Insurance undertakings shall be obliged to protect all data, facts and circumstance with which they become familiar in the course of providing their services to individual policy holders or insured persons or other beneficiaries of insurance as confidential data.

### **Obligation to protect confidential data**

#### **Article 153**

(1) Members of the insurance undertaking's bodies, its shareholders, employees and other persons who, in their work or provision of services for the insurance undertaking, have access to the confidential data referred to in Article 152 of this Act shall not be allowed to submit that data to third parties, make use of it themselves or enable third parties to do so.

(2) The obligation to protect confidential data shall not apply in the following cases:

1. when a policy holder agrees expressly and in writing that individual pieces of confidential data may be submitted;
2. when information is required to establish facts in criminal proceedings and when the submission is required in writing by the competent court;
3. in cases stipulated by the law governing the prevention of money laundering;
4. when information is required to determine the legal relations between an insurance undertaking and its policy holder or insured person or other beneficiary of insurance during legal proceedings;
5. when information is required in probate proceedings and when submission is required or ordered by the competent court;
6. when information is required with regard to execution on the estate of a policy holder or insured person or other beneficiary of insurance, and when the submission is required or ordered in writing by the competent court;
7. when information is required by the Insurance Supervision Agency or another supervisory body for the purposes of supervision carried out within its powers;
8. when information is required by a tax authority in proceedings held within its jurisdiction;
9. in the cases laid down in the Compulsory Motor Third-Party Liability Act (Official Gazette of the RS, No. 70/94).

(3) The Insurance Supervision Agency or other supervisory bodies and courts shall only be allowed to use the data acquired pursuant to Paragraph (2) hereunder for the purposes for which it was acquired.

### **Obtaining, maintaining and using personal databases**

#### **Article 154**

(1) Insurance undertakings and the Slovene Insurance Association shall collect, process, store, provide and use personal data which is necessary for underwriting policies and for settling claims arising from any insurance made pursuant to this Act in accordance with the act regulating personal data protection and with special regulations relating to databases in the field of insurance.

(2) Insurance undertakings and the Slovene Insurance Association may establish, keep and maintain the following databases:

1. database on policy holders;
2. database on loss events;
3. database intended to assess insurance cover and level of compensation.

(3) The processing of personal data from databases referred to in the preceding Paragraph shall be permissible only to the extent necessary for the attainment of purposes regarding the processing referred to in Paragraph (1) of this Article.

(4) In the database referred to in item 1 of Paragraph (2) hereunder, the following personal data shall be collected:

1. name and surname, sex, date and place of birth, permanent residence of the policy holder, tax number of the policy holder;
2. name of insurance undertaking, number of policy, period of insurance, insured item and insurance cover.

(5) In the database referred to in item 2 of Paragraph (2) hereunder, the following personal data shall be collected:

1. name and surname, date and place of birth, permanent and temporary residence, nationality of persons involved in a loss event and of witnesses and beneficiaries of insurance;
2. criminal offences and violations relating to loss events;
3. type of loss event;
4. place, time and the course of loss event;
5. description of the loss relevant to the loss event.

(6) In the database referred to in item 3 of Paragraph (2) hereunder, the following data shall be collected:

1. name and surname, sex, date and place of birth, permanent residence of the policy holder and tax number of the insured person with regard to whom the insurance cover and compensation are being determined;
2. preceding loss events in the extent referred to in Paragraph (5) of this Article, preceding injuries and health condition, type of physical injury, duration of treatment, and consequences for both the insured person and claimant;
3. income of the insured person and claimant;

4. retirement (regular and disability), retraining and degree of disability of the insured person and claimant;
5. costs of medical treatment, medicinal products and orthopaedic products for the insured person and claimant.

(7) Personal data referred to in the Paragraphs (4), (5) and (6) hereunder shall be collected in the following way:

1. as a rule, directly from the individual to which they relate;
2. from other persons (witnesses to loss events);
3. from databases kept by individual insurance undertakings and the Slovene Insurance Association when dubious established circumstances of a loss event in accordance with this Act are considered,
4. the data referred to in items 1, 3, 4 and 5 of Paragraph (5) hereunder may also be collected from databases kept by the Ministry responsible for the Interior;
5. the data referred to in item 2 of Paragraph (5) hereunder may also be collected from databases kept by judicial authorities;
6. the data referred to in the Paragraph (6) hereunder may also be collected as follows:
  - the data referred to in items 2 and 5, from databases kept by health institutions;
  - the data referred to in item 3, from databases kept by the employer, the Institute of Pension and Disability Insurance, and social security departments;
  - the data referred to in item 4, from databases kept by the Institute of Pension and Disability Insurance.

(8) State authorities, bodies of self-governing local communities, public agencies, public funds and other entities of public law and holders of public authorisations and providers of public services, holding data or keeping databases referred to in the preceding Paragraphs shall be obliged to submit, upon a written request, such data to the insurance undertaking or the Slovene Insurance Association whereby persons to whom data which are a tax secret have been disclosed need to handle this data in accordance with the law governing tax procedure.

(9) The data referred to in item 1 of Paragraph (2) hereunder shall be stored for ten years after the expiry of the insurance contract or, when there was a loss event, for ten years after the loss event was concluded. The data referred to in items 2 and 3 of Paragraph (2) hereunder shall be stored for ten years after the loss event was concluded. When an insured person or a claimant lodge a new application to enforce rights arising from a loss event within this period of time, the storage period shall be extended as appropriate so that data regarding the new claim shall be stored for five years following the conclusion of this claim. After the expiry of the abovementioned storage period, data from the databases referred to in Paragraph (2) hereunder shall be deleted.

### **Processing of personal data for the purpose of establishing dubious circumstances regarding a loss event**

#### **Article 154(a)**

(1) The Slovenian Insurance Association may process personal data from databases regarding insured persons and loss events of individual insurance undertaking also for the purpose of establishing dubious circumstances regarding a loss event (for example, an unusual frequency of a loss event by an individual insured person, prohibited double insurance, loss events with repeating participation of the same insured persons or participants).

(2) When, from data regarding loss events, the Slovenian Insurance Association establishes there are certain dubious circumstances, it notifies these to insurance undertakings which deal with compensation claims regarding these events so that the following is communicated:

- the type of a loss event;
- the place, time and the course of progress of the loss event;
- the name of insurance undertakings which deal with compensation claims regarding this loss event;
- the numbers of insurance policies pursuant to which compensation claims with an individual insurance undertaking are being enforced;
- name and surname, date and place of birth of persons involved in the loss event as well as witnesses;
- a description of the established dubious conditions.

(3) The Association shall keep the register regarding the established dubious circumstances with data referred to in the preceding Paragraph for five years from the date of submitting the notification to insurance undertakings. After the expiry of the storage period the data are deleted from the registers.

### **Exchange of personal data on dubious circumstances regarding loss event among insurance undertakings**

#### **Article 154(b)**

(1) Insurance undertakings which deal with compensation claims in a loss event with regard to which a notification on dubious circumstances has been submitted by the Slovenian Insurance Association, may, for the purpose of establishing actual circumstances and within the extent necessary, exchange personal data regarding participants in this loss event referred to in Paragraph (2) of the preceding Article in the procedure regarding the liquidation of damage.

(2) Personal and other data necessary for the liquidation of damage in a loss event in which dubious circumstances have been established shall be obtained by insurance undertakings in accordance with Article 154 of this Act.

(3) When dubious circumstances of a loss event raise suspicion of a commission of a criminal offence of fraud in the field of insurance business, an insurance undertaking is obliged to file a complaint to the competent body together with the already collected evidence.

(4) When an insurance undertaking, during a procedure regarding the liquidation of damage establishes that dubious circumstances do not influence the obligations of the insurance undertaking under the insurance contract, the data which has been submitted by the Slovenian Insurance Association shall be deleted within 30 days following the payment of compensation.

(5) For analytical and statistical purposes insurance undertakings shall report once a year to the Slovenian Insurance Association regarding the number of complaints lodged pursuant to Paragraph (3) of this Article and the number of liquidations of damages pursuant to the preceding Paragraph.

## **8. BUSINESS BOOKS AND ANNUAL REPORT**

### **General provision**

#### **Article 155**

Insurance undertakings shall be obliged to keep books of account, compile book-keeping documents, value bookkeeping items and compile accounting reports in accordance with ZGD and other regulations, and shall adhere to the accounting and financial standards and principles, and general accounting assumptions, unless otherwise stipulated in this Chapter.

### **Keeping of books of account, records and documentation**

#### **Article 156**

Insurance undertaking shall be obliged to organise operations and regularly keep books of account, business documentation, and other administrative or business records so as to enable, at any point in time, supervision as to whether the rules regarding risk management are being complied with.

### **Chart of accounts and forms of financial statements**

#### **Article 157**

- (1) An insurance undertaking shall classify accounting data in accordance with the chart of accounts designed for insurance undertakings.
- (2) In compiling their financial statements, an insurance undertaking shall use the forms of financial statements designed for insurance undertakings.

### **Annual report**

#### **Article 158**

- (1) An insurance undertaking shall compile financial statements and business report for each business year, which shall be the same as the calendar year.
- (2) An insurance undertaking shall be obliged to submit to the Insurance Supervision Agency unedited annual report within three months of the end of the calendar year.
- (3) Notwithstanding the provisions of the preceding Paragraph of this Article, reinsurance undertakings shall be obliged to submit to the Insurance Supervision Agency unedited annual reports within four months of the end of the calendar year.

### **Consolidated annual report**

#### **Article 158.a**

- (1) A controlling insurance undertaking in a group shall also be obliged to produce a consolidated annual report.

(2) The consolidation shall include a controlling insurance undertaking and all controlled companies of a group.

(3) The Insurance Supervision Agency shall prescribe the detailed method and extent of consolidation, and the contents of consolidated statements of account.

### **Opinion of a certified actuary on the annual report** **Article 159**

(1) Insurance undertakings shall be obliged, within a period of 14 days after submitting the annual report, to submit to the Insurance Supervision Agency the report of a certified actuary referred to in Paragraph (3) of Article 76 of this Act together with the opinion of a certified actuary as to whether the insurance undertaking has correctly calculated premiums and technical provisions in accordance with regulations.

(2) With regard to the certified actuary's opinion, the provisions of the act governing auditing which refer to the certified auditor's opinion shall apply as appropriate.

### **Regulation on business books and annual report** **Article 160**

The Insurance Supervision Agency shall prescribe:

1. the chart of accounts for insurance undertakings;
2. the types and forms of financial statements for insurance undertakings;
3. the detailed contents and deadline for submission of annual business reports and consolidated annual reports of insurance undertakings, and the annexes to those reports;
4. the detailed method of valuating balance-sheet items and compiling financial statements;
5. the detailed contents of the certified actuary's report referred to in Paragraph (3) of Article 76 of this Act.

## **9. INTERNAL AUDIT**

### **Internal audit**

#### **Article 161**

(1) An insurance undertaking must organise its internal audit as an independent organisational unit to be directly subordinated to the board of directors of the insurance undertaking, and functionally, as well as organisationally, separated from other organisational units of the insurance undertaking.

(2) The board of directors of an insurance undertaking shall determine the internal audit operating rules with the consent of the supervisory board.

### **Tasks of internal audit**



## **Article 162**

- (1) Internal auditors shall perform the ongoing and complete supervision of the insurance undertaking's operations with the purpose of verifying whether the insurance undertaking:
1. is carrying out insurance operations correctly and in compliance with this Act, and with the regulations issued on the basis thereof, and in compliance with the internal rules regulating the operation of the insurance undertaking;
  2. keeps books of account, prepares accounting documents, evaluates bookkeeping items, and prepares accounting and other reports in compliance with this Act and the regulations issued on the basis thereof, and with internal rules regulating the operation of the insurance undertaking;
  3. maintains a register of insurance agents who, on the basis of employment or other legal relations, perform insurance representation in an insurance undertaking in accordance with this Act and regulations issued pursuant thereto and internal rules governing the operation of the insurance undertaking.
- (2) Internal auditors shall carry out internal audits of operations in accordance with professional principles and internal auditing standards, the code of professional ethics of internal auditors, and rules of operation of internal audits, which shall be adopted by the board of directors of the insurance undertaking with the consent of the supervisory authority.
- (3) Internal auditors must harmonise their methods of work with the work of external auditors of the insurance undertaking who examine annual financial statements or perform an extraordinary audit at the request of the Insurance Supervision Agency, or a special or extraordinary audit on the basis of the provisions of the law governing takeovers.

### **Internal audit employees**

## **Article 163**

- (1) To carry out internal audit tasks, an insurance undertaking shall be obliged to employ at least one person who has attained the title of an auditor, experienced internal auditor or certified auditor in accordance with the law governing auditing.
- (2) Persons carrying out internal audit tasks may not carry out any other tasks in the insurance undertaking.
- (3) Members of the insurance undertaking's board of directors may not carry out internal audit tasks.

### **Annual work programme for internal audits**

## **Article 164**

- (1) The board of directors of the insurance undertaking, with the consent of the supervisory board, shall adopt the annual work programme for internal audit.
- (2) The annual programme must comprise:
1. the areas of operation where internal auditors will perform an examination of operations;
  2. a description of the content of the planned operational audits in individual areas.

(3) The board of directors of the insurance undertaking shall adopt a more detailed work plan for internal audit.

### **Internal audit report**

#### **Article 165**

(1) Internal auditors shall be obliged, at least twice a year, to prepare a report on the internal audit, which shall contain:

1. a description of all examinations of operation carried out;
2. the appropriateness and effectiveness of the operation of internal control systems;
3. violations and irregularities which the internal audit have discovered during an individual examination of operation, and proposed measures for the elimination of such violations and irregularities;
4. findings related to the elimination of violations and irregularities established by the internal auditors.

(2) Internal auditors shall be obliged to prepare an annual report on internal auditing, which shall contain:

1. a report on the realisation of the annual work programme;
2. a summary of the more significant findings of the examination of operation carried out.

(3) Semi-annual and annual reports must be submitted by internal auditors to the board of directors and supervisory board.

(4) The board of directors shall be obliged to inform the general meeting of the annual report on internal auditing with the opinion of the supervisory board.

### **Notification of the board of directors and supervisory board of insurance undertaking**

#### **Article 166**

(1) When during the examination of operation internal auditors discover that a insurance undertaking has violated the rules on risk management and is therefore threatened with illiquidity or insolvency, or the safety of either the undertaking's operation or insurers, insured persons or other beneficiaries is thereby endangered, it must immediately notify the board of directors of the insurance undertaking of this.

(2) When during the examination of operation the internal auditors discover that the board of directors of the insurance undertaking has violated the rules regarding risk management, it must immediately notify the supervisory board of this as well.

## **10. AUDITING**

### **Annual report audit**

#### **Article 167**

(1) The annual report of an insurance undertaking and the consolidated annual report of a group must be reviewed by a certified auditor. The tasks of auditing annual reports referred to in the preceding Paragraph may be performed within an auditing company by a certified auditor with an authorisation of the Slovenian Audit Institute to perform the tasks of auditing.

(2) An insurance undertaking shall be obliged to replace the auditing company which has audited its annual reports in at least five consecutive years.

(3) An insurance undertaking shall be obliged to submit to the Insurance Supervision Agency an audited annual report and the auditor's report within eight days of (from?) receiving the auditor's report, or within six months of the end of the calendar year at the latest.

(4) Notwithstanding the provision of the preceding Paragraph, a reinsurance undertaking shall be obliged to submit an audited annual report and the auditor's report within seven months of the end of the calendar year.

### **Reporting to the Insurance Supervision Agency Article 168**

(1) When during the examination procedures the auditor finds out that an insurance undertaking or an entity related to the insurance undertaking has violated the risk management rules, and the insurance undertaking is, for this reason, threatened by illiquidity or insolvency, or the safety of either its operation or insurers, insured persons or other beneficiaries is endangered, the auditor must immediately inform the Insurance Supervision Agency of this.

(2) Similarly the auditor must immediately notify the Insurance Supervision Agency about all facts or decisions which are made known during the auditor's carrying out of his/her task which might significantly violate laws or other regulations which determine terms regulating authorisations to perform business or particularly regulating operations of insurance undertakings.

### **Insurance undertakings' obligation to provide information Article 169**

(1) The board of directors of an insurance undertaking must provide an auditor with all necessary documents and enable him/her to inspect books of account, correspondence and computer printouts. An insurance undertaking must allow the auditor access to business and working areas during normal business hours.

(2) In order to perform audit procedures, the insurance undertaking must make appropriate premises and resources available to the audit company. When entries or data-saving was performed using computer-processing, the insurance undertaking shall be obliged, at its own expense, to make available to the auditor, within an appropriate allotted time, the resources necessary for the reading of documents and, if necessary, provide legible permanent excerpts to the number of copies required.

### **Contents of audit examinations**

## **Article 170**

- (1) An auditor shall examine and report primarily regarding:
1. the balance sheet;
  2. the statement of the business result;
  3. the cash flow statement;
  4. the statement of capital movements;
  5. the balance of and changes to technical provisions;
  6. the balance and structure of investments of assets covering technical provisions;
  7. the balance and structure of investments of funds covering mathematical provisions managed by the insurance undertaking;
  8. the compliance with risk-management rules;
  9. the operation of internal audit;
  10. the method of managing business books;
  11. the quality of the information system in the insurance undertaking;
  12. the correctness and completeness of notifications and reports to the Insurance Supervision Agency;
  13. the evaluation of balance-sheet and off-balance-sheet items and accounting policies.
- (2) The Insurance Supervision Agency shall prescribe the more detailed form, the minimum scope and contents of the audit examination and of the auditors' report.
- (3) The Insurance Supervision Agency may require additional explanations concerning the audit examination from the auditor.
- (4) When the audit examination or auditors' report are not performed or prepared in compliance with Paragraphs (1) and (2) hereunder, the Insurance Supervision Agency shall reject the report and request that the audit examination be carried out by another certified auditor, at the expense of the insurance undertaking.

### **Announcement of audited annual report summary**

#### **Article 171**

- (1) An insurance undertaking shall announce in the daily press or the professional financial press, which is published at least once a week, a summary of the audited annual report together with the opinion of the auditor and the opinion of a certified actuary within eight days of the adoption thereof, but no later than within eight months after the end of the calendar year.
- (2) The Insurance Supervision Agency shall prescribe in more detail the contents of the summary under the preceding Paragraph hereunder.

## **11. SUPERVISION OF INSURANCE UNDERTAKINGS**

### **11.1. General provisions**

#### **Supervision of insurance undertakings**

## **Article 172**

(1) The Insurance Supervision Agency shall conduct the supervision of insurance undertakings for the purpose of verifying whether the insurance undertakings follow the rules on risk management, other rules stipulated in this Act and the regulations issued on the basis thereof, or by other laws regulating the operation of an insurance undertaking and the regulations issued on the basis thereof.

(2) The Insurance Supervision Agency shall also conduct supervision of legal entities related to the insurance undertaking, if this is necessary for the supervision of the insurance undertaking's operation.

(3) When the authorisation to supervise an individual company under the preceding Paragraph hereunder lies with another supervisory authority, the examination of operation of the company concerned shall be carried out by the Insurance Supervision Agency, in co-operation with the competent supervisory authority.

(4) When an insurance undertaking engages in the insurance business referred to in item 18 of Paragraph (2) of Article 2 of this Act, the Insurance Supervision Agency shall also conduct supervision of the technical qualifications of the persons providing assistance.

### **Method of exercising supervision**

## **Article 173**

The Insurance Supervision Agency shall conduct the supervision of insurance undertakings by:

1. monitoring, collecting and verifying reports and notifications by insurance undertakings and other entities which, pursuant to provisions of this Act or other Acts, are obliged to submit reports to the Insurance Supervision Agency or notify it of individual facts and circumstances;
2. carrying out examinations of operation of insurance undertakings;
3. determining measures of supervision in compliance with this Act.

### **Annual fees for exercising supervision**

## **Article 174**

(1) For exercising the supervision specified in items 1 and 2 of Article 173 of this Act, insurance undertakings shall pay a fee for supervision, to be set by the tariff with regard to the paid premiums to be adopted by the Insurance Supervision Agency.

(2) The Insurance Supervision Agency may fix the fee referred to in the preceding Paragraph hereunder at a maximum amount, whereby the total fee that all insurance undertakings are obliged to pay for a particular year shall not exceed the actual costs of the supervision referred to in items 1 and 2 of Article 173 of this Act for that year.

(3) When an insurance undertaking fails to pay a fee by the deadlines stipulated by the tariff referred to in Paragraph (1) hereunder, the Insurance Supervision Agency shall charge the payment to the insurance undertaking by means of a decision.

(4) The final decision referred to in the preceding Paragraph hereunder shall have the power of an executory title.

## **Costs of supervision**

### **Article 175**

(1) When a measure of supervision in compliance with this Act is imposed on an insurance undertaking, the insurance undertaking must pay a lump-sum fee to the Insurance Supervision Agency for the costs of the procedure stipulated in the tariff to be adopted by the Insurance Supervision Agency.

(2) The decision for the fee relating to the costs of supervision under the preceding Paragraph hereunder shall be made by the Insurance Supervision Agency by means of an order or decision imposing the measure of supervision.

(3) An administrative dispute against the decision for the payment of the costs under the preceding Paragraph hereunder shall be allowed even if the administrative dispute of an order or decision imposing a measure of supervision is not permitted.

(4) The final decision under the preceding Paragraph hereunder shall have the power of an executory title.

## **11.2. Reporting**

### **Regular reporting and reporting required by the Insurance Supervision Agency**

#### **Article 176**

(1) An insurance undertaking shall be obliged to submit reports to the Insurance Supervision Agency on the following facts and circumstances:

1. registration of and changes to data entered in the companies' register;
2. the convening of the general meeting of shareholders and all resolutions adopted at the meeting;
3. shareholders of the insurance undertaking, and purchases of or changes in the qualifying holdings referred to in Article 18 of this Act;
4. the appointment and dismissal of the members of the board of directors;
5. on the dismissal of the certified actuary;
6. on changes of the managers of internal audit or on changes of the internal auditor, if the insurance undertaking only employs one auditor;
7. intended opening, transfer, closing or temporary cessation of a branch or representative office, or changes in the types of operations performed by the branch;
8. investments on the basis of which the insurance undertaking indirectly or directly obtained a qualifying holding in another legal entity, and on each further investment in this legal entity;
9. major changes in capital structure;
10. cessation of the performance of particular insurance operations.

(2) Insurance undertakings shall be obliged to inform the Insurance Supervision Agency of technical grounds used to calculate premium tariffs, exclusively for the purposes of verifying that they comply with actuarial principles.

(3) The board of directors of the insurance undertaking must immediately notify the Insurance Supervision Agency of the following events:

1. when the liquidity or solvency of the insurance undertaking becomes endangered;
2. when grounds exist for the cessation or withdrawal of the authorisation to perform insurance operations;
3. when the financial position of the insurance undertaking changes to such an extent that the insurance undertaking no longer attains the minimum capital under Articles 110 or 111 of this Act.

(4) At the request of the Insurance Supervision Agency, an insurance undertaking must submit reports and information on all issues relevant to the performance of supervision, or the exercise of other powers and tasks of the Insurance Supervision Agency.

## **Regulation on reporting**

### **Article 177**

The Insurance Supervision Agency shall prescribe in greater detail the content of reports and notifications referred to in Paragraphs (1) to (3) of Article 176 of this Act, and the method of and deadlines for reporting or notifications.

## **11.3. Measures of supervision**

### **11.3.1. General provision**

#### **Measures of supervision**

### **Article 178**

The measures of supervision of an insurance undertaking in compliance with this Act shall be as follows

1. the ordering of the elimination of violations;
2. the imposition of additional measures;
3. the withdrawal of the authorisation;
4. extraordinary administration;
5. the compulsory liquidation of the insurance undertaking;
6. the adoption of decisions on the reasons for the bankruptcy of an insurance undertaking.

### **11.3.2. Elimination of violations**

#### **Order on the elimination of violations**

### **Article 179**

(1) The Insurance Supervision Agency shall issue an order on the elimination of the violations when it is discovered during the supervision process of an insurance undertaking that:

1. a member of the board of directors does not have the authorisation under Article 25 of this Act;
2. an insurance undertaking does not fulfil the conditions for performing insurance business;
3. an insurance undertaking performs activities which should not be performed pursuant to this Act;
4. an insurance undertaking violates risk management rules;
5. an insurance undertaking violates the rules on the management of business books and the annual report, internal audit or the auditing of the annual report;
6. an insurance undertaking violates obligations regarding reporting and providing information;
7. an insurance undertaking violates the rules on the appointment of a certified actuary;
8. an insurance undertaking violates other provisions of this Act or the regulations issued on the basis thereof, or other laws regulating the operation of insurance undertakings.

(2) The Insurance Supervision Agency shall, by issuing the order referred to in the preceding Paragraph hereunder, stipulate a deadline for the elimination of violations.

### **Report on the elimination of violations**

#### **Article 180**

(1) An insurance undertaking shall eliminate, within the time period referred to in the Paragraph (2) of Article 179 of this Act, discovered violations and, unless otherwise stipulated by an order, within the same time period submit to the Insurance Supervision Agency a report in which it shall describe the measures taken to eliminate violations. Documents and other evidence showing that the identified violations have been eliminated must be attached to the report.

(2) When the report referred to in the preceding Paragraph hereunder and the attached evidence show that the violations have been eliminated, the Insurance Supervision Agency shall issue a decision whereby it shall state that the violations have been eliminated. The Insurance Supervision Agency may, before issuing the decision, carry out another examination of operation within the scope necessary to find out whether violations have been eliminated. The provisions of Article 304 of this Act shall apply to the repeat examination.

(3) When the report is incomplete or the report and the attached evidence do not prove that the discovered violations have been eliminated, the Insurance Supervision Agency shall by virtue of an order impose on the insurance undertaking the obligation to complete the report and determine a deadline for its completion.

(4) The Insurance Supervision Agency shall issue the decision or order referred to in Paragraphs (2) or (3) hereunder within 30 days from receiving the report on the elimination of violations. Otherwise, it shall be deemed that the violations have been eliminated.

(5) When the order requires additional measures pursuant to Article 181 of this Act, the provisions of this Article referring to the elimination of violations and to the report on the elimination of violations shall also apply to the implementation of additional measures and to reporting on the implementation of additional measures.



## **Additional measures for the implementation of risk management regulations**

### **Article 181**

(1) When in its exercising supervision the Insurance Supervision Agency establishes that an insurance undertaking has seriously violated risk management rules, it may by virtue of an order to eliminate violations also order the following additional measures:

1. impose on the board of directors of the insurance undertaking the obligation to adopt a plan of measures to ensure the minimum capital of the insurance undertaking;
2. impose on the board of directors of the insurance undertaking and the supervisory board the obligation to convene a general meeting of shareholders and to propose the adoption of appropriate resolutions, such as:
  - a resolution to increase the initial capital of the insurance undertaking through new investments;
  - a resolution to increase the initial capital of the insurance undertaking by means of profit;
3. prohibit the insurance undertaking from entering into new insurance contracts in individual or all classes of insurance;
4. prohibit the insurance undertaking from realising particular types of payments or from realising payments to particular entities;
5. prohibit the insurance undertaking from engaging in transactions with individual shareholders, members of the board of directors, members of the supervisory board, related companies or investment funds managed by the asset management company which is an entity related to the insurance undertaking;
6. impose on the board of directors of the insurance undertaking the adoption and implementation of measures relating to:
  - improving risk management procedures;
  - changing the business fields of the insurance undertaking;
  - restricting the granting of loans;
  - improving procedures for collecting overdue receivables of the insurance undertaking;
  - the correct valuation of balance-sheet and off-balance-sheet items;
  - improving the accounting information system;
  - improving the procedures of internal controls and internal auditing;
  - other measures necessary for the implementation of risk management rules;
7. prohibit or restrict the insurance undertaking from having free use of assets covering technical provisions and of assets of funds covering mathematical provisions managed by the insurance undertaking.

(2) It shall be deemed that an insurance undertaking is seriously violating risk management rules when:

1. it does not attain the minimum capital referred to in Articles 110 or 111 of this Act or fails to implement the measures referred to in Article 142a of this Act, or fails to attain the minimum level of liquidity laid down by the regulations referred to in item 8 of Article 109 of this Act.
2. it failed to organise its operation or to regularly keep books of account, business documents, and other administrative and business records in a manner which, at any point in time, makes it possible to verify whether it is operating in compliance with the management risk regulations;
3. it fails to adopt measures and to establish the rules for the adequate valuation of balance-sheet and off-balance-sheet items, or when it values these items contrary to the provisions of this Act or the regulations issued on the basis thereof;
4. it performs activities which should not be performed pursuant to this Act;

5. it violates the provisions referred to in Articles 120 to 133 of this Act;
6. it pays out dividends in contravention of Article 141 of this Act;
7. it frequently violates the obligations of timely and correct reporting prescribed by this Act or the regulations issued on the basis thereof;
8. it realises fictitious transactions with the purpose of incorrectly disclosing the financial standing of the insurance undertaking;
9. it performs other business which may threaten its liquidity or solvency;
10. it constantly violates the provisions of Articles 83 to 86, or Article 228 of this Act.

(3) The Insurance Supervision Agency shall order the supervisory board of the insurance undertaking to dismiss a member or several members of the board of directors and appoint a new member or several members of the board of directors when:

1. the insurance undertaking fails to act in compliance with the order on the elimination of violations; or
2. the board of directors of the insurance undertaking fails to eliminate the additional measures referred to in Paragraph (1) hereunder which were ordered by it; or
3. the insurance undertaking constantly violates its obligation of timely and correctly reporting, or providing information to the Insurance Supervision Agency, or when it obstructs the performance of supervision in accordance with the provisions of Articles 301 to 306 of this Act.

(4) A repeated violation referred to in item 10 of Paragraph (2) of this Article and in item 3 of the preceding Paragraph shall be deemed to be a violation by the insurance undertaking when recurred within five years upon the last violation of the same type.

### **11.3.3. Withdrawal of authorisation**

#### **Reasons for withdrawal of authorisation to perform insurance business Article 182**

(1) The Insurance Supervision Agency shall withdraw an authorisation granted to an insurance undertaking to perform insurance business in the following cases:

1. when the authorisation was obtained by providing false data;
2. when an additional measure was imposed on the insurance undertaking as defined in Paragraph (3) of Article 181 of this Act and the supervisory board fails to dismiss a member or several members of the board of directors and appoint the new ones within the allotted time determined for the execution of the additional measure, or when, within two months from their appointment, the newly appointed members of the board of directors do not ensure the elimination of violations or the execution of the additional measures which were the reason for an additional measure referred to in Paragraph (3) of Article 181 of this Act ;
3. when grounds exist for the withdrawal of an authorisation to acquire a qualifying holding referred to in Paragraph (1) of Article 21 of this Act with regard to an entity which is indirectly or directly a controlled company of the insurance undertaking.

(2) Notwithstanding the provision of the preceding Paragraph hereunder, the Insurance Supervision Agency shall withdraw an authorisation to perform insurance business in individual classes of insurance when the reasons from the preceding Paragraph only refer to the insurance business in those classes of insurance.

## **Conditional withdrawal of authorisation**

### **Article 183**

(1) Together with the decision to withdraw an authorisation, the Insurance Supervision Agency may also decide that the withdrawal of the authorisation shall not be implemented when the insurance undertaking, within the allotted time determined by the Insurance Supervision Agency, which, however, may not be shorter than six months and not longer than one year (the trial period), does not commit another violation due to which it is possible to withdraw the authorisation.

(2) When the Insurance Supervision Agency issues a conditional withdrawal of the authorisation, it may decide that a withdrawal of the authorisation shall also be implemented when the insurance undertaking, within the allotted time, does not eliminate the violations or implements additional measures due to which the conditional withdrawal of the authorisation was issued. The deadline for complying with these obligations shall be determined by the Insurance Supervision Agency within the limits of the trial period.

## **Revocation of conditional withdrawal of authorisation**

### **Article 184**

The Insurance Supervision Agency shall revoke a conditional withdrawal of the authorisation and shall definitely withdraw the authorisation when, during the trial period, the insurance undertaking commits a new violation owing to which it is possible to withdraw the authorisation, or when it fails to fulfil the additional conditions specified in Paragraph (2) of Article 183 of this Act.

## **11.3.4. Extraordinary administration**

### **Decision on extraordinary administration**

#### **Article 185**

(1) The Insurance Supervision Agency shall issue a decision on extraordinary administration in the following cases:

1. when it ordered an insurance undertaking to take the additional measures referred to in Paragraphs (1) and (3) of Article 181 of this Act and the insurance undertaking has neither begun implementing nor has implemented these measures by the deadlines set for the implementation of such additional measures;
2. when the insurance undertaking, despite having implemented the additional measures, has not attained the minimum capital referred to in Articles 110 and 111 of this Act;
3. when further operations of the insurance undertaking could endanger its liquidity or solvency or the security of policy holders, insured persons or other beneficiaries.

(2) With a decision on extraordinary administration, the Insurance Supervision Agency shall determine the time period of extraordinary administration, which may not exceed one year.

(3) When the Insurance Supervision Agency issues a decision on extraordinary administration to an insurance undertaking with a branch in a Member State, prior to issuing the decision it shall be obliged to inform the competent supervisory authority of the Member State. The notification must also state the legal consequences and actual effect of the decision issued.

(4) When in order to protect the interests of customers of the insurance undertaking or for other public interests, the issuing of the decision referred to in the preceding Paragraph cannot be delayed, the Insurance Supervision Agency shall inform the competent supervisory authority immediately after issuing the decision.

### **Members of extraordinary body of administration**

#### **Article 186**

With the decision on extraordinary body of administration, the Insurance Supervision Agency shall appoint two or more extraordinary administrators, who shall be members of the extraordinary body of administration of an insurance undertaking, and shall define the types and extent of operations managed by an individual extraordinary administrator.

### **Entry in the companies' register**

#### **Article 187**

(1) The issuing of the decision on extraordinary administration shall be entered in the companies' register. At the same time, the appropriate change of the persons authorised to act for the insurance undertaking shall also be recorded.

(2) The proposal to enter the data referred to in the preceding Paragraph hereunder must be made by extraordinary administration within three days from the receipt of the decision. The decision of the Insurance Supervision Agency on extraordinary administration must be attached to the proposal.

### **Legal effects of extraordinary administration**

#### **Article 188**

(1) During the period of extraordinary administration, powers of the supervisory board shall be assumed by the Insurance Supervision Agency.

(2) Notwithstanding the preceding Paragraph hereunder, the Insurance Supervision Agency shall be entitled to give an extraordinary administrator instructions for the management of the insurance undertaking, which for him shall be mandatory.

(3) The provisions of this Act referring to a member of the board of directors shall also apply to an extraordinary administrator, unless otherwise stipulated by the Insurance Supervision Agency in the instructions referred to in Paragraph (2) hereunder.

(4) As of the day of issuing of the decision on extraordinary administration, all powers and authorisations of the members of the board of directors and supervisory board of the insurance

undertaking, and powers of the general meeting of shareholders, shall cease, except for the powers referred to in Article 191 of this Act.

### **Authorisations during the period of extraordinary administration**

#### **Article 189**

(1) The members of the board of directors shall be obliged to immediately allow extraordinary administration access to all business and other documents of the insurance undertaking, and to prepare a report on the transfer of operations.

(2) The members of the board of directors of the insurance undertaking must, upon request, provide extraordinary administration or an individual extraordinary administrator with all explanations or additional reports on the operations of the insurance undertaking.

(3) An extraordinary administrator shall be entitled to dismiss a person who hinders his work and, depending on the circumstances of the case, also to request the assistance of the authority responsible for internal affairs.

### **Reports of extraordinary administration**

#### **Article 190**

(1) The extraordinary administration shall be obliged, at least every three months, to prepare and submit to the Insurance Supervision Agency a report on the financial position and operating conditions of the insurance undertaking under extraordinary administration.

(2) Within nine months from the appointment of an extraordinary administration, the extraordinary administration shall be obliged to prepare and submit to the Insurance Supervision Agency a report on the financial position and operating conditions of the insurance undertaking under extraordinary administration, together with an evaluation of the economic stability of the insurance undertaking and of the possibility of its further operation, which shall include:

1. an evaluation and the effects of the taking over of the losses incurred by the insurance undertaking by its shareholders;
2. possibilities for the allocation and dispersion of the remaining losses of the insurance undertaking;
3. unforeseen expenses which can affect the liabilities of the insurance undertaking;
4. an evaluation of the possible measures to eliminate the financial difficulties of the insurance undertaking, together with a transfer of insurance contracts, with an evaluation of the costs relating to the implementation of these measures;
5. an evaluation of the conditions for the compulsory liquidation or bankruptcy of the insurance undertaking.

### **Increase in the share capital for the purpose of ensuring the economic stability of an insurance undertaking**

#### **Article 191**

(1) When the Insurance Supervision Agency assesses, on the basis of the report of the extraordinary administration of the insurance undertaking referred to in Paragraphs (1) or (2) of Article 190 of this Act, that, for the purpose of ensuring the minimum capital of the insurance undertaking or for the purpose of eliminating the causes of the illiquidity or insolvency of the insurance undertaking, it is necessary to appropriately increase the share capital of the insurance undertaking by means of new monetary investments, it shall order the extraordinary administration to convene a general meeting of shareholders of the insurance undertaking and propose that it adopt a resolution regarding such an increase in the initial capital.

(2) The extraordinary administration shall be obliged to announce the convening of the general meeting of shareholders for the purpose of deciding on the increase in the initial capital in compliance with the preceding Paragraph hereunder no later than eight days following the receipt of the order of the Insurance Supervision Agency referred to in the preceding Paragraph hereunder.

(3) In convening the general meeting of shareholders, the attention of shareholders must be drawn to the legal effects referred to in item 2 of Paragraph (1) of Article 193 of this Act.

#### **Evaluation of the results of extraordinary administration** **Article 192**

(1) The Insurance Supervision Agency must, at least once every three months, evaluate the results of extraordinary administration.

(2) The Insurance Supervision Agency must adopt a final evaluation of extraordinary administration no later than three months after the receipt of the report referred to in Paragraph (2) of Article 190 of this Act. The final evaluation shall be adopted by the Chamber by issuing a decision referred to in Paragraph (3), (4) and (5) of this Article.

(3) When the Insurance Supervision Agency assesses that the financial position of the insurance undertaking has improved during the period of extraordinary administration to such an extent that the insurance undertaking has attained the minimum capital referred to in Articles 110 or 111 of this Act and that it regularly fulfils its due obligations, the Insurance Supervision Agency must issue a decision on the cessation of extraordinary body of administration and on the dismissal of the extraordinary administrators.

(4) When the Insurance Supervision Agency estimates that during the period of extraordinary administration the condition of the insurance undertaking has not improved to such an extent that the insurance undertaking has attained the minimum capital referred to in Articles 110 or 111 of this Act, or that it would be capable of currently fulfilling its due obligations, it shall issue a decision to initiate liquidation or to determine the conditions for the initiation of the bankruptcy of the insurance undertaking.

(5) In the event referred to in the preceding Paragraph hereunder, the Insurance Supervision Agency may also issue a decision to extend the extraordinary administration for no more than six months when conditions for the initiation of the bankruptcy of the insurance undertaking do not exist, and when the Insurance Supervision Agency evaluates that the insurance

undertaking would be able to attain the minimum capital referred to in Articles 110 or 111 of this Act within the following six months.

### **11.3.5. Compulsory liquidation**

#### **Grounds for the initiation of compulsory liquidation**

##### **Article 193**

(1) The Insurance Supervision Agency shall issue a decision for the initiation of compulsory liquidation in the following cases:

1. when, on the basis of the report referred to in Paragraph (2) of Article 190 of this Act, it assesses that, during the period of compulsory administration, the financial position has not improved to such an extent that the insurance undertaking would attain the minimum capital referred to in Articles 110 or 111 of this Act and there exist no grounds for the initiation of bankruptcy proceedings;
2. when the general meeting of shareholders refuses the proposal of the resolution referred to in Paragraph (1) of Article 190 of this Act, or when the first sale of shares pursuant to of a decision resolution adopted by the general meeting of shareholders, upon the proposal referred to in Paragraph (1) of Article 190 of this Act, is not successful;
3. when the authorisation of the insurance undertaking to perform insurance business has been withdrawn;
4. when the authorisation of an insurance undertaking to perform insurance business has expired and the insurance undertaking, within a time period of three months from the receipt of the declaratory decision referred to in Paragraph (2) of Article 69 of this Act, has failed to commence the procedure for transformation or termination of the insurance undertaking or the procedure for reacquisition of authorisation to perform insurance business;
5. when an authorisation to perform the function of a member of the board of directors has been withdrawn by means of a final decision, or when a member has been dismissed, or when a member of the board of directors has not performed the function of a member of the board of directors for more than six months and, within a period of three months, the supervisory board has not appointed a new member of the board of directors in compliance with this Act, and, for this reason, the insurance undertaking does not have at least two members of the board of directors.

(2) The Insurance Supervision Agency must issue a decision regarding the initiation of compulsory liquidation within the period of eight days, which shall run:

1. in the event referred to in item 1 of the preceding Paragraph hereunder, from the expiry of the deadline for the receipt of the final report on the evaluation of extraordinary administration referred to in Paragraph (2) of Article 192 of this Act;
2. in the event referred to in item 2 of the preceding Paragraph hereunder, from the day the general meeting of shareholders refused the proposal referred to in Paragraph (1) of Article 191 of this Act, or from the day of the expiry of the period for the subscription and payment of shares on the basis of the unsuccessful first sale;
3. in the event referred to in item 3 of the preceding Paragraph hereunder, from the day of issuing of the decision to withdraw the authorisation;
4. in the event referred to in item 4 of the preceding Paragraph hereunder, from the expiry of three months from the finality of the declaratory decision referred to in Paragraph (2) of Article 69 of this Act;

5. in the event referred to in item 5 of the preceding Paragraph hereunder, from the expiry of the three-month allotted time period for the appointment of a new member of the board of directors.

**Notification of competent Member State supervisory authorities  
regarding commencement of compulsory liquidation**  
**Article 193.a**

(1) The Insurance Supervision Agency shall have exclusive competence to initiate procedures for compulsory liquidation of insurance undertakings with a head office in the Republic of Slovenia that have branches established in other Member States.

(2) The Insurance Supervision Agency shall be obliged to inform without delay a competent supervisory authority of the Member State in question of a decision issued regarding the initiation of compulsory liquidation against an insurance undertaking with its registered office in the Republic of Slovenia with a branch in a member state.

(3) The law of the Republic of Slovenia shall apply to the management of the procedure regarding the compulsory liquidation against an insurance undertaking with a registered office in the Republic of Slovenia that has a branch established in a Member State and to other issues relating to the procedure.

**Effect of the decision on initiation of compulsory liquidation proceedings**  
**Article 193.b**

The decision on the initiation of a procedure, holding an equivalent effect to a decision on termination of the insurance undertaking pursuant to this Act, against an insurance undertaking of a Member State with a branch in the Republic of Slovenia which has been issued by a competent supervisory authority of the Member State in which a head office of the insurance undertaking is located shall have direct effect in the territory of the Republic of Slovenia without any special recognition and enforcement procedure, in particular immediately when it becomes enforceable in the Member State.

**Publication of summary of the decision regarding initiation of compulsory  
liquidation proceedings in the Official Journal of the European Union**

**Article 193.c**

(1) The Insurance Supervision Agency shall be obliged to publish a decision regarding the initiation of compulsory liquidation proceedings against an insurance company with registered office in the Republic of Slovenia and a branch in another Member State, and to publish a summary of the decision in the Official Journal of the European Union. The summary of the decision regarding initiation of compulsory liquidation shall be published in the Slovenian language.

(2) The summary referred to in the preceding Paragraph hereunder must in particular contain:  
- a name and title of the body that will run the compulsory liquidation proceedings;



- the law under which the compulsory liquidation proceedings will take place;
- the name of the liquidator;
- the deadline for the registration of claims and legal consequences for a creditor when failing to register a claim.

### **Notification of known creditors regarding the initiation of compulsory liquidation proceedings**

#### **Article 193.č**

(1) With regard to the issue of the decision regarding the initiation of compulsory liquidation against an insurance undertaking with a head office in the Republic of Slovenia and a branch in a Member State the liquidator shall be obliged to immediately inform, individually and in the Slovenian language, all known creditors of the insurance undertaking holding a residence or a registered office in the territory of Member States, specifically on a special form which contains the title in all the official languages of the European Union "Invitation to register claims and deadlines which must be met."

(2) The notification referred to in the preceding Paragraph must contain in particular the following information:

- a name and title of the body that will run the compulsory liquidation proceedings and of the body to which the registration of claims must be sent;
- the deadline for creditors to submit their claims, and the consequences of missing the deadline;
- regarding rights and obligations of creditors in compulsory liquidation proceedings, primarily whether creditors with privileged claims and creditors with claims insured with material rights must also submit applications for registration;
- regarding the impact of the initiation of compulsory liquidation proceedings on insurance contracts, particularly regarding the date of the termination of the validity and consequences for the rights and responsibilities of policy holders, insured persons or other beneficiaries.

(3) The provisions of the Act regulating litigious proceedings in the part regulating personal delivery shall apply as appropriate to the notification of creditors referred to in Paragraph (1) of this Article.

### **Formal Submission of claims by creditors**

#### **Article 193.d**

(1) Creditors shall submit their claims to the liquidation estate in the official language of the Member State where their residence or registered office is located, specifically on a special form. The title of the form with the contents: "Prijava terjatev" ("*Application for registration of claims*") must be stated in the Slovenian language.

(2) Detailed contents of the form for the submission of claims by creditors shall be determined by the Insurance Supervision Agency by virtue of an implementing regulation.

### **Use of provisions in bankruptcy procedures against an insurance undertaking**

#### **Article 193.e**

The provisions of Articles 193a, 193c, 193č and 193d and of Paragraphs (2), (3), (4) and (5) of Article 194 shall apply as appropriate in instances of the initiation of bankruptcy procedures against an insurance undertaking with a branch in a Member State, whereby the decision on the initiation of the bankruptcy procedure shall be published by the Bankruptcy Court in the form of a short summary in the Official Journal of the European Union. Claims by creditors shall be registered with the Bankruptcy Court.

## **Liquidators**

### **Article 194**

(1) By issuing a decision on the initiation of compulsory liquidation, the Insurance Supervision Agency shall appoint two or more liquidators, and define the type and scope of functions to be performed by an individual liquidator.

(2) The liquidator who has been appointed by a decision of the Insurance Supervision Agency may, pursuant to this Act, exercise his powers directly in the territory of a Member State in which the insurance undertaking has a branch, and in so doing shall have the same powers as he has in the territory of the Republic of Slovenia. He shall be obliged to respect the legislation of the Member State in the territory of which he exercises his powers. The liquidator who has been appointed by the Insurance Supervision Agency shall be obliged to notify regularly and in an appropriate manner all creditors regarding the progress of the procedure.

(3) Liquidators may also appoint persons to assist them, and where appropriate, as a representative in a Member State in which the insurance undertaking has a branch.

(4) Liquidators appointed by virtue of a decision of a competent supervisory authority of a Member State may perform actions in compulsory liquidation proceedings in the Republic of Slovenia with the powers that they have in the Member State, except for those which imply the use of compulsory measures. In so doing, they shall be obliged to respect the legislation of the Republic of Slovenia.

(5) The appointment of liquidators shall be demonstrated in Member States by virtue of notarised copies of the original decision appointing the liquidators. The Insurance Supervision Agency may request a translation of the original decision into the Slovenian language from liquidators from Member States acting in compulsory liquidation proceedings in the Republic of Slovenia.

## **Legal effects of compulsory liquidation**

### **Article 195**

(1) Upon the date of the issue of the decision on compulsory liquidation, all powers and authorisations of the members of the board of directors and the supervisory board of the insurance undertaking, as well as the authorisations of the general meeting of shareholders, with the exception of powers pursuant to the provisions of item 1 of Article 196 of this Act, shall expire.

(2) During compulsory liquidation proceedings, the powers of the supervisory board of the insurance undertaking and those of the general meeting of shareholders shall be executed by the Insurance Supervision Agency, the exception being the powers laid down in item 1 of Article 196 of this Act.

### **Compulsory liquidation proceedings**

#### **Article 196**

Unless otherwise provided for in this Subsection, the following provisions shall apply as appropriate to compulsory liquidation proceedings of an insurance undertaking:

- of ZGD governing the liquidation procedure, specifically the contents of a liquidation resolution, indication in the registered name, removal of a liquidator, powers of a liquidator, report on the development of the procedure and of the proposal for the distribution of assets, authority taking decisions about the proposed report on the development of the procedure and distribution of assets, time limit for the distribution of assets, distribution of assets, liquidator's damage liability, shareholders' claims, protection of creditors, liquidator's remuneration, safekeeping of books, and
- of Article 187, Article 188(3) and Article 189 of this Act.

### **Prohibition from entering into new deals**

#### **Article 197**

During compulsory liquidation proceedings, the insurance undertaking may not enter into any new transactions, except those which are necessary for the realisation of the assets in liquidation and those necessary for the transfer of insurance contracts to other insurance undertakings.

### **Occurrence of the grounds for bankruptcy**

#### **Article 198**

When the liquidators determine that the assets of the insurance undertaking do not suffice for the settlement of all claims of the creditors of the insurance undertaking, or that the insurance undertaking does not have sufficient liquid funds for the settlement of the creditors' claims on their maturity, they must immediately inform the Insurance Supervision Agency of this.

### **Compulsory liquidation of a branch of a foreign insurance undertaking**

#### **Article 198.a**

(1) When the Insurance Supervision Agency initiates compulsory liquidation proceedings against a branch of a foreign insurance undertaking, prior to issuing the decision it shall be obliged to inform all competent supervisory authorities of Member States in which the foreign insurance undertaking has branches. The notification must state legal consequences and practical effects of such proceedings.

(2) When in order to protect the interests of customers of the insurance undertaking or for other public interests, the issuing of the decision referred to in the preceding Paragraph of this Article cannot be delayed, the Insurance Supervision Agency shall inform the competent supervisory authority immediately after issuing the decision.

(3) Within the compulsory liquidation proceedings referred to in Paragraph (1) of this Article the Insurance Supervision Agency shall be obliged to coordinate its action with the actions of competent supervisory authorities of other Member States. Liquidators shall also be obliged to coordinate their actions.

## **12. BANKRUPTCY**

### **12.1. Common provisions**

#### **Prohibition of compulsory composition**

##### **Article 199**

The initiation of the proceedings of compulsory composition against an insurance undertaking shall not be permitted.

#### **Application of provisions relating to bankruptcy proceedings**

##### **Article 200**

Unless otherwise provided by this Act, the provisions of the Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act (Official Gazette of the Republic of Slovenia, Nos. 126/07, 40/09, 59/09 in 52/10 – hereinafter referred to as: ZFPPIPP) shall apply to the bankruptcy proceedings against an insurance undertaking.

#### **Reasons for bankruptcy**

##### **Article 201**

The Insurance Supervision Agency shall issue a decision on the establishment of the grounds for initiating bankruptcy proceedings in the following events:

1. when, on the basis of the report referred to in Paragraph (2) of Article 190 of this Act, it assesses that the financial situation has not improved during the period of extraordinary administration, and that the insurance undertaking is not able to currently fulfil its due obligations;
2. when, in exercising the supervision of the insurance undertaking, it establishes that the assets of the insurance undertaking are insufficient for the settlement of all claims of the creditors of the insurance undertaking.

#### **Initiation of bankruptcy proceedings**

##### **Article 202**

(1) The Insurance Supervision Agency must file before the competent court a petition for the initiation of bankruptcy proceedings on the first working day after the issuing of a written copy of the decision on the establishment of the grounds for the initiation of bankruptcy proceedings. The decision on the establishment of the grounds for the initiation of bankruptcy proceedings must be attached to the proposal.

(2) The court shall issue a decree on the initiation of bankruptcy proceedings, without re-examining the grounds for the initiation of bankruptcy proceedings, within three working days of the filing of the petition referred to in the preceding Paragraph hereunder.

(3) No appeal shall be possible against the decree on the initiation of bankruptcy proceedings referred to in the preceding Paragraph hereunder.

## **Receiver**

### **Article 203**

(1) The receiver shall be appointed by the court upon the proposal of the Insurance Supervision Agency. The Insurance Supervision Agency may only propose as a receiver a person who fulfils the conditions for exercising the function of a receiver.

(2) When there are reasons for dismissing the receiver, the court must, prior to the decision to dismiss him/her, inform the Insurance Supervision Agency of the reasons for his/her dismissal and invite it to make a statement regarding the reasons within a specified time not shorter than three and not longer than eight days.

## **Announcement of the initiation of bankruptcy proceedings**

### **Article 204**

In addition to data which must be included in the announcement, in compliance with ZFPPIPP, an announcement of the initiation of bankruptcy proceedings against an insurance undertaking must also comprise:

1. a warning to policy holders, insured persons or other beneficiaries regarding the legal effects of the initiation of bankruptcy proceedings against an insurance undertaking referred to in Articles 205 or 210 of this Act;
2. the name, surname and address of the curator, when one has been appointed.

## **Termination of insurance contracts**

### **Article 205**

The validation of insurance contracts made by the insurance undertaking shall expire upon the expiry of a period of 30 days following the announcement of the initiation of bankruptcy proceedings against an insurance undertaking made in the Official Gazette of the Republic of Slovenia.

## **Opinion of the Insurance Supervision Agency**

### **Article 206**

(1) When the court, pursuant to ZFPPIPP, adopts decisions regarding the realisation of the bankrupt's estate on the basis of a preliminary opinion of the board of creditors, it shall also be obliged, in the event of the bankruptcy of the insurance undertaking, to obtain an opinion from the Insurance Supervision Agency.

(2) The provisions of ZFPPIPP on the opinion of the board of creditors shall apply as appropriate to the opinion of the Insurance Supervision Agency referred to in the preceding Paragraph hereunder.

### **Informing the Insurance Supervision Agency Article 207**

A copy of reports of the receiver on the conduct of bankruptcy proceedings shall also be submitted to the Insurance Supervision Agency.

### **Preferential payment of claims arising from insurance contracts Article 208**

(1) Payments of claims arising from insurance contracts shall be made from the bankrupt's estate as preferential claims prior to the payment of preferential claims referred to in Article 21 of ZFPPIPP.

(2) The claims referred to in the preceding Paragraph hereunder shall be paid in accordance with the following order of precedence:

1. claims arising from the class of insurance referred to in Paragraph (2) of Article 211 of this Act in the amount of the required cover regarding the insurance from which the claim arises and which could not be paid from assets of funds covering mathematical provisions;
2. claims arising from the class of insurance referred to in Paragraph (4) of Article 211 of this Act which could not be paid from assets of funds covering mathematical provisions;
3. claims arising from non-life insurance and other classes of insurance for which mathematical provisions have not been set aside, for the payment of compensation for loss events which occurred prior to the initiation of bankruptcy proceedings;
4. claims arising from non-life insurance and other classes of insurance for which mathematical provisions have not been set aside, to the compensation of part of the premium paid for the period following the termination of insurance.

### **12.2. Special provisions relating to the payment of claims arising from those classes of insurance for which mathematical provisions must be set aside**

#### **Application of provisions**

#### **Article 209**

The provisions of this Section shall apply to life assurance and accident and health insurance to which probability tables and calculations similar to life assurances apply.

## **Termination of insurance contracts**

### **Article 210**

As of the day of initiation of bankruptcy proceedings against an insurance undertaking, the insurance contracts referred to in Article 209 of this Act shall be terminated.

## **Right to separate payment from assets of funds covering mathematical provisions**

### **Article 211**

(1) As of the day of the initiation of bankruptcy proceedings, beneficiaries under insurances referred to in Article 209 of this Act shall obtain the right to separate settlement with regard to the assets of funds covering mathematical provisions for the payment of their claims arising from this insurance.

(2) Beneficiaries under life assurances and beneficiaries under accident and health insurances in which life assurance regulations apply to the liabilities of the insurance undertaking shall hold the right to obtain the payment of their claims from assets of funds covering mathematical provisions prior to other claims in which cover is provided by an individual fund covering mathematical provisions in an amount equal to the required cover relating to the insurance from which the claim originates.

(3) When assets of funds covering mathematical provisions do not suffice for complete payment of the claims referred to in Paragraph (2) hereunder, the claims concerned shall be paid in an amount equalling the proportion of the required cover relating to the classes of insurance from which the claim originates, as the proportion between the total value of assets of funds covering mathematical provisions and the required cover for total insurance underwritten by the insurance undertaking in that class of insurance for which the fund covering mathematical provisions were set aside.

(4) Other claims arising from the classes of insurance referred to in Article 209 of this Act shall be paid from those assets of the fund covering mathematical provisions which shall remain after the claims referred to in Paragraph (2) hereunder have been satisfied.

(5) When assets of the fund covering mathematical provisions do not suffice for complete payment of the claims referred to in the preceding Paragraph hereunder, the claims concerned shall be paid proportionally.

(6) The balance as of the day of the initiation of bankruptcy proceedings shall be conclusive for determining the amount of a claim and for determining the total amount of the required cover.

## **Separate account of monetary assets in bankruptcy**

### **Article 212**

(1) In addition to the general account of the debtor in bankruptcy, a receiver shall be obliged to open a special cash account for each fund covering mathematical provisions, which shall be kept with an organisation responsible for payment transactions.

(2) A receiver shall be obliged to manage the entire operations with cash obtained from the asset realisation of the fund covering mathematical provisions through a special cash account for the fund covering mathematical provisions.

(3) In addition to the receiver, each authorisation for payment to be made from a special cash account for the fund covering mathematical provisions must also be authorised by the curator.

## **Curator**

### **Article 213**

(1) In order to safeguard the interests of beneficiaries referred to in Paragraph (1) of Article 211 of this Act, the bankruptcy court shall, by virtue of an order on the initiation of bankruptcy proceedings by the curator, appoint a curator upon the proposal of the Insurance Supervision Agency.

(2) A person fulfilling the conditions for the appointment as a receiver and having adequate knowledge and experience in the field of insurance may be appointed as a curator.

(3) A receiver must enable the curator to inspect books of account and other records, as well as the documentation of the insurance undertaking, within the extent necessary for determining the scope of assets of funds covering mathematical provisions, the registration of claims of claimants and the realisation of other powers granted to the curator pursuant to this Act.

(4) Where ZFPPIPP determines that it is necessary to obtain an opinion or a consent of the board of creditors, an opinion or the consent of the curator regarding assets of funds covering mathematical provisions must also be obtained.

(5) The provisions valid for receiver shall apply as appropriate in respect of the remuneration for curators, and their powers and responsibilities.

## **Submission and inspection of claims**

### **Article 214**

(1) The allotted time period for the submission of claims referred to in the Paragraph (1) of Article 211 of this Act shall be three months from the publication of the announcement of the initiation of bankruptcy proceedings in the Official Gazette of Republic of Slovenia.

(2) A curator shall be obliged, on behalf and for the account of claimants, to register the claims referred to in Paragraph (1) of Article 211 of this Act, and to inform the claimants of the registration. The claimants may also register their claims by themselves.

(3) Claims registered by the curator shall be deemed to be established in bankruptcy proceedings with regard to an insurance undertaking, and the provisions of ZFPPIPP on the examination of claims shall not apply to them.

(4) When in addition to the curator a claim has also been registered by the claimant, the registration made by the claimant shall be taken into consideration and examined only in the



part in which it exceeds the claim registered by the curator on behalf of and for the account of this claimant.

## **13. INSURANCE AGENTS AND BROKERS**

### **13.1. Insurance agents**

#### **Insurance agent**

#### **Article 215**

(1) An insurance agent shall be a person who, on the basis of the employment or other legal relations with an insurance undertaking or insurance agency, is authorised to conclude insurance contracts on behalf of and for the account of the insurance undertaking. In addition to concluding contracts, activities linked to the preparations for a conclusion of insurance contracts and assistance in the exercise of rights arising under contracts, particularly the resolution of compensation claims addressed to the insurance undertaking, shall be considered insurance agent services.

(2) The authorisation of an insurance agent to enter an insurance contract shall also include an authorisation to amend or extend the contract, and an authorisation to accept statements made by a policy holder regarding his withdrawal from the insurance contract.

(3) Persons who carry out mediation business shall neither be regarded as insurance agents referred to in Paragraph (1) of this Article nor, as appropriate, as insurance agencies referred to in Article 216 of this Act, provided that the following conditions are met:

- concluding of insurance contract shall only require knowledge about the risks covered by it;
- insurance contract shall not be a life assurance contract;
- insurance contract shall not cover liability insurance;
- insurance agency shall not be a principal professional activity of a person carrying out insurance agency business;
- insurance shall be a supplementary activity or is related to a product or service provided, and when such insurance shall cover:
  - a) risk of destruction, loss or damage of products or objects;
  - b) risk of the damage or loss of luggage and other risks relating to tourist travels booked through a travel agency, although the insurance contract contains life assurance or liability insurance provisions, when such an insurance class represents an ancillary or supplementary form of insurance which covers risks linked to that tourist travel;
- annual insurance premium shall not be higher than EUR 500 and the insurance contract shall be made for no more than five years, including all extensions.

(4) In addition to concluding contracts, activities linked to the preparatory work for the conclusion of insurance contracts and assistance in the exercise of rights arising from contracts, particularly the settlement of compensation claims addressed to the insurance undertaking, shall be considered insurance agent services of insurance agencies.

#### **Insurance agencies**

#### **Article 216**

(1) An insurance agency shall be a legal entity which performs, as an economic activity, services related to the representation of insurance undertakings or insurance agencies in the making of insurance contracts.

(2) The provisions of this Act referring to insurance agencies shall also apply as appropriate to an individual entrepreneur pursuant to ZGD who as his/her economic activity performs services related to the representation of insurance undertakings or insurance agencies in making insurance contracts.

## **Obligations of agents and responsibilities of insurance undertakings**

### **Article 217**

(1) Provisions of Articles 83 to 86 of this Act shall also apply to insurance agents.

(2) Prior to the conclusion of, and, where necessary, also during subsequent amendments and supplements to the insurance contract, insurance agents shall be obliged to inform the policy holder in writing of data regarding:

1. their name and address,
2. authorisation to perform insurance agent business,
3. the insurance undertaking for which they work,
4. that they or their insurance agency have or has a direct or indirect stake representing more than 10% of the voting rights or a share in the capital in the insurance undertaking,
5. that an insurance undertaking or its controlled company has a direct or indirect stake representing more than 10% of the voting rights or a share in the capital in the insurance agency in which the insurance agent is employed or is in some other legal relationship with it,
6. on out-of-court proceedings regarding the settlement of disputes between consumers and providers, and regarding an internal procedure for settling complaints by policy holders referred to in Article 333a of this Act.

(3) In addition to the data referred to in the preceding Paragraph, in connection with an insurance contract insurance agents shall also be obliged to inform in writing policy holder as to whether:

1. they are providing advice to the policy holder regarding the conclusion of contracts referred to in Paragraph (4) of this Article, which includes an analysis on the basis of a suitably large number of insurance contracts available on the market, or
2. they are subject to obligations as exclusive representatives of one or more insurance undertakings. In such instances, they shall also be obliged to inform the policy holder upon his or her request of the titles of insurance undertakings which they represent, or
3. they are not subject to obligations as exclusive representatives of one or more insurance undertakings and that they are not providing advice for the conclusion of contracts pursuant to Paragraph (4) of this Article. In such instances, they shall be obliged to inform the policy holder upon his or her request of the titles of insurance undertakings which they represent. The insurance agent shall be obliged to inform the policy holder of his right with regard to instances referred to in items 2 and 3 of this Paragraph to request data on the title of insurance undertakings.

(4) When insurance agents inform the policy holder that they are providing advice regarding the conclusion of a contract on the basis of a correct and fair analysis, they shall be obliged to formulate such advice on the basis of a suitably large number of insurance contracts available

on the market enabling them to provide recommendations in accordance with professional criteria so that the policy holder by concluding such contract shall be able to fulfil his or her needs and requirements.

(5) Prior to concluding contracts on the basis of information obtained from a policy holder, insurance agents shall be obliged to define the needs and wishes of such person as well as the grounds for advice given to the policy holder with regard to insurance products.

(6) Information cited in Paragraphs (1), (2), (3) and (4) of this Article need not be supplied by an insurance agent in instances referred to in Paragraph (6) of Article 338 of this Act.

(7) An insurance undertaking shall be responsible for the activities of an insurance agent and insurance agency as it is responsible for its own activities.

### **Restriction with regard to the authorisations of an agent**

#### **Article 218**

(1) When the authorisation of an agent is restricted to a particular area, the agent shall be obliged to perform the legal transactions referred to in Article 215 of this Act only in relation to those classes of insurance relating to property located in this area or persons living in the area concerned.

(2) When an authorisation for agency services is restricted either in such a manner that an agent is not authorised to perform all the legal transactions referred to Article 215 of this Act or in a way referred to in the preceding Paragraph hereunder, the restriction of authorisation for agency services shall have an effect on the policy holder only when such restriction was known to him/her, or when it could not have remained unknown to him/her.

(3) It shall only be deemed that the restriction of the authorisation of an agent could not have remained unknown to the policy holder pursuant to the preceding Paragraph hereunder when he/she did not know of the restriction due to gross negligence.

### **13.2. Insurance brokers**

#### **Insurance brokers**

#### **Article 219**

(1) An insurance broker shall be a person who mediates in concluding insurance contracts for one or more insurance undertakings.

(2) The mediation referred to in the preceding Paragraph hereunder shall be a service the subject of which is an effort to get a policy holder in touch with an insurance undertaking in order to negotiate the conclusion of an insurance contract with this person. In addition to the aforementioned, insurance mediation shall also be deemed to be activities linked to preparatory work for the conclusion of an insurance contract and assistance in the exercise of rights arising under a contract, particularly in the resolution of claims for damages addressed to an insurance undertaking. This shall also apply to insurance brokerage companies referred to in Article 220 of this Act.

(3) The general regulations of the law of obligations regarding brokerage contracts shall apply to insurance mediation, except for the rules on brokerage ledgers and brokerage lists, unless otherwise stipulated in this Act.

(4) Persons who carry out mediation business and, as appropriate, insurance brokerage companies referred to in Article 220 of this Act shall not be deemed to be insurance brokers referred to in Paragraph (1) of this Article when the following conditions are met:

- when the concluding of an insurance contract only requires knowledge about the risks covered;
- when the insurance contract is not a life assurance contract;
- when the insurance contract does not cover liability insurance;
- when insurance mediation is not a principal professional activity of a person carrying out insurance mediation business;
- when insurance represents a supplementary activity of or is linked to a product or service provided, and when such insurance covers:
  - a) the risk of destruction or loss of, or damage to, products or objects;
  - b) the risk of damage to or loss of luggage and other risks related to tourist travel booked through a travel agency, even when the insurance contract contains provisions on life assurance or liability insurance, when such insurance class represents an ancillary or supplementary form of the insurance which covers risks linked to that tourist travel;
- if the amount of annual insurance premiums is no greater than 500 euros and if the insurance contract, including all extensions, is not concluded for more than five years.

(5) Persons and companies that within the framework of performing their professional activities provide information to clients on insurance, whereby activities referred to in Paragraphs 1 and 2 of this Article may not be involved, shall not be considered insurance brokers referred to in Paragraph (1) of this Article.

### **Insurance brokerage companies**

#### **Article 220**

(1) An insurance brokerage company shall be a legal entity which, as a commercial activity, performs services related to mediation in concluding insurance contracts.

(2) The provisions of this Act relating to an insurance brokerage company shall also apply as appropriate to an individual entrepreneur pursuant to ZGD who performs services related to mediation in concluding insurance contracts as his/her economic activity.

### **Protection of clients' interests**

#### **Article 221**

(1) In performing his/her insurance mediation, an insurance broker shall be obliged to protect the interests of policy holders in particular.

(2) In relation to the insurance undertaking, an insurance broker must protect those interests of the insurance undertaking to which policy holder must also pay attention to prior to or following the conclusion of an insurance contract. An insurance broker must, in particular,

inform insurance undertakings, in the preparation of an insurance contract, of all the indirect risks which are or which should be known to him/her.

## **Obligations of insurance brokers**

### **Article 222**

(1) An insurance broker's obligation to safeguard the interests of the policy holder referred to in Paragraph (1) of Article 221 of this Act shall also include explanations and advice to be provided to policy holders with regard to all circumstances relevant to their decisions regarding the conclusion of insurance contracts for certain classes of insurance, or for certain insurance undertakings.

(2) In order to fulfil the obligation referred to in the preceding Paragraph hereunder, an insurance broker shall, in particular, be obliged to:

1. prepare an adequate risk analysis and adequate provisions regarding the cover for a policy holder;
2. prepare an evaluation of the capital adequacy of an insurance undertaking for a policy holder on the basis of professional information available to him/her;
3. mediate for a policy holder in underwriting a policy which, with respect to circumstances related to a particular case, provides the policy holder with the greatest protection, in which case this obligation may only be limited to particular insurance products, when the insurance broker explicitly informs the policy holder of this;
4. inform the insurance undertaking of the proposal of a policy holder to conclude an insurance contract; and submit to the policy holder the policy conditions, informing him of regulations regarding the determination of the premium;
5. check the contents of the insurance policy;
6. provide assistance to policy holder during the term of validity of the insurance contract both prior to and after the occurrence of the event insured against, and in particular ensure that legal activities relevant to retaining and exercising rights arising from the insurance contract are performed by policy holders within the time periods determined with regard to such legal activities;
7. constantly check insurance contracts made by the policy holder on the basis of his/her intermediation, and prepare proposals for modifications of these insurance contracts for the purpose of providing greater security.

(3) The obligations of insurance brokers in relation to the policy holder shall be, as appropriate, subject to the provisions of Paragraphs (1) to (6) of Article 217 of this Act.

(4) When an insurance broker acts on the instructions of an insurance undertaking, the insurance undertaking shall take responsibility for the actions of such insurance broker as if the actions were its own. When the insurance broker acts on the instructions of an insurance undertaking, the insurance policy shall include an indication that the insurance contract has been concluded through an insurance broker's mediation, the name and surname, or the firm of the insurance broker, and the amount of commission or any other payment which the insurance broker is entitled to require from the insurance undertaking for mediation in the conclusion of the insurance contract.

(4) Insurance brokers shall be obliged to have professional liability insurance for an insured sum which may not be less than 1,120,200 euros per compensation claim or 1,680,300 euros

for all compensation claims together in a single year, unless the contract on professional liability insurance is concluded within the framework of a legal entity on behalf and for account of which the broker acts.

(6) When pursuant to Paragraph (7) of Article 4 of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation (OJL L No. 009 of 15 January 2003, p. 3) the amounts set out in Paragraphs (3) and (4) of Article 4 of the said directive are increased automatically, the Government of the Republic of Slovenia shall publish in the Official Gazette of the Republic of Slovenia the so amended amounts referred to in the preceding Paragraph.

### **Conflict of interests**

#### **Article 223**

(1) An insurance broker must disclose to the policy holder all the legal and economic relations with an individual insurance undertaking which may affect the impartiality of an insurance broker in fulfilling the obligations towards a policy holder, and especially the obligations referred to in items 3 and 7 of Paragraph (2) of Article 222 of this Act.

(2) The legal and economic relations under the preceding Paragraph hereunder shall be considered to be, in particular, the provisions of a mediation contract with an insurance undertaking on the basis of which an insurance broker is:

1. obliged to intermediate exclusively in making insurance contracts with this insurance undertaking;
2. entitled to a special commission (performance commission), or to a higher commission for mediation in particular classes of insurance.

### **Commission**

#### **Article 224**

(1) An insurance broker shall not be entitled to require the payment of commission or any other payment from a policy holder, unless explicitly and in writing otherwise stipulated in a mediation contract concluded with the policy holder.

(2) When by virtue of a mediation contract referred to in the preceding Paragraph it is stipulated explicitly and in writing that an insurance broker is entitled to commission, he/she shall obtain a right to commission when the insurance contract for which he/she has mediated enters into force.

### **Compulsory provisions**

#### **Article 225**

(1) The obligations of brokers referred to in Paragraph (1) of Article 221 and in Article 222 of this Act can be neither excluded nor limited by virtue of a contract.

(2) Any provision of a mediation contract which is contrary to the preceding Paragraph hereunder or to Paragraph (2) of Article 224 of this Act shall be null and void.

## **Prohibition of intermediating**

### **Article 226**

(1) An insurance broker shall not be permitted to mediate in concluding a contract with an insurance undertaking, with a Member State insurance undertaking or with a foreign insurance undertaking when, by concluding an insurance contract, the provision of Article 3 of this Act is violated.

(2) An insurance broker shall not be allowed to mediate in concluding a contract which would be contrary to Article 83 of this Act.

## **Settlement of disputes between insurance brokers and consumers**

### **Article 226.a**

The provisions of Article 333a of this Act shall apply as appropriate to the settlement of disputes between insurance brokers and consumers.

## **13.3. Terms and conditions for performing the activity of insurance agency services or brokerage**

### **13.3.1. Common provisions**

#### **General provision**

### **Article 227**

(1) Services related to insurance agency services or brokerage may be performed only by those insurance agencies or brokerage companies which have obtained an authorisation to provide services related to insurance agency services or brokerage.

(2) No person other than those referred to in the preceding Paragraph hereunder may perform services related to insurance agency services or brokerage.

(3) Business related to insurance agency services or brokerage which are provided by natural persons on the basis of employment or other legal relation in an insurance undertaking or company defined in Paragraph (1) hereunder shall not be deemed to be services pursuant to Paragraph (1) hereunder.

(4) Insurance agency services may also be carried out by other entities, provided the policies are underwritten which are directly related to the main service performed by them (for instance, freight forwarders and persons engaged in tests of vehicle roadworthiness), and have acquired an authorisation to perform businesses relating to insurance agency brokerage.

(5) Notwithstanding the provision of Paragraph (1) hereunder, insurance brokerage services may also be performed by banks which have obtained appropriate authorisations from the Bank of Slovenia. The Bank of Slovenia shall grant an authorisation on the basis of the prior opinion of the Insurance Supervision Agency.

(6) The Insurance Supervision Agency shall be obliged to provide the opinion referred to in the preceding Paragraph within a time period of 45 days from the date of the receipt of the request. When the Insurance Supervision Agency fails to provide an opinion within such time period, the opinion shall be deemed to have been given or the Bank of Slovenia may issue the authorisation referred to in the preceding Paragraph without an opinion from the Insurance Supervision Agency.

### **Obligations of insurance undertakings**

#### **Article 228**

An insurance undertaking shall be obliged to ensure that services related to insurance agency services or brokerage are only performed for it by the entities referred to in Paragraph (1), (4) and (5) of Article 227 of this Act.

### **Insurance agencies' association**

#### **Article 229**

(1) Insurance agency and brokerage undertakings shall be associated within the insurance agencies' association, organised as a commercial interests association.

(2) The insurance agencies' association shall:

1. (deleted);
2. perform tasks of common interest to insurance agency and brokerage undertakings, as stipulated in the agreement on its establishment or other legal documents relating to the association.

### **Authorisation to perform businesses relating to insurance agency services or brokerage**

#### **Article 230**

(1) Businesses related to insurance agency services or brokerage may be independently performed within insurance undertakings, insurance agencies or insurance brokerage companies or persons referred to in Article 227(4) of this Act or the banks referred to in Paragraph (5) of Article 227 of this Act only by natural persons granted an authorisation from the Insurance Supervision Agency for performing insurance agency services or brokerage business.

(2) An ancillary insurance agent or broker is a person seeking potential policyholders without providing any details of the insurance agency business and without signing any insurance documents whatsoever. An ancillary insurance agent may receive an insurance proposal addressed to the insurance undertaking. The work of an ancillary insurance agent shall be included into one-year experience period required for the authorization to carry out business, when they operated under the mentoring of a person holding the authorization of the Insurance Supervision Agency to carry on insurance agency or brokerage business. The person referred to in the preceding Paragraph under the supervision of whom an ancillary insurance agent or broker performs his work, may at the same time mentor only five ancillary insurance agents or brokers.



(3) A dependent insurance agent shall be a person who performs insurance mediation business on behalf and for the account of one or more insurance undertakings for various types of insurance products that do not compete with each other, where such person does not collect premiums or amounts intended for customers, and operates under the full responsibility of the insurance undertakings for the insurance they offer. Persons performing insurance mediation business in addition to their principal professional activity shall also be deemed to be dependent insurance agents operating under the full responsibility of the insurance undertaking for the insurance products they offer when the insurance supplements goods and services supplied within the context of such principal professional activity and when the person does not collect premiums or amounts intended for clients.

(4) The Insurance Supervision Agency shall grant a licence for performing businesses related to insurance agency services or brokerage when such person meets the following conditions:

1. he/she has successfully passed the examination of expertise necessary for performing businesses related to insurance agency services or brokerage;
2. he/she has obtained one year's experience in the area of insurance businesses, obtained on the basis of employment or other legal relation with an insurance undertaking or insurance agency or brokerage company;
3. he/she has a good command of the Slovenian language;
4. he/she has not been given a final non-suspended prison sentence of at least three months for a criminal offence against property or the economy;
5. that the Insurance Supervision Agency did not withdraw the said person's authorisation to carry out insurance agency services or brokerage business within the last five years.

(5) Insurance brokers shall be obliged to attach to their application for the authorisation to carry out insurance brokerage business a certificate of professional liability insurance referred to in Paragraph (4) of Article 222 of this Act.

(6) The Insurance Supervision Agency shall withdraw the authorisation to carry out insurance agency services or brokerage business when:

1. it was obtained on the basis of a statement of false data;
2. the insurance agent or broker has been given a final non-suspended prison sentence of at least three months for a criminal offence against property or the economy;
3. an insurance agent repeatedly violates the provisions of this Act referred to in Article 217 of this Act;
4. an insurance broker repeatedly violates the provisions of Article 225 of this Act;
5. an insurance agent or broker, in carrying out insurance agency or brokerage businesses, seriously violates the good business practice;
6. the insurance agent does not have professional liability insurance in accordance with Paragraph (4) of Article 222 of this Act.
7. an insurance agent repeatedly violates the obligations referred to in Article 221 or Article 222(1), (2) or (3) of this Act.

(7) A repeated violation referred to in items 3, 4 and 7 of the preceding Paragraph shall be deemed to be a violation by the insurance agent or broker when recurred at least once within five years upon the last violation of the same type.

(8) A proposal to withdraw authorisation to perform insurance agent or brokerage business may be issued by the Association of Insurance Agencies, the insurance undertaking, the

employer or the Slovenian Insurance Association. The Insurance Supervision Agency shall inform the submitter of the proposal to withdraw authorisation and the Slovenian Insurance Association of the withdrawal of authorisations.

### **Register of insurance agents and brokers**

#### **Article 231**

(1) The Insurance Supervision Agency shall keep the register of insurance agencies and insurance brokerage companies authorised to perform businesses related to insurance agency or brokerage on the territory of Slovenia in compliance with this Act.

(2) Insurance undertakings shall be obliged to keep a register of insurance agencies which perform insurance agency activities for them on the basis of legal relations and a register of insurance agents who, on the basis of employment or other legal relations with them, perform the insurance agency business.

(3) An insurance agency, brokerage company or a bank referred to in Article 227(5) of this Act shall keep a register of insurance brokers or agents who shall conduct insurance agency or brokerage business on the basis of employment or other legal relationship with the insurance agency, brokerage company or a bank. The insurance agency should keep a register of the insurance agencies that carry out insurance agency business on its behalf on the basis of a legal relationship.

(4) The registers referred to in the previous Paragraphs hereunder shall be public.

(5) The Insurance Supervision Agency shall regularly inform the Association of Insurance Agencies of:

1. the granting and withdrawal of authorisations for performing activities related to insurance agency services or insurance brokerage;
2. notifications of insurance agencies or insurance brokerage companies referred to in Article 241 of this Act;
3. the granting or withdrawal of licences for establishing a branch of a foreign insurance agency or insurance brokerage company.

(6) Registers of insurance agencies and insurance brokerage companies must also contain a statement of the persons in the management of such undertakings. The aforementioned registers must also contain information on registers of insurance agencies and brokerage companies in Member States, on supervisory authorities in Member States and on the states in which insurance agents and insurance brokers may perform their activities or business.

### **Supervision**

#### **Article 232**

(1) Supervision of insurance agents or brokers and insurance agencies or insurance brokerage companies shall be conducted by the Insurance Supervision Agency. Supervision of banks referred to in Paragraph (5) of Article 227 of this Act shall be conducted by the Insurance Supervision Agency, in cooperation with the Bank of Slovenia.

(2) The provisions of Articles 172, 173, 175, and Paragraphs (1) and (4) of Articles 176, 177, 179, 180, 183 and 184 of this Act shall apply as appropriate to supervision referred to in the preceding Paragraph hereunder.

### **Regulations on insurance agents and brokers**

#### **Article 233**

The Insurance Supervision Agency shall prescribe:

1. detailed conditions for obtaining and examining the expertise necessary for performing businesses related to insurance agency services or brokerage referred to Paragraph (4)(1) and Paragraph (5)(1) of Article 230 of this Act;
2. detailed regulations on the method of keeping the register referred to in Article 231 of this Act, the data entered in these registers, and the method of public access to this data;
3. the detailed contents of the reports referred to in Article 239 (1) of this Act, as well as the deadlines and methods of reporting.

### **13.3.2. Insurance agencies or brokerage companies**

#### **Application of provisions**

#### **Article 234**

(1) Unless otherwise stipulated in this Act, the provisions of ZGD shall apply to insurance agencies and insurance brokerage companies.

(2) The provisions of Article 228 of this Act shall apply as appropriate to insurance agencies or brokerage companies and to banks as referred to in Article 227(5) of this Act whenever they perform their activities through other insurance agencies or brokerage companies.

#### **Legal organisational form**

#### **Article 235**

(1) The activity of performing insurance agency or brokerage services may be carried out by companies or sole traders pursuant to ZGD.

(2) Where a sole trader who performs services related to insurance agency services or insurance mediation as his/her economic activity is not registered in the companies' register pursuant to ZGD, the provisions of this Act shall apply as appropriate to his/her entry in other adequate registers of independent traders.

#### **Activities of insurance agencies or insurance brokerage companies**

#### **Article 236**

(1) An insurance agency or insurance brokerage company may only perform services related to insurance agency services or insurance brokerage.

(2) Notwithstanding the provisions of the preceding Paragraph hereunder, an insurance agency or insurance brokerage company may also perform:

1. services related to credit mediation, or services related to investment coupons of mutual funds or other similar financial products, when the conditions for performing these services laid down by laws or any other regulations covering the provision of services concerned are fulfilled,

2. services referred to in items 2 to 5 of Paragraph (6) of Article 14 of this Act.

### **Insurance of the liability of an insurance brokerage company**

#### **Article 237**

(1) An insurance agency or bank referred to in Article 227(5) of this Act shall have its professional liability insured for the sum of no less than 1,120,200 euros per a compensation claim or 1,680,300 euros for the total of the compensation claims of one year.

(2) When pursuant to Paragraph (7) of Article 4 of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation (OJL L No. 009 of 15 January 2003, p. 3) the amounts set out in Paragraphs (3) and (4) of Article 4 of the said directive are increased automatically, the Government of the Republic of Slovenia shall publish in the Official Gazette of the Republic of Slovenia the so amended amounts referred to in the preceding Paragraph.

### **Authorisation to perform services relating to insurance agency services or brokerage**

#### **Article 238**

(1) Prior to establishment in the companies' register or prior to the entry of any appropriate modification in the companies' register, an insurance agency or insurance brokerage company shall be obliged to obtain an authorisation from the Insurance Supervision Agency to perform activities relating to insurance agency services or insurance brokerage.

(2) The provisions of items 2 to 5 of Paragraph (1) of Article 66 of this Act shall apply as appropriate to applications for an authorisation to perform activities related to insurance agency services or insurance brokerage. Evidence proving that all the conditions laid down in Articles 234 to 237 of this Act must be attached by an insurance agency or insurance brokerage company to the application for an authorisation.

(3) The Insurance Supervision Agency shall grant an authorisation to perform activities related to insurance agency services or insurance brokerage when an insurance agency or insurance brokerage company fulfils conditions laid down in Articles 234 to 237 of this Act. When an authorisation to perform activities related to insurance agency services or insurance brokerage has been withdrawn from an insurance agency or insurance brokerage company, the Insurance Supervision Agency should not issue an authorisation to perform the said activity to such a company for five years following the final decision regarding the withdrawal of the authorisation.

(4) Prior to rejecting the application for an authorisation to perform activities related to insurance agency services or insurance brokerage, the Insurance Supervision Agency must give the insurance agency or insurance brokerage company a deadline of not less than 15 and

not more than 30 days in order to present its views regarding the reasons for rejecting the authorisation referred to in Paragraph (4) hereunder.

(5) Provisions of Paragraphs (1) to (3) hereunder shall also apply as appropriate to the opinion of the Insurance Supervision Agency referred to in Paragraph (5) of Article 227 of this Act.

(6) The Insurance Supervision Agency shall withdraw an authorisation to perform insurance agent or brokerage activities in the following instances:

- when the authorisation was obtained through the provision of false information;
- when an insurance agency or brokerage company or insurance agent or broker working for such seriously violates the provisions of Articles 217, 218, 221, 222, 223 or 225 of this Act;
- when an insurance agency or brokerage company violates the provisions of Article 236 of this Act;
- when an insurance brokerage company does not have liability insurance in accordance with Article 237 of this Act;
- when an insurance brokerage company repeatedly violates the obligations of reporting and notification;
- when an insurance agency or brokerage company does not enable an inspection carried out by an authorised person in a manner laid down in Articles 301 to 306 of this Act;
- when insurance agents or brokers who perform insurance agency or brokerage services for an insurance agency or brokerage insurance agency repeatedly violate the provision of Paragraph (1) of Article 230 of this Act, whereby a repeated violation is considered a violation whereby insurance agents or brokers who perform insurance agency or brokerage services for an insurance agency or brokerage insurance agency repeat the violation at least once within two years after committing the same type of violation;
- when the insurance agency or brokerage insurance agency does not meet the order of the Insurance Supervision Agency.

(7) Withdrawal of authorisation pursuant to the preceding Paragraph shall be, as appropriate, subject to Articles 183 and 184 of this Act.

(8) A repeated violation referred to in indent (5) of the Paragraph (6) of this Article shall be deemed to be a violation by the insurance brokerage company when recurred within five years upon the last violation of the same type.

- (9) The authorisation to perform insurance agency or brokerage activities shall cease:
1. when the insurance agency or brokerage company fails to start operating within six months from the issuing of the authorisation,
  2. when the insurance agency or brokerage company ceases to perform insurance agency or brokerage activities for more than one year,
  3. upon the initiation of bankruptcy proceedings or compulsory liquidation,
  4. upon the completion of regular liquidation.

(10) An insurance agency or brokerage company shall provide the Insurance Supervision Agency the information relating to the taking-up or termination of the insurance agency or brokerage business.

(11) When grounds referred to in Paragraph (8) of this Article arise, the Insurance Supervision Agency shall issue a decision through which it establishes that the authorisation has ceased.

## **Reporting**

### **Article 239**

(1) An insurance brokerage company must also report to the Insurance Supervision Agency on:

1. any change to data entered in the companies' register;
2. the structure and scope of brokerage services by insurance undertakings which were performed in a particular fiscal year for these insurance undertakings;
3. the legal and economic relations referred to in Paragraph (2) of Article 223 of this Act;
4. compliance with the obligations from Article 237 of this Act.

(2) A bank referred to in Article 227(5) of this Act shall report to the Insurance Supervision Agency on:

1. structure and volume of brokerage business broken down by insurance undertakings on behalf of which it was carried out by the bank in a particular financial year;
2. fulfilment of obligations referred to in Article 237 of this Act.

### **13.3.2.a Performance of insurance agency and brokerage activities in a Member State**

#### **Performance of insurance agency and brokerage activities in a Member State**

##### **Article 239.a**

(1) An insurance agency or brokerage company may perform insurance agency or brokerage activities for which it has acquired authorisation from the Insurance Supervision Agency on the territory of a Member State either through a branch or directly when it complies with the conditions laid down by the regulations of such member state.

(2) An insurance agency or brokerage company intending to commence performing insurance agency or brokerage activities in a Member State shall be obliged to inform the Insurance Supervision Agency thereof.

(3) The Insurance Supervision Agency shall be obliged no later than within one month to forward the notification from the previous Paragraph to the competent supervisory authority of a Member State that has declared its wish to be informed of the intention of an insurance agency or brokerage company, and to inform the insurance agency or brokerage company thereof.

(4) An insurance agency or brokerage company may commence the performance of activities in another Member State after one month from the date of the receipt of the notification of the Insurance Supervision Agency referred to in the previous Paragraph. It may commence the performance of activities immediately when the competent supervisory authority of such Member State does not wish to be informed of the intention of the company to commence performing activities.

(5) The provisions of this Article shall apply as appropriate to the performance of business by an insurance agent or broker in a member state.

### **13.3.3. Insurance agencies or insurance brokerage companies of Member States**

#### **Insurance agencies or insurance brokerage companies of Member States**

##### **Article 240**

(1) An insurance agency or insurance brokerage company which, in a Member State, has the right to perform activities related to insurance agency services or insurance brokerage may perform activities related to insurance agency services or insurance brokerage either through branches or directly in the territory of the Republic of Slovenia.

(2) The provisions of Articles 215 to 227 of this Act and the provisions of Article 239 of this Act with regard to business which the insurance brokerage company performs in the territory of the Republic of Slovenia shall apply to the insurance agencies or insurance brokerage companies referred to in the preceding Paragraph hereunder.

#### **Commencement of the performance of activities related to insurance agency services or insurance brokerage**

##### **Article 241**

(1) The insurance agency or brokerage company referred to in Paragraph (1) of Article 240 of this Act intending to perform insurance agency or brokerage activities in the Republic of Slovenia shall be obliged to inform the supervisory authority of the state of their head office thereof. The authority shall be obliged to inform the Insurance Supervision Agency within a time period of one month.

(2) The insurance agency or brokerage company referred to in Paragraph (1) of Article 240 of this Act may begin to perform insurance agency or brokerage activities in the Republic of Slovenia one month after it has been informed by the supervisory authority of the state of its head office of the notification in which such supervisory authority has informed the Insurance Supervision Agency of the intention of the insurance agency or brokerage company to perform activities.

(3) The provisions of this Article shall apply as appropriate to the performance of the business of an insurance agent or insurance broker from a Member State in the Republic of Slovenia.

(4) Supervisory Authorities of Member States shall be obliged to inform one another and to exchange information concerning insurance agents and brokers, and insurance agencies and brokerage companies, particularly where measures are taken against them for failing to operate in accordance with the legislation of the State in which they perform insurance agency or brokerage business or activities.

### **13.3.4. Foreign insurance agencies or insurance brokerage companies**

#### **Branch of a foreign insurance agency or insurance brokerage company**

##### **Article 242**

(1) On the territory of the Republic of Slovenia, a foreign insurance agency or insurance brokerage company may perform activities related to insurance agency services or insurance brokerage only through a branch.

(2) The provisions of Articles 215 to 239 of this Act shall apply to a foreign insurance agency or insurance brokerage company which has established a branch in the territory of the Republic of Slovenia.

#### **Authorisation to establish a branch**

##### **Article 243**

The provisions of Paragraph (1) of Article 19.c and of Articles 98 and 238 of this Act shall apply as appropriate to the granting of an authorisation to establish a branch referred to in Paragraph (1) of Article 242 of this Act, and to the withdrawal of such authorisation.

### **14. SUPERVISION OF OTHER ENTITIES**

#### **Supervision of other entities**

##### **Article 244**

(1) The Insurance Supervision Agency shall also supervise those entities which, in addition to other activities or as a sole activity, perform:

1. insurance services without obtaining an authorisation from the Insurance Supervision Agency for performing the activities concerned;
2. activities related to insurance agency services or insurance brokerage without obtaining an authorisation from the Insurance Supervision Agency for performing the activities concerned.

(2) Unless otherwise stipulated in Article 245 of this Act, the provisions of Articles 172, 173, 175, Paragraph (4) of Article 176, 177, 179 and 180 of this Act shall apply as appropriate to the supervision defined in the preceding Paragraph hereunder.

#### **Measures of supervision**

##### **Article 245**

(1) When data available to the Insurance Supervision Agency shows that an entity who performs insurance businesses or activities related to insurance agency services or insurance brokerage without obtaining an authorisation from the Insurance Supervision Agency for performing activities concerned, the an order shall be issued for this entity in which it shall be imposed to cease performing the businesses or activities concerned.

(2) In a case under the preceding Paragraph hereunder, the Insurance Supervision Agency may examine the books of account and other documentation before issuing the order, and collect other evidence in order to discover whether the entity performs insurance businesses or activities related to insurance agency services or insurance brokerage.

(3) In the order referred to in Paragraph (1) hereunder, the Insurance Supervision Agency shall order the entity to submit a report within the allotted time, which should not be shorter



than eight days and not longer than 15 days, in which it shall describe measures performed in respect of the cessation of insurance businesses, or activities related to insurance agency services or insurance brokerage, and in this report the entity concerned may make a statement regarding the justification for the issue of the order. Evidence proving that measures in respect of the cessation of insurance businesses or activities related to insurance agency services or insurance brokerage have been carried out must be attached to the report by the said entity.

(4) When a legal entity under supervision fails to act in compliance with the order referred to in Paragraph (1) hereunder, the Insurance Supervision Agency shall issue an order by virtue of which it shall be established that reason for liquidating the entity concerned exists.

(5) The order defined in the preceding Paragraph hereunder must be explained.

(6) Pursuant to a final decision referred to in Paragraph (4) hereunder, the competent court shall initiate liquidation proceedings at the request of the Insurance Supervision Agency.

## **15. INSURANCE SUPERVISION AGENCY**

### **15.1. Status of the Insurance Supervision Agency**

#### **Status of the Insurance Supervision Agency Article 246**

(1) The Insurance Supervision Agency shall be established by virtue of this Act.

(2) The Insurance Supervision Agency shall be a legal entity.

(3) The Insurance Supervision Agency shall be autonomous and independent in implementing its duties and powers. The Insurance Supervision Agency and members of its bodies are not bound by resolutions, standpoints and instructions of national or any other bodies in carrying out tasks of the Insurance Supervision Agency laid down by virtue of this or other Act.

(4) The head office of the Insurance Supervision Agency shall be in Ljubljana.

(5) The Insurance Supervision Agency shall within the scope of available funds from the financial plan for the current year autonomously define the number of employees. With regard to salaries for employees of the Insurance Supervision Agency, the Public Sector Salary System Act (Official Gazette of the Republic of Slovenia, Nos. 95/07 – official consolidated text, 17/08 and 58/08) shall apply, whereby the scope of funds for special projects requiring an increased work load shall be defined by the Insurance Supervision Agency itself and only within the scope of available funds within the financial plan for the current year.

(6) Notwithstanding Paragraph (3) of this Article the Insurance Supervision Agency shall, in addition to instructions and recommendations adopted by the EU monitoring committees, also take into consideration possible impacts on the financial stability of Member States, when performing its tasks and exercising its powers.

(7) The Insurance Supervision Agency shall, through its activities, encourage cooperation among supervisors on the European level and the exchange of all significant information between supervisors of the parent Member State and host Member State.

### **Rules of procedure of the Insurance Supervision Agency**

#### **Article 247**

The Insurance Supervision Agency shall have rules of procedure stipulating in detail its internal organisation and operation of the Insurance Supervision Agency.

### **Stamp**

#### **Article 248**

The Insurance Supervision Agency shall have a stamp with the name “Insurance Supervision Agency” and the coat of arms of the Republic of Slovenia.

### **Reporting on the state of the field of the insurance industry**

#### **Article 249**

- (1) The Insurance Supervision Agency shall report annually to the National Assembly of the Republic of Slovenia regarding the state and conditions in the field of the insurance industry.
- (2) The report referred to in the preceding Paragraph hereunder must contain data on the volume of insurance business by classes of insurance.
- (3) The report referred to in the preceding Paragraph hereunder relating to the previous year must be submitted by the Insurance Supervision Agency to the National Assembly by 30 June of the current year.

### **Annual report on work performed**

#### **Article 250**

- (1) The Insurance Supervision Agency shall report annually to the National Assembly of the Republic of Slovenia regarding the work performed.
- (2) The report referred to in the preceding Paragraph hereunder must contain data on measures taken by the Insurance Supervision Agency pursuant to the supervisory procedures performed, authorisations to perform insurance business granted and other authorisations granted by the Insurance Supervision Agency, as well as data on the cooperation of the Insurance Supervision Agency with other local and foreign supervisory authorities.
- (3) The report referred to in Paragraph (1) hereunder relating to the previous year must be submitted by the Insurance Supervision Agency to the National Assembly by 30 June of the current year.

## **15.2. Bodies of the Insurance Supervision Agency**

### **Bodies of the Insurance Supervision Agency Article 251**

The bodies of the Insurance Supervision Agency shall be the council of experts and the director of the Insurance Supervision Agency.

### **Composition of the council of experts Article 252**

- (1) The council of experts shall consist of a president and four members.
- (2) A director of the Insurance Supervision Agency shall, pursuant to his function, also be the president of the council of experts.
- (3) The presidents and members of the council of experts shall be entitled to attendance fees and the reimbursement of expenses defined once on an annual basis by the council of experts upon a recommendation of the president of the council of experts.
- (4) The council of experts shall have a secretary who shall assist the president of the council of experts and director of the Insurance Supervision Agency in the preparation and implementation of sessions. The secretary of the council of experts shall also ensure assistance regarding the organisation of work of the council of experts, collect and prepare materials, convene sessions, keep minutes, archive and perform other expert tasks required for the smooth working of the council of experts and implement administrative work in connection to the work of the council of experts. The secretary shall, upon the recommendation of the president of the council of experts, be appointed from among the Insurance Supervision Agency's employees by the council of experts. The secretary is entitled to 70% of the attendance fees of a member of the council of experts referred to in the preceding Paragraph.

### **Appointment and dismissal of the members of the council of experts Article 253**

- (1) The members of the council of experts shall be appointed and dismissed by the National Assembly of the Republic of Slovenia upon the proposal of the Government of the Republic of Slovenia.
- (2) The members of the council of experts shall be appointed for a period of six years and may be reappointed

### **Conditions for the appointment of the members and president of the council of experts Article 254**

(1) A person must meet the following criteria in order to be appointed a member of the council of experts:

1. he/she is a national of the Republic of Slovenia;
2. he/she holds a university degree;
3. he/she is a renowned expert from the fields of insurance business, finance or commercial law;
4. he/she has not been convicted by virtue of a final judgement of a wilfully committed criminal offence or of one of the following criminal offences, committed through negligence: negligent homicide, aggravated bodily harm, grievous bodily harm, endangering safety at work, concealment, disclosure and unauthorised acquisition of a trade secret, money laundering, disclosure of an official secret, causing public danger, or disclosure of a state secret and the judgement has not yet been deleted.

(2) The members and president of the council of experts must not have any contractual relations, employment or equity holdings in legal entities to which the Insurance Supervision Agency grants authorisation or approval with regard to their operation, and must not perform tasks in bodies of political parties.

### **Dismissal of the members and president of the council of experts**

#### **Article 255**

A member or president of the council of experts may be dismissed early when they:

1. request so by them;
2. are, by means of a final judgement, convicted of a wilfully committed criminal offence or of one of the following criminal offences committed through negligence: negligent homicide, aggravated bodily harm, grievous bodily harm, endangering safety at work, concealment, disclosure and unauthorised acquisition of a trade secret, money laundering, disclosure of an official secret, causing public danger, and the judgement has not yet been deleted.
3. permanently lose their work capacity to perform their function;
4. violate the obligation to protect confidential data (Article 260);
5. violate the prohibition referred to in Paragraph (2) of Article 254 of this Act;
6. are subsequently shown not to comply with the conditions for the appointment;
7. fail to perform tasks laid down in this Act and the rules of procedures of the Insurance Supervision Agency, or fail to perform them in a conscientious or professional manner.

### **Powers of the council of experts**

#### **Article 256**

The council of experts:

1. shall adopt decisions with regard to authorisations, approvals and other individual matters regarding which, in accordance with the law, decisions are taken by the Insurance Supervision Agency, unless otherwise stipulated in this or another Act;
2. shall adopt regulations when it is stipulated by the law that such acts be adopted by the Insurance Supervision Agency;
3. shall adopt the rules of procedure of the Insurance Supervision Agency;
4. shall adopt reports on the state of the field of insurance industry and annual reports on the work performed by the Insurance Supervision Agency;
5. shall adopt annual plan of work with regard to expert services of the Insurance Supervision Agency and reports on the work performed by the Insurance Supervision Agency;

6. shall perform other tasks within the powers of the Insurance Supervision Agency, unless it is stipulated by law that another body of the Insurance Supervision Agency is competent to implement those tasks.

### **Council of experts' decision-making with regard to issuing regulations**

#### **Article 257**

(1) The council of experts shall adopt valid decisions on issuing regulations for which the Insurance Supervision Agency is competent when the majority of its members are present at the session.

(2) The Insurance Supervision Agency shall submit any drafts of regulation for discussion to the Slovenian Insurance Association and the ministry responsible for finance, whereas the Insurance Agencies' Association shall be supplied only the drafts covering the operation of insurance agents, insurance brokers, insurance agencies and brokerage companies, and shall examine any received comments and proposals.

(3) A regulation shall be adopted when the majority of members of the council of experts vote in favour of it.

### **Publication of regulations**

#### **Article 258**

Regulations issued by the Insurance Supervision Agency shall be published in the Official Gazette of the Republic of Slovenia.

### **Director of the Insurance Supervision Agency**

#### **Article 259**

(1) The director of the Insurance Supervision Agency shall be appointed following a completed public competition and dismissed by the National Assembly of the Republic of Slovenia upon the proposal of the Government of the Republic of Slovenia for a period of six years with the possibility of reappointment.

(2) The Government of the Republic of Slovenia shall propose a director of the Agency on the basis of a completed public competition, which must be published at least 6 months prior to the expiry of the mandate of the existing director.

(3) In addition to the conditions for a director referred to in Paragraph (2) of Article 19 of the Public Agencies Act (OJ L No. 52/02; hereinafter: ZJA), the person appointed as a director of the Insurance Supervision Agency must meet the following conditions:

- holds an university education in an appropriate field;
- is a recognised expert in the field of finance or commercial law;
- has professional, managerial, organisational and other skills and theoretical and technical knowledge required to manage the operations of the Insurance Supervision Agency;
- has an active knowledge of at least one world knowledge;

- has not been convicted by virtue of a final judgement of a wilfully committed criminal offence or of one of the following criminal offences, committed through negligence: negligent homicide, aggravated bodily harm, grievous bodily harm, endangering safety at work, concealment disclosure and unauthorised acquisition of a trade secret, money laundering, disclosure of an official secret, causing public danger, and the judgement has not yet been deleted.
- a final written charge because of a criminal offence prosecuted ex officio has not been filed against the said person.

Data referred to in indent (5) shall be obtained from a candidate for a director of the Insurance Supervision Agency, or they may be obtained from criminal records.

(4) A director of the Insurance Supervision Agency may not be contractually tied to, employed by or the an owner of a shareholding in legal entities to which the Insurance Supervision Agency issues authorisation or consent for their operation, and may not have a function in the bodies of political parties.

(5) A director of the Insurance Supervision Agency shall run the operations of the Insurance Supervision Agency and shall organise its work.

(6) A director shall be obliged to ensure that the Insurance Supervision Agency operates in accordance with this Act. In his work, the director of the Agency shall be obliged to protect the commercial secrets of the Insurance Supervision Agency.

(7) The Director of the Insurance Supervision Agency shall perform his function pursuant to the contract of employment with the Insurance Supervision Agency.

### **Grounds for early dismissal of a director of the Insurance Supervision Agency**

#### **Article 259.a**

A director of the Insurance Supervision Agency may be dismissed early in the instances set out in Paragraph (1) of Article 23 of the ZJA and also in instances where:

1. where, by virtue of a final judgement, the said person is convicted of a wilfully committed criminal offence or of one of the following criminal offences committed through negligence: negligent homicide, aggravated bodily harm, grievous bodily harm, endangering safety at work, concealment, disclosure and unauthorised acquisition of a trade secret, money laundering, disclosure of an official secret, causing public danger, and the judgement has not yet been deleted.
2. he/she permanently loses his/her work capacity to perform his/her function;
3. he/she violates the obligations to protect confidential data (Article 260 of this Act);
4. he/she violates the prohibition referred to in Paragraph (4) of Article 259 of this Act.

### **Protection of confidential data**

#### **Article 260**

(1) Members and a president of the council of experts and employees of the Insurance Supervision Agency shall be obliged to protect data relating to entities supervised by the Insurance Supervision Agency, and other data relating to facts and circumstances with which

they became familiar when performing their function or work, except for data which, pursuant to the provisions of this Act, is public. The above obligation shall also exist after the termination of their function or employment.

(2) Persons employed at the Insurance Supervision Agency may not be members of bodies of insurance undertakings or other legal entities supervised by the Insurance Supervision Agency, and may not perform individual tasks for those legal entities.

### **15.3. Funds for work**

#### **Tariffs and session fees**

##### **Article 261**

(1) The Insurance Supervision Agency shall publish a tariff laying down the fees for adopting decisions in individual matters and for issuing copies from registers kept by it, and the annual fees and payments of compensation which entities are obliged to pay for the supervision performed by the Insurance Supervision Agency pursuant to this or other Acts.

(2) The tariff published by the Insurance Supervision Agency or amendments and supplements thereto shall become effective when the Insurance Supervision Agency acquires approval by the Government of the Republic of Slovenia for tariffs and its amendments and publishes the tariff or changes thereto in the Official Gazette of the Republic of Slovenia.

(3) (deleted)

#### **Resources for work**

##### **Article 262**

(1) Resources for the work of the Insurance Supervision Agency shall be provided from:

1. fees and charges;
2. other income generated by the Insurance Supervision Agency through its operation.

(2) A part of the surplus of revenues over expenditure shall be allocated to the reserves of the Insurance Supervision Agency in the amount laid down in the financial plan of the Insurance Supervision Agency for the year in which the surplus was achieved, while the remainder shall be directed to the budget of the Republic of Slovenia.

#### **Surplus of operating expenses over income**

##### **Article 263**

(1) The surplus of operating expenses over income of the Insurance Supervision Agency shall be covered by the reserves of the Insurance Supervision Agency; when the reserve funds do not suffice, the surplus of expenses over income shall be covered from the Budget of the Republic of Slovenia.

(2) Funds may only be allocated from the Budget of the Republic of Slovenia when the operation of the Insurance Supervision Agency would otherwise be seriously threatened.

## **Financial plan and annual statement of account**

### **Article 264**

(1) The council of experts shall be obliged, no later than by 31 March of each year, to adopt the annual statement of account for the previous year and the financial plan for the next year.

(2) Until the consent of the Government of the Republic of Slovenia regarding the financial plan of the Insurance Supervision Agency is provided, the financing of the Insurance Supervision Agency shall be implemented according to a resolution on temporary financing adopted by the council of experts.

(3) The annual statement of account of the Insurance Supervision Agency must be reviewed by a certified auditor.

(4) The Insurance Supervision Agency shall be obliged to submit to the minister, responsible for finance the annual statement of account, together with the auditor's report and the financial plan, no later than ten days after their adoption. The annual statement of account and financial plan shall be provided with an approval by the Government of the Republic of Slovenia. The annual statement of account and financial plan shall be deemed adopted when the Government of the Republic of Slovenia, within 15 days from its submission to the minister, responsible for finance, does not decide otherwise.

(5) The Insurance Supervision Agency shall inform the National Assembly of the Republic of Slovenia about the annual statement of account and financial plan. The annual financial statements are an integral part of the annual report and shall be published.

## **15.4. Control of use of funds**

### **Control of use of funds**

#### **Article 265**

Control of the lawfulness, appropriateness, cost-effectiveness and efficiency of the use of funds of the Insurance Supervision Agency shall be performed by the Court of Auditors.

## **16. PROCEDURE OF ADOPTING DECISIONS IN INDIVIDUAL MATTERS BY THE INSURANCE SUPERVISION AGENCY**

### **16.1. General provision**

#### **Application of procedural provisions**

#### **Article 266**

(1) The Insurance Supervision Agency shall adopt decisions regarding individual matters for which it has competence under this Act in accordance with the procedure established in this Chapter, unless otherwise provided in other chapters of this Act or in another law.



(2) Unless otherwise stipulated in this Act, the provisions of the Act regulating the general administrative procedure shall be used by the Insurance Supervision Agency in the procedure of adopting decisions.

(3) Notwithstanding the provisions of the preceding Paragraph hereunder, in the decision procedure of the Insurance Supervision Agency it shall neither be possible to revert to the previous status nor to file for extraordinary legal remedies.

(4) Notwithstanding the provision of the preceding Paragraph hereunder, in the procedure regarding the withdrawal of an authorisation previously granted by the Insurance Supervision Agency, it shall be possible to retry a case provided there exist new facts and evidence and provided the proposal to retry the case is made within one year from the final decision on a withdrawal of the authorisation.

## **16.2. Procedural bodies and their powers**

### **Procedural bodies**

#### **Article 267**

(1) The procedural bodies shall be the Chamber and the president of the Chamber.

(2) The president and members of the Chamber and qualified professionals of the Insurance Supervision Agency who carry out individual tasks in decision procedures regarding individual matters which come under the competence of the Insurance Supervision Agency pursuant to this or another Act shall not be hold responsible for damage caused to third parties or other persons when carrying out tasks within these procedures unless the damage is caused wilfully or due to gross negligence.

### **Composition and powers of the Chamber**

#### **Article 268**

(1) The Chamber shall be composed of members of the council of experts, whereby one member shall be the president of the Chamber.

(2) The Chamber shall adopt decisions regarding all matters other than those which the president of the Chamber shall decide on according to this Act.

(3) The Chamber shall adopt decisions with regard to objections to orders adopted by the president of the Chamber.

### **Powers of the president of the Chamber**

#### **Article 269**

(1) The powers of the president of the Chamber in managing the procedure and in making decisions with regard to individual matters shall be performed by the member of the council of experts appointed under the scheme of work of the Insurance Supervision Agency.

(2) The president of the Chamber shall:

1. issue orders in the supervisory procedure;
2. adopt decisions regarding issues which refer to the procedure and those issues which arise as marginal issues with regard to the implementation of the procedure and which are not decided upon by virtue of an order;
3. adopt decisions on other issues, when so stipulated by law.

(3) Individual procedural tasks prior to the issuing of a decision or order which fall under the responsibility of the president of the Chamber may also be performed by a qualified professional from the Insurance Supervision Agency, when he/she has been authorised accordingly by the president of the Chamber.

### **16.3. Procedure prior to adopting a decision**

#### **Statements of the parties**

##### **Article 270**

(1) The parties shall make their statements in writing.

(2) In the case referred to in Paragraph (2) of Article 272 of this Act, the parties may also make their statements orally at the hearing.

#### **Possibility of making a statement**

##### **Article 271**

(1) Prior to the issuing of a decision which the Insurance Supervision Agency issues ex officio and against which an objection is not allowed, the Insurance Supervision Agency must invite the party to make a statement regarding facts and circumstances which are relevant to the decision, to such an extent that the law in an individual case shall not require another manner of providing to the party the possibility of making a statement.

(2) The invitation under the preceding Paragraph hereunder must contain:

1. a specific statement of facts and circumstances regarding which the party should make a statement, and the evidence on which these facts are grounded;
2. the deadline for the statement, which may not be shorter than eight days;
3. instructions to the party that it must attach to the statement documentary evidence, when the party refers to it, and that it will not have the right, after the expiry of the deadline, to provide new facts and submit new evidence.

(3) In the statement, the party may refer to those facts which show that facts and circumstances referred to in the invitation under Paragraph (1) hereunder have not been given, and may submit evidence whereby it substantiates the existence of the stated facts. When the party in the statement refers to documentary evidence, it must attach these documents to the statement.

(4) When the party does not attach documentary evidence to the statement, the provisions of the law regarding incomplete applications shall not apply, but the Insurance Supervision Agency shall take into consideration only that evidence which is attached to the statement.

(5) After the expiry of the deadline, the party shall have no right either to refer to new facts or submit new evidence.

### **Adopting decisions**

#### **Article 272**

(1) The Insurance Supervision Agency shall make decisions without a hearing.

(2) Notwithstanding the preceding Paragraph hereunder, the president of the Chamber may call an oral hearing when he/she assesses that this is necessary for the clarification or determination of the crucial facts.

### **16.4. Decisions of the Insurance Supervision Agency and decision-making**

#### **16.4.1. Common provisions**

#### **Types of decision taken by the Insurance Supervision Agency**

##### **Article 273**

(1) The Insurance Supervision Agency shall issue decisions in the form of decisions, resolutions and orders.

(2) There shall be no objection against the decisions of the Insurance Supervision Agency.

### **Sessions of the Chamber**

#### **Article 274**

(1) The Chamber shall adopt decisions, after discussion, by voting. The session shall not be public.

(2) The Chamber shall adopt valid decisions when the majority of its members are present at the session.

(3) The president of the Chamber shall chair the discussion and the voting, and shall be the last to cast his/her vote. It is his/her duty to ensure that all issues are thoroughly discussed from all points of view.

(4) When the votes with regard to individual issues being voted on are divided between various opinions so that none of them has the necessary majority, the issues shall be separated and the voting repeated until a majority is reached. When no majority is thus reached, the decision shall be made by adding the votes which are the least favourable for the subject of supervision to those which are less unfavourable until the required majority is reached.

(5) The members of the Chamber shall not be allowed to refuse to vote on issues put before them by the president of the Chamber. However, any member of the Chamber who has voted for the termination of the procedure for the withdrawal of an authorisation and has remained

in a minority shall not be obliged to vote on the sanction. When he/she does not vote, it shall be deemed that he/she agrees with the vote which is the most favourable for the subject of supervision.

(6) A valid decision shall be adopted, provided the majority of Chamber members present at the session have voted in favour of it.

(7) Notwithstanding the preceding Paragraph hereunder, a decision on withdrawal of authorisation shall be adopted if the majority of the Chamber members have voted in favour of it.

### **Minutes on discussion and voting**

#### **Article 275**

(1) Special minutes shall be drawn up with regard to discussion and voting.

(2) The minutes on discussion and voting shall contain the course of voting and the adopted decision.

(3) When they are not referred to in the minutes, any special opinions shall be enclosed with the minutes on discussion and voting.

(4) The minutes shall be signed by all Chamber members and the recording secretary.

(5) The minutes on discussion and voting shall be sealed in a special envelope. These minutes may only be inspected by the Supreme Court of the Republic of Slovenia when ruling in the procedure of judicial protection. In such an event, the Supreme Court of the Republic of Slovenia shall be obliged to reseal the minutes in a special envelope, adding a note to the effect that it inspected the minutes.

### **Correspondence session**

#### **Article 276**

(1) Notwithstanding the provision of Article 274 of this Act, the Chamber shall be allowed to adopt decisions with regard to the granting of authorisations or approvals in a correspondence session, provided that none of the Chamber members objects to decision-making in a correspondence session.

(2) Correspondence sessions shall be convened by the president of the Chamber by sending invitations to Chamber members.

(3) The invitation referred to in the preceding Paragraph hereunder must include the following:

1. the contents of the application for the authorisation or approval;
2. an invitation to the Chamber member to vote either for or against the granting of an authorisation or approval;

3. the deadline for voting, both date and hour, by which the Chamber member is obliged to submit to the Agency in writing his/her decision on the voting or to state that he/she objects to the correspondence session.

(4) A valid decision in the correspondence session shall be adopted when the majority of all Chamber members have cast their votes by the deadline and when, by the same deadline, none of the Chamber members have stated that they object to the correspondence session.

(5) When a valid decision is adopted in a correspondence session, the voting ballots shall be subject to the treatment pursuant to Paragraph (5) of Article 275 of this Act.

(6) When no valid decision is adopted in the correspondence session, the president of the Chamber shall be obliged to put the matter on the agenda of the very next session.

#### **16.4.2. Decision**

##### **Decision**

##### **Article 277**

By issuing a decision, the Insurance Supervision Agency shall decide on granting or withdrawing an authorisation and on other matters for which the Act does not determine that they shall be decided on by virtue of a resolution or order.

##### **Form of decisions and their serving**

##### **Article 278**

(1) A decision shall be issued in writing.

(2) The original copy of the decision shall be signed by the president of the Chamber.

(3) An authenticated copy of the decision shall be served on the relevant party.

##### **Constituent parts of decisions**

##### **Article 279**

(1) Each decision must include an introduction, operative provisions and instructions on legal remedy.

(2) In addition to the data which must be contained in the introduction to the decision pursuant to the General Administrative Procedure Act, the decision of the Agency must also include the name and surname of the president and members of the Chamber who issued the decision.

(3) The decision must be provided with an explanation. The explanation must also contain those decisions against which no special procedure regarding judicial protection is allowed.

### **16.4.3. Resolutions**

#### **Resolution**

##### **Article 280**

- (1) By issuing a resolution, the Insurance Supervision Agency shall decide on issues which relate to the procedure or occur in respect of the procedure.
- (2) A resolution must be explained and must comprise an instruction on legal remedy only when a special procedure of judicial protection is allowed against the resolution.
- (3) The provisions of Articles 278 and 279 shall apply as appropriate to resolutions.
- (4) The specific judicial protection procedure shall be allowed against any decision which may be subject to appeal under the provisions of the law governing the general administrative procedure.

### **16.5. Procedure of judicial protection**

#### **16.5.1. Common provisions**

##### **Procedure of judicial protection**

##### **Article 281**

- (1) Judicial protection against decisions taken by the Insurance Supervision Agency shall be provided by the procedure laid down in this Act (hereinafter referred to as: procedure of judicial protection).
- (2) In the procedure of judicial protection referred to in the preceding Paragraph hereunder, the provisions of the Administrative Disputes Act (Official Gazette of the Republic of Slovenia, No. 50/97) shall apply as appropriate, unless otherwise provided by this Act.

##### **Right to judicial protection**

##### **Article 282**

- (1) The procedure of judicial protection may be initiated against decisions of the Insurance Supervision Agency.
- (2) Notwithstanding the provisions of the preceding Paragraph, there shall be no special procedure of judicial protection against decisions through which the Insurance Supervision Agency initiates the procedure to withdraw authorisation.
- (3) The Supreme Court of the republic of Slovenia shall be obliged to decide, within a time period of three months, on appeals against decisions whereby the Insurance Supervision Agency decides on objections against orders and refuses, rejects or alters the order.
- (4) A decision referred to in Paragraph (2) of this Article may be annulled by appeal in a procedure of judicial protection against the decision on withdrawal of authorisation.

## **Jurisdiction and composition of the court**

### **Article 283**

Decisions in the procedure of judicial protection shall be made by the Supreme Court of the Republic of Slovenia sitting in a panel of five judges.

## **Legal action and statement of defence**

### **Article 284**

- (1) The legal action must be filed within eight days.
- (2) The deadline for a statement of defence shall be eight days.

## **New facts and evidence**

### **Article 285**

The plaintiff in a procedure of judicial protection may not cite new facts or introduce new evidence.

## **Limits of trial**

### **Article 286**

The court shall try the decision of the Insurance Supervision Agency within the limits of the demands of the suit and within the limits of the grounds stated in the suit, and shall, ex officio, pay attention to fundamental violations of the provisions referred to in Paragraph (3) of Article 25 of the Administrative Disputes Act.

## **Sessions**

### **Article 287**

The court shall make a ruling without a prior trial.

## **Legal remedies**

### **Article 288**

There shall be no appeal against a judgement or decree handed down in the procedure of judicial protection.

## **16.5.2. Procedure of judicial protection against a decision on the winding-up of an insurance undertaking**

### **Application of provisions**

## **Article 289**

The provisions of this Subsection shall be applied in the procedure of judicial protection against a decision regarding the initiation of compulsory liquidation and against a decision regarding grounds for the initiation of bankruptcy (hereinafter referred to as: a decision on the winding-up of an insurance undertaking).

### **Plaintiffs**

## **Article 290**

(1) The legal action against the decision on the dissolution of an insurance undertaking may be filed by:

1. the insurance undertaking;
2. shareholders whose total shares amount to at least one-tenth of the initial capital or to the nominal amount of EUR 417,300.

(2) When the plaintiff is an insurance undertaking, it shall be represented in the proceeding of judicial protection by the board of directors whose other authorities and powers have ceased due to the decision on the winding-up of the insurance undertaking.

### **New facts and evidence**

## **Article 291**

(1) Notwithstanding the provision of Article 285 of this Act, the plaintiff may state in the action new facts and new circumstances against the winding-up of the insurance undertaking. When in the action he refers to documentary evidence, he must attach this evidence to the suit.

(2) The Insurance Supervision Agency may, in its reply to the action produce new facts and new circumstances. When it refers in its reply to documentary evidence, it must attach this evidence to the reply.

(3) When the plaintiff or the Insurance Supervision Agency does not attach to the action the documentary evidence to which it refers, the provisions on incomplete petitions shall not apply but the court shall, in adopting a decision, take into consideration only that evidence which has been attached to the suit or the reply.

(4) After the expiry of the deadline for filing the action or the statement of defence, the parties shall have no right to state new facts or produce new evidence.

### **Main trial and session**

## **Article 292**

(1) The court shall hand down its ruling after the main trial.

(2) The court may hand down its ruling without a main trial when it is established in the preliminary procedure that the actual situation in the procedure for the issuing of a decision on



the winding-up of the insurance undertaking has been established completely and correctly, or that this is not disputable.

## **Adopting decisions**

### **Article 293**

(1) When it is established by the court that grounds exist due to which the administrative act under Article 61 of the Administrative Disputes Act might be annulled and the matter be decided upon by virtue of a judgement, the court shall not annul the decision on the winding-up of the insurance undertaking but shall, in its judgement, only establish that the decision on the winding-up of the insurance undertaking was illegal and that no conditions for the initiation of compulsory liquidation or bankruptcy had existed.

(2) The judgement under the preceding Paragraph hereunder shall not affect the course of the proceedings regarding compulsory liquidation or bankruptcy.

(3) In the case referred to in Paragraph (1) hereunder, the shareholders may enforce any eventual compensation claims against the supervisory authority by litigation.

(4) Notwithstanding the provision of Article 288 of this Act, an appeal against a judgement by which the court rules in the procedure of judicial protection against a decision on the winding-up of the insurance undertaking may be lodged, upon which the Supreme Court, sitting in a panel of seven judges, shall rule.

## **16.6. Procedures of supervision**

### **16.6.1. General provisions**

#### **Application of provisions**

### **Article 294**

(1) The provisions of this Section on procedures of supervision shall apply in all procedures of supervision conducted by the Insurance Supervision Agency pursuant to provisions of this Act, insofar as not stipulated otherwise by the law with regard to an individual procedure of supervision.

(2) When this Section contains no specific provisions, the general provisions of the chapter on the procedure of adopting decisions taken by the Insurance Supervision Agency shall apply.

#### **Provision of data to the Insurance Supervision Agency**

### **Article 294.a**

(1) With regard to the implementation of tasks pursuant to this Act, state authorities, local community authorities, bearers of public authority and other legal persons and organisations in possession of data required for decisions must, upon the request of the Insurance Supervision Agency, immediately forward the required data and documents necessary for the

implementation of the supervision procedure, including data which in accordance with provisions of ZGD are defined as a business secret and confidential data, that is data defined as confidential by the act governing confidential data.

(2) The persons stated in the previous Paragraph must provide the data referred to in the preceding Paragraph regardless of the rules on the admissibility for the provision of such data while taking into consideration rules which lay down safety measures in relation to the provision of data. The Insurance Supervision Agency must ensure a suitable degree of security for transmitted data.

(3) The persons referred to in Paragraph (1) hereunder who has been filed by the Insurance Supervision Agency a request for the submission of data, must provide accurate and complete data to the Insurance Supervision Agency within the deadline defined by the Agency as requested. The Insurance Supervision Agency may only use the data for the purpose for which they were obtained. When a person does not provide data within the required deadline, the Insurance Supervision Agency shall define a new deadline for the provision of the said data.

(4) When a person referred to in Paragraph (1) hereunder who has been filed a request for the transmission of data by the Insurance Supervision Agency, provides the Insurance Supervision Agency with inaccurate, incomplete or misleading data or fails to provide such data within a newly defined deadline as stipulated in the last sentence of the preceding Paragraph, the president of the Chamber may issue a decision imposing a fine of up to EUR 50,000. The deadline for payment of fines may not be shorter than 15 days and longer than 1 month.

(5) Simultaneously with the issue of the decision referred to in the preceding Paragraph, the Insurance Supervision Agency may issue a request to the person referred to in Paragraph (1) hereunder in which a new deadline regarding the provision of the data is determined.

(6) The decision on the imposition of a fine referred to in Paragraph (4) hereunder must be substantiated. No appeal may be filed against the said decision, however, an administrative dispute may be initiated.

(7) The Insurance Supervision Agency may issue a new decision on the imposition of a fine as defined in Paragraph (3) hereunder to a person referred to in Paragraph (1) hereunder who continues to deny the provision of data upon the expiration of the deadline for the execution of the renewed request for the provision of data referred to in Paragraph (4) hereunder. The Insurance Supervision Agency may issue decisions on the imposition of a fine due to the provision of inaccurate, incomplete or misleading data, or non-provision of data until the total amount of fines from individual decisions reaches 1 percent of the annual turnover of the person referred to in Paragraph (1) hereunder of the previous business year.

(8) The Insurance Supervision Agency shall, by virtue of its rules, determine the types of required data and documents, lengths of deadlines for providing data based on their urgency and range of fines for providing incorrect, incomplete or misleading data or non-provision of the required data. The lengths of the deadlines and amounts of the fines must be in proportion to the violation which is the subject of the supervision procedure.

### **Party to the procedure of supervision**

### **Article 295**

(1) A party to the procedure of supervision shall be a person or entity over which the Insurance Supervision Agency conducts supervision (hereinafter referred to as: “subject of supervision”).

(2) Parties to the procedure of supervision of an insurance undertaking shall also be the members of the board of directors of the insurance undertaking.

### **Serving of documents**

#### **Article 296**

(1) A document shall be served on the subject of supervision who is a legal person or individual entrepreneur by delivering it to a person authorised to accept it, or to an employee found in the office or on the premises.

(2) The serving of documents on the members of the board of directors of an insurance undertaking shall be carried out by serving them on the insurance undertaking. It shall be considered that, by delivery to the insurance undertaking, service on the members of the board of directors of the insurance undertaking shall also be accomplished.

(3) When a party to the procedure of supervision is represented by an attorney, it shall be considered that the serving of a document has been accomplished when the document is served on the attorney or an employee in the attorney's office.

(4) A document shall be served on a subject of supervision other than persons referred to in Paragraphs (1), (2) or (3) hereunder by handing it to him at his residence or in the business premises of the person by whom he is employed.

### **Substitute personal serving of documents**

#### **Article 297**

(1) When the serving of a document which needs to be served personally cannot be accomplished as prescribed in Article 296 of this Act and it has not been established that a person on who the document had to be served is absent, the person serving the document shall hand it to the Insurance Supervision Agency. At the door or in the mailbox of the residence or business premises of the addressee or of the person by whom he is employed, the person serving the document shall leave a written notice stating where the document is located and the deadline of eight days by which the addressee must pick it up. The person serving the document shall state in the notice and in the document itself the reason for such an action and the date on which the notice was left at the door or in the mailbox of the addressee or the person by whom he is employed, and shall sign it.

(2) When the addressee does not pick up the document within eight days, it shall be considered that the serving was accomplished on the day the notice was left at the door or in the mailbox of the locations referred to in the preceding Paragraph, of which the addressee must be advised in the notice itself.

## **Indirect serving of documents**

### **Article 298**

When the serving of a document which need not be served personally cannot be accomplished as provided in Article 296 of this Act, the person serving the document shall leave the document at the door or in the mailbox of the residence or business premises of the addressee or of the person by whom he is employed. The person serving the document shall state on the document the reason and the date of such delivery and shall sign it. It shall be deemed that the serving of the document has thereby been accomplished.

## **16.6.2. Conducting supervision**

### **Conducting supervision**

#### **Article 299**

The Insurance Supervision Agency shall conduct supervision:

1. by monitoring, collecting and verifying reports and information of the insurance undertakings and other entities which pursuant to the provisions of this Act or other laws are required to report to the Insurance Supervision Agency or to inform it of individual facts and circumstances;
2. by conducting examinations of the operations of subjects of supervision.

### **Authorised persons**

#### **Article 300**

(1) Examinations of the operations of insurance undertakings shall be conducted by an expert of the Insurance Supervision Agency, who shall be authorised by the director of the Insurance Supervision Agency to conduct the examination (hereinafter referred to as: inspector of the Insurance Supervision Agency).

(2) For conducting individual tasks in connection with the examination of operations, the director of the Insurance Supervision Agency may authorise a certified auditor or other professionally qualified person.

(3) Authorised persons referred to in the preceding Paragraph hereunder shall have, in connection with the examinations for which they have been authorised by the director of the Insurance Supervision Agency, the same powers as the Insurance Supervision Agency pursuant to Articles 301 to 306 of this Act.

### **Extent of examination**

#### **Article 301**

(1) The insurance undertaking must make it possible for an authorised person to examine all books of account, documents and other documentation.

(2) At the request of the Insurance Supervision Agency, the insurance undertaking must produce computer printouts or copies of evidence, or other books of account and documents.

(3) Members of the board of directors and employees of the insurance undertaking must provide the authorised person, upon his request, with reports and information regarding all matters of importance for the examination of operations of the insurance undertaking.

(4) The authorised person may also conduct an examination of operations of legal persons connected with the insurance undertaking when this is necessary for a complete examination of operations of the insurance undertaking.

## **Reports and information**

### **Article 302**

(1) During the conduct of supervision, the Insurance Supervision Agency may request from a subject of supervision the records and information regarding all matters which are, in view of the purpose of each supervision, of importance for judging whether the subject of supervision is observing the provisions of the law or the regulations issued on the basis thereof.

(2) The reports and information referred to in the preceding Paragraph hereunder may also be requested by the Insurance Supervision Agency from members of the board of directors of the subject of supervision, and from persons employed by the subject of supervision.

(3) The Insurance Supervision Agency may request the persons referred to in the preceding Paragraph hereunder to provide, by a deadline which may not be shorter than three days, a written report on the matters referred to in Paragraph (1) hereunder, or to make an oral statement regarding these matters.

## **Examinations of operations**

### **Article 303**

(1) The subject of supervision must enable the inspector of the Insurance Supervision Agency, upon his request, to conduct an examination of operations at the headquarters of the subject of supervision, and at other locations in which the subject of supervision or another person, holding his authorisation, performs activities and business in connection with which the Insurance Supervision Agency is conducting supervision.

(2) The subject of a supervision must enable the inspector of the Insurance Supervision Agency, upon his request, to examine the books of account, business documents, and administrative or business evidence to the extent necessary for the conduct of an individual supervision or to the extent prescribed by the law regulating individual supervision.

(3) The subject of supervision must hand to the Insurance Supervision Agency upon its request computer printouts or copies of books of account, business documents, and administrative or business evidence.

(4) The examination of operations referred to in Paragraphs (1) and (2) hereunder shall be conducted by the Insurance Supervision Agency on working days between 8 am and 6 pm. When necessary because of the extent or nature of the examination, the Insurance Supervision Agency may also conduct the examination of operations after 6 pm or on non-working days.

(5) The Insurance Supervision Agency must conduct its examination in such a manner as to only hamper the normal operations of the subject of supervision to the extent necessary to conduct the examination in accordance with the purpose of an individual supervision.

### **Request to examine operations**

#### **Article 304**

(1) The request to examine operations must be delivered to the subject of supervision at least eight days prior to the start of the examination of operations.

(2) Notwithstanding the provision of the preceding Paragraph hereunder, the authorised person may deliver a request to examine operations as late as upon the commencement of carrying out the examination of operations when otherwise the purpose of an individual supervision would be impossible to achieve.

(3) The request to examine operations must contain a specific list of books of account, business documents, and administrative or business evidence which are the subject of the examination.

(4) In the case referred to in Paragraph (3) of Article 303 of this Act, a request to examine must comprise a specific statement of business books, business documentation and administration or business records which must be submitted in the form of computer printouts or copies, and the deadline, which may not be shorter than five working days, or in urgent cases, which must be specifically explained in the request to examine operations, within a time period of 3 working days from being informed about the request.

(5) The request to examine operations must also contain legal caution regarding legal consequences which may occur when the subject of supervision fails to act in accordance with the request to examine operations or fails to enable the Insurance Supervision Agency to conduct an examination of operations in a manner prescribed in Article 303 of this Act.

(6) The Insurance Supervision Agency may, when conducting the examination of operations, supplement the request to examine operations. Paragraphs (3) and (4) hereunder shall apply as appropriate with regard to the supplementing of the request.

### **Conditions for conducting an examination**

#### **Article 305**

(1) The subject of supervision must provide authorised persons of the Insurance Supervision Agency appropriate premises in which the examination of operations may be carried out in an undisturbed manner and without the presence of other persons.

(2) The subject of supervision must ensure that at the time when authorised persons of the Insurance Supervision Agency carry out the examination of operations in premises referred to in Paragraph (1) of Article 303 hereunder, the authorised persons of the subject of supervision are present in these premises which may, upon a request of an authorised person of the

Insurance Supervision Agency provide explanations regarding the books of account, business documents, and administrative or business evidence which are the subject of examination.

### **Conditions for the examination of computerised books of account and records**

#### **Article 306**

(1) The subject of supervision that processes data by computer or keeps books of account and other evidence on computer must, upon the request of an authorised person of the Insurance Supervision Agency, provide appropriate devices to inspect books of account and records, and test the appropriateness of the data processed by computer.

(2) The subject of supervision must provide the supervisory authority with documents from which a complete description of the operation of the computer system is evident. The documents must clearly show the subsystems and files of the computer system. The documents must provide an insight into:

1. computer solutions;
2. procedures relating to computer solutions;
3. controls which ensure correct and reliable data-processing;
4. the control system which prevents unauthorised additions or changes to, or the deletion of saved computer entries.

(3) Every change to the computer solution (computer programmes) referred to in Paragraph (1) hereunder must be documented according to the time sequence of the creation of the changes, together with the date of the change. The documents must also show every change to the form of databases.

### **Imposing measures of supervision**

#### **Article 307**

(1) The measures of supervision pursuant to this Act shall be imposed ex officio by the Insurance Supervision Agency.

(2) The Insurance Supervision Agency shall, prior to declaring the measure, inform the subject of supervision and offer the opportunity to issue a statement thereon. The deadline for the statement may not be shorter than 8 days and not longer than 15 days.

(3) Notwithstanding the provision of Paragraph (1) hereunder, the Insurance Supervision Agency may also impose a measure when proposed by a member of the board of directors or supervisory board, or by shareholders whose total shareholdings amount to at least one-tenth of the initial capital of the insurance undertaking, or the nominal amount of EUR 417,300.

### **16.6.3. Elimination of violations**

#### **Orders**

#### **Article 308**

When, during the course of its supervision, violations of this Act or of regulations issued on the basis thereof, or of other provisions regulating the operations of insurance undertakings have been established by the Insurance Supervision Agency, it shall impose on the subject of supervision an order to eliminate violations or irregularities, or to perform or omit the performance of specific acts (hereinafter referred to as: elimination of violations).

## **Contents of orders**

### **Article 309**

- (1) The operative provisions of an order must contain:
1. a specific description of violations whose elimination is required by the order;
  2. the deadline by which the subject of supervision must eliminate the violations and submit a report on the elimination of violations;
  3. the manner to eliminate violations when the Insurance Supervision Agency has ordered the subject of supervision to eliminate violations in a specific manner;
  4. documents or evidence regarding the elimination of violations when the Insurance Supervision Agency orders the subject of supervision to submit specific documents or other evidence regarding the elimination of violations.
- (2) Grounds must be provided for the order.

## **Submission of reports on the elimination of violations by the certified auditor**

### **Article 310**

When violations in the keeping of books of account or administrative and other records which the insurance undertaking is required to keep, or considerable violations in the operation of the insurance undertaking are established by the Insurance Supervision Agency, the insurance undertaking may be additionally ordered to submit a report regarding the elimination of violations containing a positive opinion of the authorised auditor that the established violations have been eliminated.

## **Objection against an order**

### **Article 311**

- (1) The subject of supervision shall have the right to file an objection against the order within the period of eight days from the service of the order.
- (2) When the entitled person has filed an objection on time, the deadline for the elimination of violations set by the order shall be extended for the duration of the period from the filing of the objection to the serving of the decision regarding the objection on the said person.
- (3) Notwithstanding the preceding Paragraph hereunder, the Insurance Supervision Agency may, by virtue of order, decide that the objection shall not delay its execution when, because of the nature of the violation, its execution cannot be delayed.
- (4) The Insurance Supervision Agency shall be obliged to decide on the objection against an order no later than in the period of 15 days after the receipt of the objection.



## **Grounds for objection**

### **Article 312**

An objection against an order shall be allowed on the following grounds:

1. when the order was issued by a person not authorised to issue orders;
2. when the violation whose elimination is required by the order does not exist;
3. when the act or omission which provided grounds for the issuing of the order does not have the characteristics of a violation;
4. when the order cannot be executed, or cannot be executed in the manner defined by the order;
5. when the execution of the order would cause an act which is contrary to the enforcing provisions;
6. when by virtue of the order the elimination of violations has been imposed on an entity whose supervision does not fall within the competencies of the Insurance Supervision Agency;
7. when by virtue of the order the submission of a report regarding the elimination of violations by a certified auditor has been imposed contrary to the law;
8. when in the order the actual situation is stated in a erroneous or incomplete manner.

## **Contents of an objection**

### **Article 313**

(1) An objection must contain:

1. a statement regarding the order against which it is filed;
2. a statement as to whether the order is being challenged in its entirety or with regard to a specific part;
3. the grounds for the objection;
4. other information which must be contained in every petition.

(2) In the objection, the subject of supervision may state facts showing that violations whose elimination was required by the order do not exist, and may submit evidence whereby the existence of the facts stated is being proved. When the subject of supervision refers to documentary evidence in the statement, this evidence to the objection must be attached to the objection.

(3) When the subject of supervision does not attach documentary evidence to the objection, the provisions regarding incomplete petitions shall not apply, but during its decision making the Insurance Supervision Agency shall take into consideration only that evidence which has been attached to the statement.

(4) After the expiry of the deadline for the objection, the subject of supervision shall not have the right to state new facts and attach new evidence.

## **Limits on the testing of an order**

### **Article 314**

The Insurance Supervision Agency shall test the order with regard to that part in which it is contested in the objection, and within the limits of the grounds stated and explained in the objection.

### **Decision making with regard to objections**

#### **Article 315**

- (1) The Insurance Supervision Agency shall decide regarding the objection by issuing a decision.
- (2) When deciding regarding an objection, the Insurance Supervision Agency may refuse or reject the objection, change the order or revoke it.
- (3) The Insurance Supervision Agency shall reject an objection when an objection is not allowed, it is too late, or when it has not been filed by a legitimate person.
- (4) When the Insurance Supervision Agency establishes that grounds referred to in items 1, 2, 3 or 6 of Article 312 of this Act exist, it shall annul the order.
- (5) When the Insurance Supervision Agency establishes that grounds referred to in items 4, 5, 7 or 8 of Article 312 of this Act concerning the nature of the violation exist, it shall annul the order or change it. In deciding regarding the objection, the Insurance Supervision Agency may not change the order to the detriment of the subject of supervision.

### **Reports on the elimination of violations**

#### **Article 316**

- (1) The subject of supervision must, by the deadline set in the order, eliminate the discovered violations and submit a report to the Insurance Supervision Agency in which the measures to eliminate violations are described. Documents and other evidence to the report must be attached which show that discovered violations have been eliminated.
- (2) In the case referred to in Article 310 of this Act, the subject of supervision must also attach to the report on the elimination of violations a report by the certified auditor.
- (3) When it is evident from the report referred to in Paragraph (5) hereunder and the evidence attached thereto, or from the report referred to in Paragraph (2) hereunder, that violations have been eliminated, the Insurance Supervision Agency shall issue a decision whereby it establishes that violations established by virtue of the order have been eliminated.
- (4) When additional measures in accordance with Article 181 of this Act are ordered by virtue of the order, the provisions of this Article referring to the elimination of violations and the report on the elimination of violations shall also refer to the implementation of additional measures and to reporting on the implementation of additional measures.

#### **16.6.4. Withdrawal of authorisation**

## **Initiation of the procedure for withdrawing authorisation**

### **Article 317**

(1) The Insurance Supervision Agency shall initiate the procedure to withdraw an authorisation previously granted when the information at its disposal leads to a well-founded suspicion of an existence of any of the grounds to withdraw the authorisation, defined by law.

(2) The Insurance Supervision Agency shall adopt a decision to initiate the procedure to withdraw an authorisation by a decision (hereinafter referred to as: decision to initiate a procedure to withdraw an authorisation).

(3) The decision to initiate the procedure to withdraw an authorisation shall contain:

1. a specific description of actions, activities or circumstances which are supposed to be the grounds to initiate the procedure;
2. a citation of the documents and other evidence on the basis of which the Insurance Supervision Agency established the existence of a well-founded suspicion referred to in Paragraph (1) hereunder;
3. an explanation of the decision to initiate the procedure.

(4) In the decision to initiate the procedure to withdraw an authorisation, the Insurance Supervision Agency shall set a deadline, which may not be shorter than 15 or longer than 30 days, counting from the day of the serving of the decision on the subject of supervision, during which time the subject of supervision may make a statement regarding the grounds to initiate the procedure (hereinafter referred to as: statement regarding the grounds to withdraw an authorisation).

## **Statement regarding the grounds to withdraw an authorisation**

### **Article 318**

(1) In a statement regarding grounds to withdraw an authorisation the subject of supervision may state facts which show that the withdrawal of the authorisation is not justified, and submit evidence substantiating the existence of the stated facts. When in his statement he subject of supervision refers to documentary evidence, he must attach this evidence to the statement.

(2) When the subject of supervision does not attach documentary evidence to the statement regarding grounds to withdraw an authorisation, the provisions regarding incomplete requests shall not apply but during its decision making the Insurance Supervision Agency shall take into consideration only that evidence which has been attached to the statement.

(3) After the expiry of a deadline for a statement regarding grounds to withdraw an authorisation, the subject of supervision shall not have the right to state new facts and submit new evidence.

## **Adopting a decision regarding the withdrawal of an authorisation**

### **Article 319**

(1) The Insurance Supervision Agency must adopt a decision regarding the withdrawal of an authorisation within the period of 30 days from the receipt of the statement regarding the grounds to withdraw an authorisation, or after the expiry of a deadline set for such a statement.

(2) The Insurance Supervision Agency may adopt a decision regarding the withdrawal of an authorisation only with regard to those actions, activities or circumstances on the basis of which the decision to initiate the procedure to withdraw an authorisation has been issued, and only on the basis of those documents and other evidence which were cited in the decision to initiate the procedure and which the subject of supervision had attached to the statement regarding grounds to withdraw an authorisation.

### **Termination of procedure**

#### **Article 320**

The Insurance Supervision Agency shall terminate the procedure for the withdrawal of an authorisation:

1. when on the basis of the evidence referred to in the Paragraph (2) of Article 319 of this Act it is concluded that an action, activity or circumstance because of which the decision regarding the initiation of the procedure to the withdraw an authorisation was issued have no characteristics of grounds to withdraw an authorisation;
2. or when on the basis of the evidence referred to in Paragraph (2) of Article 319 of this Act it is concluded that it has not been proved that the subject of supervision committed an act or that circumstances existed because of which the decision regarding the initiation of the procedure to withdraw an authorisation was issued.

### **Adopting decisions with regard to the withdrawal of an authorisation**

#### **Article 321**

(1) The operative provisions of the decision regarding the withdrawal of an authorisation must contain:

1. the decision regarding the withdrawal of an authorisation, including the number and date of the issue of the authorisation;
2. the name of the company and its head office, or the first and last name and date of birth of the subject of supervision whose authorisation has been withdrawn;
3. a specific description of actions, activities or circumstances which are supposed to be the grounds to withdraw an authorisation.

(2) The decision regarding the withdrawal of authorisation must be explained.

### **Revocation of a suspended withdrawal of authorisation**

#### **Article 322**

With regard to procedure for the revocation of a conditional withdrawal of an authorisation, the provisions of this Subsection on the procedure to withdraw an authorisation shall apply as appropriate.

## **16.7. Procedure of adopting decisions with regard to the granting of authorisations or consent**

### **Application of provisions**

#### **Article 323**

(1) The provisions of this Section shall apply to the procedure regarding adopting decisions on the granting of an authorisation or consent upon the basis of which the Insurance Supervision Agency adopts a decision, unless otherwise stipulated in the law regulating individual procedures for granting an authorisation or consent.

(2) Unless this section contains specific provisions, general provisions regarding the procedure of adopting decisions on the granting of an authorisation or consent taken by the Insurance Supervision Agency shall apply to the procedure of adopting decisions with regard to the granting of an authorisation or consent.

### **Fee for the adoption of a decision**

#### **Article 324**

For the adoption of a decision regarding requests for the granting of an authorisation or consent the applicants must pay the fee stipulated in the tariff of the Insurance Supervision Agency.

### **Parties to the procedure**

#### **Article 325**

(1) A party to the procedure shall be a person filing a request or application for the granting of an authorisation or consent (hereinafter referred to as: applicant).

(2) A party to the procedure shall also be a person whose legal interest might be affected by the decision of the Insurance Supervision Agency, when his participation in the procedure is filed by a written application.

(3) Each party shall bear its own costs relating to the procedure.

### **Initiation of the procedure**

#### **Article 326**

(1) The procedure shall be initiated upon the filing of an application for the granting of an authorisation or consent (hereinafter: application).

(2) The Insurance Supervision Agency shall initiate the procedure ex officio or upon the request of another responsible authority only when so provided by law.

### **Contents of application**

#### **Article 327**

(1) An application must contain:

1. the company name, head office and identification number of the applicant when the applicant has already obtained such;
2. a specific request to grant an authorisation or consent;
3. other information required by law.

(2) The documents required by law and other documents substantiating a specific request to grant an authorisation or consent and evidence of payment of the fee for the adoption of a decision shall be attached to the application.

### **Procedural assumptions for the adoption of decisions**

#### **Article 328**

(1) In the procedure of the preliminary testing of the application, the Insurance Supervision Agency shall test whether the procedural preconditions for the adoption of decisions in the matter have been fulfilled:

1. whether the application was filed by a legitimate person;
2. whether the application contains all required information;
3. whether all the required documents have been attached to the application;
4. whether evidence of payment of the fee for the work of the Insurance Supervision Agency has been attached to the application;
5. whether all other procedural assumptions which must be fulfilled for a decision to be made on the application have been fulfilled.

(2) When the Insurance Supervision Agency finds that the procedural requirements for the making of a decision regarding the application have not been fulfilled and the deficiencies involved cannot be eliminated, the application shall be rejected by issuing a decision.

(3) When the Insurance Supervision Agency finds that the procedural preconditions for decision-making have not been fulfilled and the deficiencies can be eliminated, it shall request, by means of a resolution, that the applicant eliminate the deficiencies. In the decision the deadline for the elimination of the deficiencies shall be set, which may not be shorter than eight or longer than 15 days.

(4) When the applicant referred to in the preceding Paragraph hereunder fails to eliminate the deficiencies, the Insurance Supervision Agency shall reject the application by means of a resolution.

(5) There shall be no specific proceedings regarding judicial protection against the decision referred to in the third Paragraph hereunder.

(6) When an application concerns the granting of an authorisation to carry out insurance business or for a merger or division, the Insurance Supervision Agency must issue a resolution referred to in Paragraph (3) hereunder within two months from the receipt of the application and, in all other cases, within 30 days from the receipt of the application.

### **Presentation of evidence and decision-making**

### **Article 328.a**

(1) In the procedure regarding decision making on an application, the Insurance Supervision Agency may also consider evidence which was not submitted by the applicant when such evidence is required to establish facts of importance for the decision on the application. In this regard the Insurance Supervision Agency may require an applicant:

1. to submit additional data or documents within a time period not shorter than eight days,
2. to enable it to perform an examination of his operations or the operations of related entities.

(2) The provisions of Articles 299 to 306 of this Act shall apply as appropriate to the examination of operations referred to in item 2 of the preceding Paragraph of this Article.

(3) The Insurance Supervision Agency shall reject the application:

1. when the applicant fails, within the time period laid down in application referred to in item 1 of Paragraph (1) of this Article, to submit the requested data or documents to the Insurance Supervision Agency, or
2. when the applicant declines a request of the Agency referred to in item 2 of Paragraph (1) of this Article or in some other way hinders the implementation of the examination of operations.

(4) When the Insurance Supervision Agency intends to reject an application to issue an authorisation on the basis of the facts established during the examination of operations referred to in item 2 of Paragraph (1) of this Article, or other evidence not proposed by the applicant, the Insurance Supervision Agency shall, prior to issuing a decision to reject the request, invite the applicant to make a statement regarding the facts and circumstances which are important for this decision. In the case referred to in the preceding sentence, Article 271 of the Act shall apply as appropriate.

### **Deadline for adopting decisions**

### **Article 329**

(1) The Insurance Supervision Agency must adopt its decision on the application for the granting of an authorisation to carry out insurance business, or for a merger or division, within six months from the receipt of the application for the granting of an authorisation, and with regard to all other applications, within three months from receiving the application for granting an authorisation or consent.

(2) When the Insurance Supervision Agency fails to decide within the time periods referred to in the preceding Paragraph, the applicant may exercise judicial protection as if his request had been rejected.

(2) When the Insurance Supervision Agency has issued the decision referred to in Paragraph (6) of Article 328 of this Act, the period of time referred to in Paragraph (1) hereunder shall not run from date of the service of the decision to the expiry of a period to eliminate deficiencies or to the receipt of the supplement to or correction of the application, when such application is completed within the period stipulated by the decision.

(4) When the Insurance Supervision Agency invites an applicant referred to in Paragraph (4) of Article 328.a of this Act to make a statement regarding grounds for a rejection of an

authorisation, the deadline referred to in Paragraph (1) of this Article for the decision on an authorisation or consent shall not run from the date of service of such an invitation until the expiry of the deadline for the statement or until receipt of the statement when such statement has been submitted within the time period laid down in the invitation.

### **Special rules regarding decision-making on application for authorisation to acquire qualifying holding**

#### **Article 329.a**

(1) Notwithstanding Paragraph (6) of Article 328 of this Act, the Insurance Supervision Agency shall issue a decision to eliminate deficiencies of an application for an authorisation to acquire a qualifying holding within two business days from receiving the application.

(2) The Insurance Supervision Agency must issue to the applicant within two business days a confirmation of receipt of the complete request for authorisation to acquire a qualifying holding.

The time limit referred to in the provisions of the preceding sentence shall run:

1. from the receipt of the application when the Insurance Supervision Agency has not issued, within the time limit referred to in the preceding Paragraph, the decision to eliminate deficiencies;
2. from the receipt of the supplement or correction of the application when the Insurance Supervision Agency has issued, within the time limit referred to in the preceding Paragraph, the decision to eliminate deficiencies, and the applicant has corrected or supplemented the request within the time limit specified in the decision and in accordance with such a decision.

(3) Notwithstanding Paragraph (1) of Article 329 of this Act, the Insurance Supervision Agency shall adopt its decision on the application for the granting of an authorisation to acquire a qualifying holding within 60 business days. The time limit referred to in the provision of the preceding sentence shall run:

1. from the issue of the confirmation of a receipt when the Insurance Supervision Agency has issued the confirmation of a receipt within the time limit referred to in the preceding Paragraph;
2. from the expiry of the time limit to issue the receipt referred to in the preceding Paragraph when the Insurance Supervision Agency has not issued the confirmation of a receipt within the time limit referred to in the preceding Paragraph;

(4) In the confirmation of a receipt referred to in Paragraph (2) of this Article, the Insurance Supervision Agency shall state the expiry day of the deadline referred to in the preceding Paragraph.

(5) The procedure for deciding on an application for authorisation to acquire a qualifying holding shall not be subject to item 2 of Paragraph (1), Paragraph (2) and item 2 of Paragraph (3) of Article 328.a, and Paragraph (4) of Article 329 of this Act.

(6) The Insurance Supervision Agency may request the applicant to provide additional information or documents in order to assess the future qualifying holder's eligibility (hereinafter referred to as: a request for additional information or documents) when such a request is issued not later than on the 50<sup>th</sup> business day from the expiry of the time limit to issue the confirmation of receipt referred to in Paragraph (2) of this Article.



(7) When the Insurance Supervision Agency issues a request for additional information or documents in accordance with the preceding Paragraph, the running of the time limit referred to in Paragraph (3) of this Article shall be withheld as from the issue of the request for additional information or documents until the day of a submission by the applicant of the additional information or documents, but for a maximum of 20 days from the issue of the first request. Upon a receipt by the Insurance Supervision Agency of additional information or documents pursuant to the first request in accordance with the preceding Paragraph, the Insurance Supervision Agency may request further additional information or documents, but such second and subsequent requests shall not prevent the running of the time limit referred to in Paragraph (3) of this Article.

(8) Notwithstanding the preceding Paragraph, the Insurance Supervision Agency can decide, by virtue of the first request for additional information or documents, that the running of the time limit referred to in Paragraph (3) of this Article be withheld for more than 20 days, but for a maximum of 30 business days from the issue of such a request:

1. when the future qualifying holder is a third country entity, or
2. when the future qualifying holder does not hold the position of a credit institution, investment firm, asset management company, collective investment undertaking, insurance undertaking, or reinsurance undertaking.

(9) Pursuant to the request referred to in Paragraph (6) of this Article, the Insurance Supervision Agency must issue the applicant of the request, within two business days after the receipt of additional information or documents, with a confirmation of a receipt of such additional information and documents. The confirmation of a receipt of additional information or documents pursuant to the first request referred to in Paragraph (6) of this Article shall state the expiry day of the deadline laid down in Paragraph (3) of this Article, taking into account its withholding pursuant to Paragraphs (7) or (8) of this Article.

(10) When the Insurance Supervision Agency refuses an application to grant an authorisation to acquire a qualifying holding, the Insurance Supervision Agency must, within two business days after taking such a decision and until expiry of the time limit referred to in Paragraph (3) of this Article, taking into account a possible withholding referred to in Paragraphs (7) or (8) of this Article, issue and send off a written copy of a decision to reject the application for authorisation to acquire a qualifying holding.

(11) When the Insurance Supervision Agency does not issue or send off the written copy of the decision to reject or dismiss the application for an authorisation to acquire a qualifying holding before the expiry of the time limit specified in Paragraph (3) of this Article, taking into account a possible withholding referred to in Paragraphs (7) or (8) of this Article, the authorisation to acquire a holding for which the qualifying holder requested the issue of such authorisation shall be deemed to have been issued on the expiry day of such time limit.

(12) The Insurance Supervision Agency shall, upon the request of a qualifying holder, issue a declaratory decision stating that the authorisation has been issued within eight days of receiving the request for a declaratory decision.

(13) Notwithstanding Paragraph (1) of Article 153 of this Act, the Insurance Supervision Agency shall publish on its website a summary of the decision to reject the request for

authorisation to acquire a qualifying holding, including the summary of the grounds for such a decision when so required by the applicant of the request.

## **16.8. Execution of decisions by the supervisory authority**

### **Decisions imposing the meeting of financial obligations**

#### **Article 330**

Final decisions of the Insurance Supervision Agency that impose the meeting of a monetary obligation shall be executed by the court, upon the proposal of the Insurance Supervision Agency.

### **Order to eliminate violations**

#### **Article 331**

An order to eliminate violations cannot be executed compulsorily.

## **17. INSURANCE AND REINSURANCE POOLS**

### **Insurance and reinsurance pools**

#### **Article 332**

(1) Two or more insurance undertakings may establish an insurance or reinsurance pool in order to perform insurance and reinsurance business covering the risks of major damages to property, damages due to the liability for nuclear damage, producers' liability for pharmaceutical products, or any other major damages.

(2) The provisions of ZGD regarding commercial interest associations shall apply to insurance or reinsurance pools, unless otherwise defined in this Article.

(3) The provisions of chapter (3) and chapters (5) to (12), excluding the provision of Paragraph (1) of Article 163 of this Act, shall apply to an insurance or reinsurance pool, as appropriate. .

## **18. SLOVENIAN INSURANCE ASSOCIATION**

### **Slovenian Insurance Association**

#### **Article 333**

(1) Insurance undertakings which may carry out insurance business in the Republic of Slovenia and other organisations may unite in the Slovene Insurance Association.

(2) The provisions of ZGD regarding commercial interest associations shall apply to the Slovenian Insurance Association, unless otherwise stipulated in this Article.

(3) The Slovenian Insurance Association shall:

1. conduct business assumed under adopted international agreements on insuring the civil liability of owners of motor vehicles (Green Card) and represent insurance undertakings in international organisations of insurance undertakings in respect of this business;
2. adopt insurance statistical standards;
3. perform tasks relating to the claims fund for:
  - the payment for damages caused by drivers of unknown and uninsured vehicles and uninsured aircraft or other flying machines and uninsured boats;
  - the payment of compensation to passengers in public transport, when the owner of the means of public transport has not concluded an insurance contract;
  - the payment of compensation in instances where bankruptcy proceedings have been initiated against the insurance undertaking liable to pay the compensation;
4. perform tasks which are of mutual significance for insurance undertakings, defined in the articles of association or bylaws, or tasks for which it is authorised by its members.
5. perform tasks relating to the information centre and the compensation office under the act regulating compulsory insurance in transport.

(4) The Slovenian Insurance Association shall organise training and carry out an examination of the expertise necessary to perform business related to insurance agency services or brokerage referred to in Paragraph (4)(1) and Paragraph (5)(1) of Article 230 of this Act.

(5) In regard to the performance of businesses of the Slovenian Insurance Association referred to in items 3 and 5 of Paragraph (3) hereunder, the provisions of Article 70, Article 116, Paragraph (1) of Article 137, and of Chapters (8), (10) and (11) of this Act shall apply, as appropriate, for the compensation office.

(6) In the case referred to in Paragraph (4) hereunder, the provisions of Articles 172, 173, 175, 177, 179 and 180 of this Act shall apply, as appropriate, to the supervision of the organisation of training and the carrying-out of examinations of expertise.

### **Settlement of disputes between service providers and consumers**

#### **Article 333.a**

(1) Insurance undertakings shall be obliged to establish a scheme for out-of-court settlement of disputes between providers of insurance services and clients (consumers).

(2) The form and composition of the body that decides in disputes, and the method and procedure for decisions shall be prescribed by the insurance undertaking by internal bylaws which shall be published in the daily press or professional publications intended for consumers.

(3) Insurance undertakings shall be obliged to publish information on the scheme for out-of-court settlement of disputes in their insurance conditions.

(4) Insurance undertakings shall be obliged to establish internal procedures to settle complaints by insured persons.

## **19. LAW APPLYING TO INSURANCE CONTRACTS**

## **Application of provisions**

### **Article 334**

- (1) The provisions of this Chapter shall apply in determining the law to apply to insurance contracts with an international element, when the insurance covers risks situated in the Republic of Slovenia or in a Member State.
- (2) Unless otherwise stipulated in this Chapter, the provisions of the general law regulating the regulations on determining the law for relations with an international element shall apply in determining the law for the insurance contracts defined in the preceding Paragraph hereunder.
- (3) The provisions of this chapter shall not apply to reinsurance contracts.

## **Reference to substantive law provisions of foreign law**

### **Article 335**

- (1) When provisions contained in this Chapter refer to foreign law, only those substantive law provisions of this law shall be applied which regulate the contents of a legal relation and not the provisions of that law referring to other laws.
- (2) When a particular country whose law is to be applied involves several parts in which various provisions from the preceding Paragraph hereunder are valid, each such part shall be considered to be an independent country in respect of the application of the provisions referred to in this Chapter.

## **Foreign law in contravention of compulsory regulations**

### **Article 336**

The provisions of this Chapter shall not exclude the application of the provisions of this or another law which, in a compulsory manner, arrange the contents of the legal relation on the basis of an insurance contract, irrespective of the law applied.

## **Autonomy of parties in selecting the law for non-life insurance**

### **Article 337**

With regard to an insurance contract in the case of non-life insurance, the law selected by the contracting parties shall be applied when the selection of the law is in accordance with Article 338 of this Act.

## **Restriction of autonomy of parties in selecting the law for non-life insurance**

### **Article 338**

- (1) When a policy holder has his/her head office or residence in the Republic of Slovenia, and when a non-life insurance covers risks situated in the Republic of Slovenia, the law of the Republic of Slovenia shall apply to the insurance contract in question.

(2) When a policy holder has his/her head office or residence in a Member State and when a non-life insurance covers risks in that country, the parties may, for making an insurance contract, apply the law of another country, if the law of the Member State allows another law to be selected.

(3) When a policy holder has his/her head office or residence in a Member State and when a non-life insurance covers risks situated in the Republic of Slovenia, the parties may, with regard to an insurance contract, apply either the law of the Republic of Slovenia or the law of the Member State in which the policy holder has his/her head office or residence, unless the law of this country allows another law to be selected.

(4) When a policy holder has his/her head office or residence in the Republic of Slovenia, and when a non-life insurance covers risks situated in the Member State, the parties may, with regard to an insurance contract, apply either the law of the Republic of Slovenia or the law of the Member State in which the non-life insurance covers risks, unless the law of this country allows another law to be selected.

(5) When risks related to an economic activity performed by the policy holder are covered by a non-life insurance and risks situated in more than one Member State, or in the Republic of Slovenia and in one Member State at least, are covered by the insurance the parties may, with regard to an insurance contract, apply the law of any Member State in which risks are covered by the insurance, or of the Republic of Slovenia, unless the law of at least one Member State in which risks are covered by the insurance allows another law to be selected.

(6) Notwithstanding the provisions of Paragraphs (1) to (5) hereunder, the parties may, with regard to an insurance contract, and in the case of non-life insurance, select the law of any country in the following cases:

1. for the classes of insurance referred to in items 4 to 7, 11, and 12 of Paragraph (2) of Article 2 of this Act;
2. for the classes of insurance referred to in items 14 and 15 of Paragraph (2) of Article 2 of this Act, when the policy holder performs an economic activity and the risks covered by the class of insurance in question refer to the activity concerned;
3. for the classes of insurance referred to in items 3, 8, 9, 10, 13, and 16 of Paragraph (2) of Article 2 of this Act, when the policy holder fulfils at least two of the following conditions:
  - the value of assets exceeds 6,200,000 euros at the end of the year;
  - net sales revenues in the business year exceed SIT 12,800,000 euros;
  - the average number of employees in the business year exceeds 250.

### **Law applied to non-life insurance when parties no law was selected by parties**

#### **Article 339**

When parties have not select the law to be applied to an insurance contract in the case of non-life insurance, or when the law concerned have been applied in contravention of Article 338 of this Act, the following shall apply to the insurance contract:

1. the law of the Member State in which the risks covered by an insurance are situated, when the policy holder also has his/her head office or residence in the country concerned;

2. in other cases, the law of the country which is most closely connected with the insurance concerned; in this respect it shall be deemed that the law of the country in which the risks covered were situated at the time the contract was made is the most closely connected.

### **Law applied to life assurance**

#### **Article 340**

(1) When a policy holder has his/her residence in the Republic of Slovenia, the law of the Republic of Slovenia shall apply with regard to an insurance contract for life assurance.

(2) When a policy holder has his/her residence in a Member State, the law of that Member State shall apply with regard to an insurance contract for life assurance.

(3) Notwithstanding the provisions of Paragraphs (1) or (2) hereunder, the parties may, with regard to an insurance contract, apply the law of the country of which the policy holder is the citizen.

(4) Notwithstanding the provisions of Paragraph (2) hereunder, the parties may, for making an insurance contract, apply the law of another country, when the law of the Member State in which the policy holder has residence allows another law to be selected.

## **20. PENAL PROVISIONS**

### **Most serious violations by insurance undertakings**

#### **Article 341**

(1) A fine of between EUR 25,000 and 125,000 shall be imposed on an insurance undertaking for an offence:

1. when, in contravention of Article 14, it performs activities other than insurance businesses;
2. when it performs insurance businesses with regard to classes of insurance without having obtained an authorisation from the Insurance Supervision Agency (Paragraph (1) of Article 67);
3. when it begins performing insurance businesses in a Member State in contravention of Article 88 of this Act;
4. when it begins to perform insurance business abroad without obtaining the authorisation of the Insurance Supervision Agency (Paragraph (2) of Article 92);
5. when it does not make a report to the Insurance Supervision Agency on measuring risks with the contents, within the allotted time and in the manner prescribed by a regulation issued pursuant to item 9 of Article 109 of this Act;
6. when it invests assets covering technical provisions in contravention of the provisions of Articles 120 to 124 of this Act, or of a regulation issued on the basis thereof;
7. when it fails to set aside funds covering mathematical provisions, or when it manages assets of the fund covering mathematical provisions in contravention of the provisions of Articles 125 to 133 of this Act, or of a regulation issued on the basis thereof;
8. when it fails to report the data referred to in Paragraph (1) of Article 146 of this Act to the controlling insurance undertaking, or controlling insurance or joint-venture insurance holding in the insurance group;

9. when it fails to report to the Insurance Supervision Agency on operations within the group in compliance with Article 147 of this Act or with a regulation issued on the basis thereof;
10. when, as a controlling insurance undertaking in the insurance group, it fails to prepare reports on adjusted capital requirements, or when it fails to report to the Insurance Supervision Agency in compliance with Article 148 of this Act or with regulations issued on the basis thereof;
11. when it keeps business books, compiles accounting documents, values bookkeeping items or compiles annual reports in contravention of Articles 155 to 159 of this Act or of regulations issued pursuant to Article 160 of this Act;
12. when it fails to organise an internal audit in compliance with Articles 161 to 166 of this Act;
13. when it fails to appoint a certified actuary in accordance with Articles 74 or 75 of this Act.

(2) A fine of between EUR 800 and 4,100 shall be imposed for an offence on a responsible person of the insurance undertaking who commits an offence from the preceding Paragraph of this Article.

(3) When the nature of the committed violations referred to in the preceding Paragraph hereunder is especially serious due to the extent of damage induced or extent of illegally acquired proceeds or due to the perpetrator's intent or purpose to benefit thereof, a fine of between EUR 75,000 and 375,000 shall be imposed on the insurance undertaking and a fine of between 2,400 and 12,300 on a responsible person of the insurance undertaking .

#### **Minor violations by insurance undertakings**

##### **Article 342**

(1) A fine of between EUR 12,520 and 125,000 shall be imposed on an insurance undertaking for an offence:

1. when it fails to report to the Insurance Supervision Agency in accordance with Paragraphs (1) or (3) of Article 176 of this Act, or regulations issued pursuant to Article 177 of this Act;
2. when it fails to enable an authorised person to conduct supervision in the manner prescribed in Articles 301 to 306 of this Act;
3. when it fails to submit the unaudited annual report to the Insurance Supervision Agency within three or four months from the end of a calendar year (Paragraph (2) of Article 158);
4. when it fails to submit the audited annual report to the Insurance Supervision Agency by the deadline defined in Paragraphs (2) or (3) of Article 167 of this Act;
5. when it violates the provisions of Articles 83 to 86 of this Act;
6. if it violates the provisions of Article 228 or of Paragraph (1) of Article 230 of this Act.

(2) A fine of between EUR 420 and 4,100 shall be imposed for an offence on a responsible person of an insurance undertaking, who commits an offence referred to in the preceding Paragraph of this Article.

#### **Violations by a management or supervisory board member**

##### **Article 343**

(1) A fine of between EUR 400 and 4,100 shall be imposed for an offence on a member of the board of directors of an insurance undertaking:

1. when he/she fails to inform the Insurance Supervision Agency at once of the circumstances referred to in Paragraph (3) of Article 176 of this Act.

(2) A fine of between EUR 400 and 4,100 shall be imposed for an offence on a member of the supervisory board of an insurance undertaking, who fails to inform without delay the Insurance Supervision Agency of the circumstances referred to Paragraph (3) of Article 31 of this Act.

(3) A fine of between EUR 1,200 and 12,300 shall be imposed on a member of the management board or supervisory board of an insurance undertaking when the nature of committed violations referred to in the preceding Paragraph hereunder is especially serious due to the extent of damage induced or extent of illegally acquired proceeds or due to the perpetrator's intent or purpose to benefit thereof.

#### **Violations by insurance agencies and insurance agents** **Article 344**

(1) A fine of between EUR 12,520 and 125,000 shall be imposed for an offence on an insurance agency:

1. when it violates the provisions of Articles 83 to 86 of this Act;
2. when it violates the provisions of Article 228 or Paragraph (1) of Article 230 of this Act.

(2) A fine of between EUR 420 and 4,100 shall be imposed for an offence on the responsible person of an insurance agency who commits an offence referred to in the preceding Paragraph of this Article.

(3) A fine of between EUR 420 and 4,100 shall be imposed for an offence on an insurance agent who commits an offence referred to in the Paragraph (1) of this Article..

#### **Violations by insurance brokerage companies and insurance brokers** **Article 345**

(1) A fine of between EUR 12,520 and 125,000 shall be imposed for an offence on an insurance brokerage company or a bank referred to in Article 227(5) of this Act:

1. when it violates the provisions of Articles 221 to 226 of this Act;
2. when it fails to report to the Insurance Supervision Agency on the data referred to in Article 239 of this Act, including the contents, within the allotted time and in the manner prescribed by a regulation issued on the basis of item 3 of Article 233 of this Act.
3. when it has not concluded a liability insurance policy pursuant to Article 237 of this Act.

(2) A fine of between EUR 12,520 and 125,000 shall be imposed for an offence on an insurance brokerage company or a bank referred to in Article 227(5) of this Act:

1. when it violates the provisions of Articles 83 to 86 of this Act;
2. when it violates the provisions of Article 228 or Paragraph (1) of Article 230 of this Act.

(3) A fine of between EUR 420 and 4,100 shall be imposed for an offence on a responsible person of an insurance brokerage company or a bank referred to in Article 227(5) of this Act, who commits an offence referred to in Paragraph (1) of this Article.



(4) A fine of between EUR 420 and 4,100 shall be imposed for an offence on a responsible person of an insurance brokerage company or a bank referred to in Article 227(5) of this Act, who commits an offence referred to in Paragraph (2) of this Article.

(5) A fine of between EUR 420 and 4,100 shall be imposed for an offence on an insurance broker, who commits an offence referred to in Paragraphs (1) or (2) of this Article.

### **Violations by insurance holdings**

#### **Article 346**

(1) A fine of between EUR 13,900 and 125,000 shall be imposed for an offence on an insurance holding company:

1. when it fails to report to the Insurance Supervision Agency on operations in the group in accordance with Article 147 of this Act or a regulation issued on the basis thereof;
2. when, as a supervisory insurance undertaking in the insurance group, it fails to prepare reports on adjusted capital requirements, or when it fails to report to the Insurance Supervision Agency in accordance with Article 149 of this Act or a regulation issued on the basis thereof.

(2) A fine of between EUR 400 and 4,100 shall be imposed for an offence on the responsible person of an insurance holding company, who commits an offence from the preceding Paragraph of this Article.

(3) A fine of between EUR 41,700 and 375,000 shall be imposed on the insurance holding and a fine of between EUR 1,200 and 12,300 on a responsible person of the insurance holding when the nature of the committed violations referred to in the preceding Paragraph hereunder is especially serious due to the extent of the damage induced or extent of illegally acquired proceeds or due to the perpetrator's intent or purpose to benefit thereof.

### **Violations by other parties**

#### **Article 347**

(1) A fine of between EUR 13,900 and 125,000 shall be imposed for an offence on a legal entity:

1. when it performs insurance businesses in contravention of the prohibition referred to in Article 4 of this Act;
2. when it performs services related to insurance agency services or insurance brokerage in contravention of the prohibition referred to in Paragraph (2) of Article 227 of this Act.
3. when it violates provisions referred to in Paragraphs (3) and (4) of Article 18 of this Act.

(2) A fine of between EUR 400 and 4,100 shall be imposed for an offence on a responsible person of a legal entity, who commits an offence from the preceding Paragraph of this Article.

(3) A fine of between EUR 125 and 1,250 shall be imposed for an offence on a natural person:

1. when he/she performs insurance business in contravention of the prohibition referred to in Article 4 of this Act;

2. when he/she performs insurance agent or brokerage business in contravention of Paragraph (1) of Article 230 of the Act.

(4) A fine of between EUR 41,700 and 375,000 shall be imposed on a legal person, a fine of between EUR 1,200 and 12,300 on a responsible person of a legal person and a fine of between EUR 375 and 3,750 on a natural person when the nature of the committed violations referred to in the preceding Paragraph hereunder is especially serious due to the extent of damage induced or extent of illegally acquired proceeds or due to the perpetrator's intent or purpose to benefit thereof.

### **Violations by auditors**

#### **Article 348**

A fine of between EUR 375 and 3,755 shall be imposed for an offence on an auditor who fails to inform without delay the Insurance Supervision Agency of the circumstances referred to in Article 168 of this Act.

### **Violations by certified actuaries**

#### **Article 349**

A fine of between EUR 375 and 3,755 shall be imposed for an offence on a certified actuary who fails to inform without delay the Insurance Supervision Agency of the circumstances referred to in Paragraph (4) of Article 76 of this Act.

### **Violations by extraordinary administrators**

#### **Article 350**

(1) A fine of between EUR 375 and 3,755 shall be imposed for an offence on an extraordinary administrator:

1. when he/she fails to submit to the Insurance Supervision Agency a report on the financial position and terms of operations of an insurance undertaking under an extraordinary administrator within three months from his/her appointment (Paragraph (1) of Article 190);
2. when in nine months from the appointment he/she fails to submit to the Insurance Supervision Agency the report referred to in Paragraph (2) of Article 190;
3. when, in a case referred to in Paragraph (1) of Article 191 of this Act, he/she fails to announce a convocation of a general meeting with the agenda and by the deadline referred to in Paragraph (2) of Article 191 of this Act.

### **Violations with regard to the protection of confidential data**

#### **Article 351**

(1) A fine of between EUR 13,900 and 125,000 shall be imposed for an offence on an insurance undertaking that violates the obligation to protect confidential data from Article 153 of the Act.

(2) A fine of between EUR 400 and 4,100 shall be imposed for an offence on a responsible person of an insurance undertaking, who commits an offence referred to in the preceding Paragraph of this Article.

(3) A fine of between EUR 125 and 1,250 shall be imposed for an offence on a natural person referred to in Paragraph (1) of Article 153 of this Act, who violates the obligation to protect confidential data.

(4) A fine of between EUR 41,700 and 375,000 shall be imposed on an insurance undertaking, a fine of between EUR 1,200 and 12,300 on a responsible person of the insurance undertaking and a fine of between EUR 375 and 3,750 on a natural person when the nature of the committed violations referred to in the preceding Paragraph hereunder is especially serious due to the extent of damage induced or extent of illegally acquired proceeds or due to the perpetrator's intent or purpose to benefit thereof.

### **Offences authority**

#### **Article 351.a**

The offences authority which decides on offences and issues fines under this Act, in accordance with the Act governing offences, shall be the Insurance Supervision Agency.

### **Procedure regarding offences**

#### **Article 351.b**

(1) The procedure regarding offences shall be run and decided upon by an authorised official of the Insurance Supervision Agency who meets the conditions under the Act governing offences and regulations adopted pursuant thereto.

(2) The Insurance Supervision Agency shall, through internal bylaws, determine in greater detail conditions and method for allocating and terminating the authorisation of persons deemed to be authorised officials of the Insurance Supervision Agency referred to in the preceding Paragraph of this Article.

(3) Notwithstanding the provisions of Paragraph (2) of Article 266 of this Act, the procedure for offences shall be run according to the provisions of the regulation governing offences.

The Insurance Act – Zzavar (Official Gazette of the Republic of Slovenia, No. 13/2000) shall contain the following transitional and final provision as amended or modified by the Act Amending the Insurance Act – Zzavar-A (Official Gazette of the Republic of Slovenia, No. 21/02), Corporate Income Tax Act– ZDDPO-1 (Official Gazette of the Republic of Slovenia, No. 40/04), Act Amending the Insurance Act – ZZavar-B (Official Gazette of the Republic of Slovenia, No. 50/04) and Act Amending the Insurance Act – Zzavar-D (Official Gazette of the Republic of Slovenia, No. 102/07):

## **21. TRANSITIONAL AND FINAL PROVISIONS**

### **Insurance Supervision Agency**

## **Article 352**

- (1) The Insurance Supervision Agency shall start performing its tasks and powers under this Act upon the appointment of the president and members of the council of experts and the director by the Government of the Republic of Slovenia.
- (2) The minister competent for finance shall be obliged, within one month of the entry into force of this Act, to propose to the Government of the Republic of Slovenia the appointment of the president and members of the council of experts and the director. The Government of the Republic of Slovenia shall be obliged to adopt its decision with regard to the appointment within one month from receipt of the proposal.
- (3) On the day of appointment referred to in Paragraph (1) hereunder, the Office for Insurance Supervision of the Republic of Slovenia shall cease to exist.
- (4) The staff of the Office for Insurance Supervision of the Republic of Slovenia shall continue to work at the Insurance Supervision Agency.
- (5) Following the appointment of the president and members of the council of experts, the Insurance Supervision Agency shall be responsible for adopting decisions with regard to all applications for authorisation on which no decision has been adopted by the Office for Insurance Supervision of the Republic of Slovenia.
- (6) The ministry competent for finance shall provide financial, technical and other material conditions required for the commencement of operations of the Insurance Supervision Agency.

## **Harmonisation of insurance undertakings**

### **Article 353**

- (1) Insurance undertakings which, on the day of entry into force of this Act, possess an authorisation to conduct operation shall continue to operate as insurance undertakings in compliance with this Act within the restrictions of operations based on the existing authorisation.
- (2) Insurance undertakings referred to in Paragraph (1) hereunder shall be obliged, within one year of the entry into force of this Act, to:
  1. adjust their shares in line with Paragraphs (1) and (3) of Article 17 of this Act, when organised as insurance public limited companies;
  2. ensure that the members of the board of directors obtain authorisations from the Insurance Supervision Agency to perform the functions of member of the board of directors, or appoint as a member of the board of directors a person who has obtained such an authorisation;
  3. adjust their operation in line with other provisions of this Act, unless Paragraph (4) and (5) hereunder provides for a longer deadline for harmonisation with specific provisions.
- (3) Notwithstanding the provision of item 2 of the preceding Paragraph, with regard to a person who, upon the day of entry into force of this Act is performing the function of a member of a board of directors of an insurance public limited company and who has been performing this function for at least four years prior to the entry into force of this Act, shall be

deemed to have obtained an authorisation to perform this function on the day of entry into force of this Act.

(4) Notwithstanding the provision of Paragraph (2) the insurance undertaking to which the provisions of the act regulating the ownership transformation of insurance undertakings apply shall be obliged to adjust its operation to the provisions of this Act relating to equity within one year from the registration in the companies register of any legal consequence of the ownership transformation of this insurance undertaking.

(5) Insurance undertakings must be harmonised with the following provisions of this Act by the following deadlines:

1. with item 4 of Article 139, by 1 January 2002; by that date, the amounts of technical provisions must be calculated semi-annually;
2. with Paragraph (1) of Article 122 of this Act, by 1 January 2003;
3. with Article 228, by the deadline referred to in Articles 356 or 357 of this Act;
4. with Paragraph (1) of Article 230 of this Act, within one year from when the Insurance Supervision Agency issues the regulation referred to in item 1 of Article 233 of this Act.

(6) Insurance undertakings referred to in Paragraph (1) hereunder shall be obliged to submit to the Insurance Supervision Agency, within one year of the entry into force of this Act, a report on the harmonisation defined in Paragraph (2) hereunder, enclosing:

1. the bylaws in the form of a certified notary record;
2. a list of shareholders from the central register of securities in book-entry form for holders of the qualified holdings;
3. a description of the organisation of internal audits and the rules of operation of internal audits;
4. other evidence of harmonisation required by the Insurance Supervision Agency.

(7) When the insurance undertaking acts in contravention of Paragraphs (2) or (6) hereunder, the Insurance Supervision Agency may initiate compulsory liquidation proceedings in compliance with the provisions of this Act.

(8) When the report referred to in Paragraph (6) hereunder and the evidence attached to the report show that the insurance undertaking has been harmonised with the provisions of Paragraph (2) hereunder, the Insurance Supervision Agency shall grant the insurance undertaking an authorisation to perform insurance business, with the contents specified in Article 67 of this Act.

### **Harmonisation of insurance undertakings engaged in life assurance and non-life insurance**

#### **Article 354**

(1) Notwithstanding the provision of Paragraph (2) of Article 353 of this Act, an insurance undertaking which, when this Act enters into force, performs insurance business within the insurance group of life assurance and non-life insurance on the basis of an existing authorisation shall not be obliged to adjust its operations with Paragraph (2) of Article 14 of this Act.

(2) When, pursuant to Paragraph (1) hereunder, the insurance undertaking performs insurance business within the group of life assurance and non-life insurance, the provisions of this Act shall apply to it as follows:

1. the insurance undertaking shall be obliged to keep books of account and compile financial statements and business reports separated for non-life insurance and life assurance in which it is engaged.
2. capital adequacy shall be determined separately for non-life insurance and life assurance performed by the insurance undertaking;
3. in the event of capital inadequacy in the life assurance or non-life insurance group, the Insurance Supervision Agency may authorise the transfer of spare assets from one group to the other.

**Article 355**  
**(deleted)**

**Harmonisation of insurance agencies**

**Article 356**

(1) Insurance agencies which, upon the entry into force of this Act, perform services related to insurance agency services must adjust their operations to other provisions of this Act within six months from the entry into force of this Act, unless by virtue of provisions of the next Paragraph hereunder a longer deadline for harmonisation with specific provisions is determined.

(2) Insurance agencies must be harmonised with Paragraph (1) of Article 230 of this Act within one year of the Insurance Supervision Agency issuing the regulation referred to in item 1 of Article 233 of this Act.

(3) The provisions of Paragraphs (6) to (8) of Article 353 of this Act shall apply as appropriate to insurance agencies referred to in Paragraph (1) hereunder.

**Harmonisation of insurance brokerage companies**

**Article 357**

(1) Insurance brokerage companies which, upon the day of entry into force of this Act, perform services related to insurance brokerage services must adjust their operation to the provisions of this Act within one year from the entry into force of this Act, unless by virtue of provisions of the next Paragraph hereunder a longer deadline for harmonisation with specific provisions is determined.

(2) Insurance brokerage companies must be harmonised with Paragraph (1) of Article 230 of this Act within one year from when a regulation referred to in item 1 of Article 233 of this Act is issued by the Insurance Supervision Agency.

(3) The provisions of Paragraphs (6) to (8) of Article 353 of this Act shall apply as appropriate to insurance brokerage companies referred to in Paragraph (1) hereunder.

## **Insurance agents and brokers**

### **Article 358**

With regard to persons who, upon the day of entry into force of this Act enters, have completed three years of service as an insurance agent or broker, it shall be deemed that they have obtained the authorisation to perform insurance agency or brokerage services pursuant to this Act.

## **Certified actuaries**

### **Article 359**

With regard to persons who, prior to the entry into force of this Act, have obtained the title of a certified actuary in accordance with the regulations in force prior to the entry into force of this Act, it shall be deemed that they have obtained the title of certified actuary pursuant to this Act.

## **Procedures**

### **Article 360**

All procedures to obtain authorisations and consents that have been initiated before the entry into force of this Act, and for which the Insurance Supervision Agency is responsible pursuant to Paragraph (5) of Article 352 of this Act, shall be completed in compliance with the provisions of this Act.

## **Issuing of regulations**

### **Article 361**

(1) The Insurance Supervision Agency shall be obliged, within six months from the appointment of the president and members of the council of experts and of the director, to issue regulations based on this Act.

(2) Until the issuing of regulations on the basis of this Act, the regulations issued on the basis of the law defined in Paragraph (1) of Article 362 shall apply as appropriate.

## **Nullification of regulations**

### **Article 362**

(1) Upon the day of entry into force of this Act, the Insurance Companies Act (Official Gazette of the Republic of Slovenia, Nos. 64/94, 35/95 - corr., and 22/97) shall be nullified.

(2) Upon the day of entry into force of this Act, regulations issued on the basis of the provisions of the act referred to in the preceding Paragraph hereunder shall be nullified.

## **Entry into force of individual provisions**

### **Article 363**

(1) The provisions of Paragraph (1) of Article 18, items 2 to 4 of Paragraph (5) of Article 80, the Paragraphs (3) to (10) of Article 82, Articles 87 to 91, Articles 93 to 96, Article 99, item 2 of Paragraph (3) of Article 101, Article 102, Article 103, Article 240 and Article 241 of this Act shall begin to apply on the day the Republic of Slovenia attains full membership of the European Communities.

(2) Until the entry into force of the provisions of the preceding Paragraph hereunder:

1. Paragraph (3) of Article 19 of this Act shall apply to decisions regarding an authorisation to acquire qualifying holdings to be granted to a person of a Member State;
2. the provision of Article 92 of this Act shall apply to the performance of business of insurance undertakings in Member States;
3. the provisions of Articles 7, 97 and 98 of this Act shall apply to the provision of services by insurance undertakings of Member States in the Republic of Slovenia;
4. the provision of item 3 of Paragraph (3) of Article 101 of this Act shall apply to the communication of information to the supervisory authorities of the Member States;
5. the provisions of Articles 242 and 243 of this Act shall apply to the provision of services of insurance agencies or insurance brokerage companies of Member States.

## **Entry into force**

### **Article 364**

This Act shall enter into force on the fifteenth day after its publication in the Official Gazette of the Republic of Slovenia, unless otherwise stipulated in Article 363 of this Act.

Act Amending the Insurance Act – ZZavar-A (Official Gazette of the Republic of Slovenia, No. 21/02) shall contain the following transitional and final provisions:

### **Article 3**

Until the taxation of the equalisation provisions is regulated by the law governing the tax on profits of legal entities, the amount that is earmarked by the insurance undertaking in the current year for the establishment of the equalisation reserve above the level stipulated in Paragraphs 8 and 9 of Article 1 of this Act shall be added to the taxable amount for the calculation of the tax on profits.

(Note: see Article 88(3) of the Corporate Income Tax (ZDDPO-1))

### **Article 4**

In case of expiration of the obligation to form equalisation provisions pursuant to Paragraphs 1 and 4 of Article 1 of this Act, the insurance undertaking shall diminish equalisation provisions in the following five years, each year by a fifth of the amount of formed equalisation provisions, reached upon the cessation of conditions for their formation.

### **Article 5**



This Act shall enter into force on the day after its publication in the Official Gazette of the Republic of Slovenia.

Act Amending the Insurance Act – ZZavar-B (Official Gazette of the Republic of Slovenia, No. 50/04) shall contain the following transitional and final provisions:

## **TRANSITIONAL AND FINAL PROVISIONS**

### **Article 152**

The Insurance Supervision Agency shall be obliged to issue implementing regulations pursuant to the provisions of this Act within a time period of nine months from the entry into force of this Act.

### **Article 153**

(1) Insurance undertakings which have an authorisation to operate on the date of entry into force of this Act shall be obliged to harmonise their operations with the provisions of Articles 48 to 50 of this Act no later than 20 March 2007.

(2) The following sums shall be taken into account in the determination of the minimum capital in the period until the expiry of the period referred to in Paragraph (1) of this Article:

- for the calculation of the minimum capital according to the premium quotient, instead of SIT 12,000,000,000, SIT 2,000,000,000,
- for the calculation of the minimum capital according to the claims factor, instead of SIT 8,400,000,000, SIT 1,400,000,000.

(3) The guarantee capital in the period from the expiry of the time period referred to in Paragraph (1) of this Article may never be lower than:

- the amount of SIT 160,000,000, when the insurances underwritten by the insurance undertaking cover all or some of the risks from the insurance classes referred to in items 1 to 13 and 15 to 18 of Paragraph (2) of Article 2 of this Act;
- the amount of SIT 560,000,000, when the insurances underwritten by the insurance undertaking cover all or some of the risks from the insurance classes referred to in item 14 of Paragraph (2) of Article 2 of this Act;
- the amount of SIT 320,000,000, when the insurances underwritten by the insurance undertaking cover all or some of the risks from the insurance classes referred to in items 19 to 24 of Paragraph (2) of Article 2 of this Act;
- the amount of SIT 320,000,000, when the insurance undertaking performs reinsurance business.

(4) Insurance undertakings shall be obliged to submit to the Insurance Supervision Agency by 31 July 2006 a report regarding the compliance or a report regarding measures to comply with the provisions of Paragraph (1) of this Article.

(5) When an insurance undertaking fails to comply with the provisions of Articles 48 to 50 of this Act within the time period laid down in Paragraph (1) of this Article, this time period may be extended by the Insurance Supervision Agency for further two years on the basis of prior

request from the insurance undertaking and submission of a plan of measures of the insurance undertaking to ensure capital adequacy.

#### **Article 154**

The period of five years from performing audits in the insurance undertaking referred to in Paragraph (2) of Article 167 of this Act shall start upon the entry into force of this Act.

#### **Article 155**

The provisions of Paragraph (4) of Articles 222 and 237 of this Act which refer to professional liability insurance for insurance brokers and insurance brokerage companies shall start to apply on 1 January 2005.

#### **Article 156**

Insurance undertakings shall be obliged to establish the scheme referred to in Article 333a of this Act within a time period of nine months from the entry into force of this Act.

#### **Article 157**

Fines laid down in this Act shall, until the entry into application of the Minor Offences Act (Official Gazette of the Republic of Slovenia, No. 7/03), be issued as monetary penalties for:

1. offences referred to in Article 341 of this Act:
  - an insurance undertaking in the range from SIT 6,000,000 to 30,000,000;
  - a responsible person of an insurance undertaking in the range from SIT 250,000 to 1,500,000;
2. offences from Article 342 of this Act:
  - an insurance undertaking in the range from SIT 1,000,000 to 10,000,000;
  - a responsible person of an insurance undertaking in the range from SIT 50,000 to 500,000;
3. offences from Article 343 of this Act:
  - a member of the board of directors of an insurance undertaking in the range from SIT 100,000 to 750,000;
  - a member of the supervisory board of an insurance undertaking in the range from SIT 100,000 to 750,000;
4. offences referred to in Article 344 of this Act:
  - an insurance agency in the range from SIT 500,000 to 3,000,000;
  - a responsible person of an insurance agency in the range from SIT 50,000 to 500,000;
  - an insurance agent in the range from SIT 50,000 to 500,000;
5. offences referred to in Article 345 of this Act:
  - an insurance brokerage company in the range from SIT 500,000 to 3,000,000;
  - a responsible person of an insurance brokerage company in the range from SIT 50,000 to 500,000;
  - an insurance broker in the range from SIT 50,000 to 500,000;
6. offences referred to in Article 346 of this Act:
  - an insurance holding company in the range from SIT 3,000,000 to 30,000,000;

- a responsible person of an insurance agency holding company in the range from SIT 250,000 to 1,500,000;
- 7. offences referred to in Article 347 of this Act:
  - a legal entity in the range from SIT 2,000,000 to 20,000,000;
  - a responsible person of a legal entity in the range from SIT 100,000 to 750,000;
  - a natural person in the range from SIT 50,000 to 450,000;
- 8. offences referred to in Article 348 of this Act:
  - an auditor in the range from SIT 50,000 to 450,000;
- 9. offences referred to in Article 349 of this Act:
  - a certified actuary in the range from SIT 50,000 to 450,000;
- 10. offences referred to in Article 350 of this Act:
  - an extraordinary administrator in the range from SIT 50,000 to 450,000;
- 11. offences referred to in Article 351 of this Act:
  - an insurance undertaking in the range from SIT 2,000,000 to 20,000,000;
  - a responsible person of an insurance undertaking in the range from SIT 100,000 to 750,000;
  - a natural person in the range from SIT 50,000 to 450,000.

### **Article 158**

The provisions of Article 148 of this Act shall start to apply from 1 January 2005.

### **Article 159**

Until the arrangement of taxation of equalisation provisions in the act regulating corporate income tax, the amount that in the current year an insurance undertaking allocates to the formation of equalisation provisions in insurance classes in which insurance undertakings in accordance with Paragraph (1) of Article 118 of this Act are not obliged to form equalisation provisions shall be included in the tax base for the calculation of corporation tax.

### **Article 160**

Upon the day of accession of the Republic of Slovenia to the European Community, the provisions of this Act referring to Member States of the European Community shall apply to all signatory states of the European Economic Area Agreement.

### **Article 161**

All procedures for the acquisition of authorisations and consents initiated prior to the entry into force of this Act shall be concluded under the provisions in force prior to the entry into force of this Act.

### **Article 162**

This Act shall enter into force on the day after its publication in the Official Gazette of the Republic of Slovenia.

Act Amending the Insurance Act – ZZavar-C (Official Gazette of the Republic of Slovenia, No. 79/06) shall contain the following transitional and final provisions:

## **TRANSITIONAL AND FINAL PROVISIONS**

### **Article 99**

Insurance undertakings, which upon the day of entry into force of this Act hold an authorization to carry out insurance business, shall submit the method referred to in Article 14(14) of this Act to the Insurance Supervision Agency for approval no later than six months following entry into force of this Act.

### **Article 100**

The Slovenian Insurance Association shall prepare and, on the basis of a prior consent of the Insurance Supervision Agency, approve the insurance statistical standards referred to in Article 137 of this Act within 12 months following its entry into force.

### **Article 101**

(1) An insurance undertaking which upon the day of entry into force of this Act has formed equalisation provisions:

- in any class of insurance other than credit insurance (Article 2(2)(14) of the Act),
- referred to in Article 107(1)(4), or
- in the class of credit insurance, specifically in the amount exceeding the ceiling laid down in the Decision on detailed rules and minimum standards for the calculation of technical provisions (Official Gazette of the Republic of Slovenia, Nos. 3/01, 69/01 and 85/05)

shall reduce such equalisation provisions in order for their balance to reach zero by 1 January 2007.

(2) The insurance undertaking shall include the remaining equalisation provisions balance referred to in Paragraph (1) into additional capital items by 31 December 2006.

### **Article 102**

Entities referred to in Article 227(4) of this Act, and natural persons who independently carry out insurance agency business for these entities shall seek a business authorization or the authorization to carry out insurance agency business referred to in Article 238 or Article 230 of this Act, within twenty-four months following its entry into force.

### **Article 103**

The Insurance Supervision Agency shall issue the implementing regulation pursuant to Article 233 of this Act within six months following its entry into force.

#### **Article 104**

Until the date of the introduction of the euro into the Republic of Slovenia:

- in Article 110(2)(1) the amount "12,000,000,000 tolar" shall be used in place of "50,000,000 euros";
- in Article 110(3)(1) the amount "8,400,000,000 tolar" shall be used in place of "35,000,000 euros";
- in Article 112(2)(1) the amount "480,000,000 tolar" shall be used in place of "2,000,000 euros";
- in Article 112(2)(2) the amount "720,000,000 tolar" shall be used in place of "3,000,000 euros";
- in the sixth indent of Article 215(3) the amount "120,000 tolar" shall be used in place of "500 euros";
- in the sixth indent of Article 219(4) the amount "120,000 tolar" shall be used in place of "500 euros";
- in Article 222(4) the amount "240,000,000 tolar" shall be used in place of "1,000,000 euros" and "360,000,000 tolar" in place of "1,500,000 euros";
- in Article 237 the amount "240,000,000 tolar" shall be used in place of "1,000,000 euros" and "360,000,000 tolar" in place of "1,500,000 euros";
- in the first indent of Article 338(6)(3) the amount "1,500,000,000 tolar" shall be used in place of "6,200,000 euros";
- in the second indent of Article 338(6)(3) the amount "3,072,000,000 tolar" shall be used in place of "12,800,000 euros".

#### **Article 105**

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

Act Amending the Insurance Act – ZZavar-D (Official Gazette of the Republic of Slovenia, No. 102/07) shall contain the following transitional and final provision:

#### **TRANSITIONAL AND FINAL PROVISION**

##### **Article 32**

Reinsurance undertakings, which on the day of the entry into force of this Act hold the authorization to carry out reinsurance business, must adjust their operation in line with the provisions of Article 15 of this Act no later than one year after the entry into force of this Act.

##### **Article 33**

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

Act Amending the Insurance Act – ZZavar-E (Official Gazette of the Republic of Slovenia, No. 69/08) shall contain the following transitional and final provisions:

## **TRANSITIONAL AND FINAL PROVISIONS**

### **Article 6**

(1) The president and members of the council of experts of the Insurance Supervision Agency shall continue their mandates as president and members of the council of experts of the Insurance Supervision Agency pursuant to this Act.

(2) Upon the entry of force of this Act, the Government of the Republic of Slovenia shall not, upon the expiration of the term of office of an individual member of the council of experts of the Insurance Supervision Agency, appoint a new member until the total number of members of the council of experts of the Insurance Supervision Agency including the president totals five.

### **Article 7**

Upon the day of entry into force of this Act, Paragraph (2) of Article 22 of the Civil Servants Act (Official Gazette of the Republic of Slovenia, No. 63/07 – official consolidated text) and Articles 22d and 22e of the Public Sector Salary System Act (Official Gazette of the Republic of Slovenia, Nos. 95/07 – official consolidated text, 17/08 and 58/08) regarding the parts related to the Insurance Supervision Agency shall cease to be valid.

### **Article 8**

The Insurance Supervision Agency shall issue the rules referred to in Paragraph (8) of Article 294a of this Act within a period of one month following the entry into force of this Act.

### **Article 9**

This Act shall enter into force on the day following its publication in the Official Gazette of the Republic of Slovenia.

Act Amending the Insurance Act – ZZavar-F (Official Gazette of the Republic of Slovenia, No. 19/09) shall contain the following transitional and final provisions:

## **TRANSITIONAL AND FINAL PROVISIONS**

### **Article 31**

(1) An authorisation to acquire a qualifying holding which, upon the entry into force of this Act, applies to a certain shareholding, as of the effective date of this Act, shall be deemed to be an authorisation to acquire a qualifying holding for the range referred to in Article 18 of this Act that includes such a holding.

(2) The procedures pursuant to a request to acquire a qualifying holding which have been initiated prior to the entry into force of this Act shall be completed in compliance with the rules applicable prior to the enforcement of this Act.

(3) Notwithstanding the preceding Paragraph, the Insurance Supervision Agency's decision issued within this procedure shall be subject to Paragraph (2) of Article 18 of this Act, as amended by Article 6 of this Act.

### **Article 32**

(1) The Insurance Supervision Agency shall issue regulations based on this Act within three months from the effective date of this Act.

(2) The Insurance Supervision Agency shall establish a register of certified actuaries within six months from the effective date of this Act.

### **Article 33**

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

Act Amending the Insurance Act – ZZavar-G (Official Gazette of the Republic of Slovenia, No. 49/09) shall contain the following final provision:

### **Article 3**

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

Act Amending the Insurance Act – ZZavar-H (Official Gazette of the Republic of Slovenia, No. 79/10) shall contain the following transitional and final provisions:

## **TRANSITIONAL AND FINAL PROVISIONS**

### **Article 48**

(1) The existing mutual insurance companies whose number of members exceeds 1,500 members upon the day of entry into force of this Act, and existing mutual insurance companies whose number of members is lower than 1,500 members upon the day of entry into force of this Act and whose general meeting is organised as a representatives' meeting must, within the period of six months from the date of entry into force of this Act, harmonise their bylaws and rules regarding elections in the representatives' meeting with the law and within the subsequent six months carry out elections in the general meeting.

- (2) With regard to the general meeting of a mutual insurance company which carries out supplementary health insurance or life assurance carried out within the time until the fulfilment of obligations referred to in Paragraph (1) of this Article it shall apply that all collected votes be classified to age classes as laid down in Article 53c of this Act. Each age class shall be attributed the same share of voting rights.
- (3) A mutual insurance company, in convocation of a general meeting referred to in Paragraph (2) of this Article, shall lay down in detail the classification of age classes. Age classes shall be determined with regard to the age structure of members of a mutual insurance company as of the day of the convocation of the general meeting.
- (4) A proxy who will exercise voting rights at the general meeting referred to in Paragraph (2) of this Article must submit to a mutual insurance company in a notice referred to in Paragraph (7) of Article 54b of this Act data regarding the classification of members from whom a proxy form has been received into age classes.
- (5) When counting votes at the general meeting referred to in Paragraph (2) of this Article, the classification of members in age classes shall be taken into consideration with regard to an individual proxy.
- (6) Within the period of the subsequent three months the newly formed representatives' meeting shall appoint new members of the supervisory board and these shall appoint new members of the management board.
- (7) When the existing mutual insurance companies do not carry out tasks laid down in Paragraphs (1) and (6) of this Article, the Insurance Supervision Agency may commence compulsory liquidation proceedings.
- (8) Notwithstanding the provisions of Paragraph (4) of Article 188 of this Act the general meeting of a mutual insurance company is competent for decision making regarding the harmonisation of bylaws with the provisions of this Act and for the adoption of rules regarding the elections in the representatives' meeting.

#### **Article 49**

The term of office of a president of a council of experts who has performed this function prior to the entry into force of this Act shall terminate upon the date of entry into force of this Act.

#### **Article 50**

A director of the Insurance Supervision Agency shall commence to perform the function of a president of the council of experts upon the date of entry into force of this Act.

#### **Article 51**



The Insurance Supervision Agency shall issue an implementing regulation referred to in Paragraph (9) of Article 83 of this Act within six months from the date of entry into force of this Act.

#### **Article 52**

Insurance undertakings must commence concluding insurance contracts which are in compliance with Paragraph (1) of Article 83 of this Act and implementing regulation referred to in Paragraph (9) of Article 83 of this Act at the latest within the time period of three months following the entry into force of the implementing regulation of the Insurance Supervision Agency referred to in Paragraph (9) of Article 83 of this Act.

#### **Article 53**

(1) The Insurance Supervision Agency shall issue Rules referred to in Paragraph (7) of Article 97 of this Act within six months from the date of entry into force of this Act.

(2) A foreign insurance undertaking which, upon the date of entry into force of this Act, directly carries out reinsurance business in the territory of the Republic of Slovenia, must comply with the provisions of Paragraph (6) of Article 97 of this Act within four months following the entry into force of rules referred to in paragraph (7) of Article 97 of this Act.

#### **Article 54**

(1) This Act shall enter into force on the fifteen day following the publication in the Official Gazette of the Republic of Slovenia.