

Pursuant to Article 88, item 2 of the Constitution of the Republic of Montenegro I hereby issue the

DECREE PROMULGATING THE INSURANCE LAW

(Official Gazette of the Republic of Montenegro, No 78/06 of 22 December 2006, 19/07 of 2 April 2007: Official Gazette of Montenegro, No 53/09 of 7 August 2009, 73/10 of 10 December 2010, 40/11 of 8 August 2011, 45/12 of 17 August 2012)

I hereby promulgate the Insurance Law, adopted by the Constituent Parliament of Montenegro at the fifth sitting of the second regular session in 2006 on 11 December 2006.

Number: 01-1547/2
Podgorica, 15 December 2006

The President of Montenegro
Filip Vujanović, m.p.

INSURANCE LAW

I. BASIC PROVISIONS

Subject Matter of the Law

Article 1

This law governs the conditions and method of performing insurance business and supervision of the performance of insurance business.

Definitions

Article 2

Certain expressions used in this Law shall have the following meanings:

- 1) Insurance is the combining of monetary funds, on the principles of mutuality and solidarity, of an undefined number of natural and legal persons into an insurance company that undertakes, on the basis of that, to pay a monetary compensation, an insured sum or do something else, to some of these or third parties, in case of a property damage, loss or destruction of things, death or injuries to a person, bodily injury, or damage to the health, due to occurrence of a certain event, which could not have been foreseen in advance, or its occurrence prevented or avoided, or with the passage of time, on the basis of an insurance contract (policy) and conditions that are prescribed in advance by that insurance company;
- 2) Reinsurance is accepting of an obligation by a reinsurer, in case of the occurrence of an insured event reinsured, to assume part of the risk or entire risk reinsured, while the insurer cedes to the reinsurer part of the premium proportionate to the part of the risk assumed;
- 3) Co-insurance is that several insurance companies have agreed to bear and share the risks jointly so that each of the insurers indicated in the insurance policy is liable to the insured person for the complete indemnity in case of the occurrence of an insured event;

- 4) Annuity insurance is type of insurance where, in return for one or more premiums paid to an insurance company, the insurance company agrees to make fixed or periodic payments to the insured person for a stated period of time or until the occurrence of a stated event;
- 5) Voluntary health insurance means the insurance which, on the basis of a contract, may provide rights related to health insurance to the persons that are not insured under the law governing compulsory health insurance, or a larger scope of rights than that provided by that law;
- 6) Qualifying holding is:
 - either alone or acting in concert with other related persons, direct or indirect holding of minimum 10% of the capital or voting shares;
 - irrespective of level of holding of the capital or voting shares, the ability to exercise significant influence over the management or policies of such legal person, on the basis of an agreement or understanding, or in any other way;
- 7) Branch is a part of the foreign insurance or reinsurance company in Montenegro;
- 8) Insolvency is a situation when the total value of an insurance company's property is insufficient to meet all of the its obligations;
- 9) Illiquidity is a situation when an insurance company is unable to meet its obligations as they become due during the regular course of its business;
- 10) Insurance premium is the amount of monetary payment a person must pay to provide appropriate insurance coverage;
- 11) Technical provisions are the provisions established for covering obligations related to taking up of insurance business, as determined at the end of an accounting period;
- 12) Actuary is a professional who is applying statistical methods, theory of probability and financial mathematics on the matters related to insurance, investment of insurance funds, financial management, and other;
- 13) Guarantee funds is the amount of funds the insurance company must have in order to provide for permanent fulfilment of obligations, and which cannot be lower than the calculated solvency margin;
- 14) Solvency margin is the amount of funds the insurance company must provide in order to permanently fulfil its obligations under insurance contracts;
- 15) Subordinated debt financial instruments are securities and other financial instruments providing to a holder, in case of a bankruptcy or liquidation of the issuer, right to payment after payment of all other creditors or having a maturity and other features such to make them suitable to cover possible losses that may occur due to risks from the insurance company operation.

Insurance Business **Article 3**

Insurance business shall consist of insurance activities, co-insurance activities, and reinsurance activities and services directly related to insurance activities.

Insurance activities shall be concluding insurance contracts, executing insurance contracts obligations and undertaking measures for the prevention and control of the risks jeopardizing the insured property or persons.

Co-insurance activities shall be concluding and executing insurance contracts with several insurance companies who have agreed (contracted) upon joint coverage and risk sharing.

Reinsurance activities shall be concluding and executing contracts on reinsurance of the insured surplus risks exceeding the self-insured retention amount of an insurance company with a reinsurance undertaking.

Activities directly connected to the insurance business shall be insurance brokerage and agency, processing and assessment of risks and damages, brokerage in sale, sales of the salvaged insured damaged property and rendering other intellectual and technical services relating to insurance activities.

Persons That May Take up the Insurance Business

Article 4

Insurance company or reinsurance company with head office in Montenegro, which was licensed by the independent regulatory authority (hereinafter referred to as the regulatory authority) for insurance activities or reinsurance activities, may conduct insurance, co-insurance and reinsurance activities.

The activities referred to in paragraph 1 of this Article may also be conducted by a part of an insurance company - branch licensed by the regulatory authority for insurance or reinsurance activities in Montenegro.

The persons referred to in paragraphs 1 and 2 of this Article may engage in insurance and co-insurance activities only for those classes of insurance for which they were licensed by the regulatory authority referred to in paragraph 1 of this Article.

Insurance brokerage activities may be conducted by insurance brokerage company with head office in Montenegro, which was licensed by the regulatory authority to carry out insurance brokerage activities.

Insurance agency activities may be conducted by an insurance agency company and natural person with head office or permanent residence in Montenegro, and which was licensed by the regulatory authority to carry out insurance agency activities.

Ancillary insurance services may be provided by an agency for provision of ancillary insurance services and a part of business organization with head office in Montenegro, and which was licensed by the regulatory authority to carry out ancillary insurance services.

Insurance on Voluntary Basis

Article 5

Insurance of persons and property shall be voluntary.

Notwithstanding paragraph 1 of this Article, insurance of property and persons shall be compulsory in cases determined by law.

Territorial Principle

Article 6

Only an insurance company established in accordance with this Law may insure property and persons in Montenegro.

Notwithstanding paragraph 1 of this Article, the following may be insured with a foreign insurance company:

- 1) Aircraft and maritime transportation above compulsory traffic insurance;

- 2) Foreign persons with permanent and temporary residence in Montenegro and property thereof, except for compulsory insurance.

Insurance brokerage activities, insurance agency activities and provision of ancillary insurance services for the insurance referred to in paragraph 2 of this Article may be performed also by foreign companies.

Insurance company may be reinsured with domestic and foreign reinsurance company.

The Government of Montenegro (hereinafter referred to as the Government) may prescribe other conditions under which the property and persons referred to in paragraph 1 of this Article may be insured with a foreign insurance company.

Insurance Supervision

Article 7

The regulatory authority shall carry out supervision over the implementation of this Law and insurance activities.

Application of Laws to Insurance Activities

Article 8

The law governing the legal status of business organizations shall also apply to insurance companies, parts of insurance companies without a head office in Montenegro, insurance brokers and agents, and insurance ancillary service providers, unless otherwise prescribed by this Law.

The law governing obligations and other laws governing contracts in certain classes of insurance shall apply to insurance contracts, insurance brokerage contracts and insurance agency contracts.

II. INSURANCE ACTIVITIES

Classes of Insurance

Article 9

Non-life insurance activities, depending on the risk covered, shall be grouped into the following classes of insurance:

- 1) Accident insurance;
- 2) Voluntary health insurance;
- 3) Motor vehicle insurance, which covers all damage to or loss of:
- 4) Railway rolling stock insurance;
- 5) Aircraft insurance;
- 6) Vessel insurance;
- 7) Goods in transit insurance;
- 8) Insurance against fire and other threats to property;
- 9) Other property insurance;
- 10) Motor vehicle liability insurance;
- 11) Aircraft liability insurance;
- 12) Vessel liability insurance;

- 13) General liability insurance;
- 14) Credit insurance;
- 15) Suretyship insurance;
- 16) Financial loss insurance;
- 17) Legal expenses insurance;
- 18) Travel insurance;
- 19) Other classes of non-life insurance.

Life insurance activities, depending on the risk covered, shall be grouped into the following classes of insurance:

- 1) Life insurance;
- 2) Annuity insurance;
- 3) Supplemental insurance in addition to life insurance;
- 4) Other classes of life insurance.

The Regulatory Authority shall stipulate the classification of types of risks by classes of insurance referred to in paragraphs 1 and 2 of this Article.

Groups of Insurance Activities

Article 10

Several classes of insurance shall be classified into groups of insurance activities, subject to the related risk or interest covered by the insurance, and so as follows:

- 1) Group of non-life insurances, which includes the classes of insurance referred to in Article 9, paragraph 1 of this Law;
- 2) Group of life insurances, which includes the classes referred to in Article 9, paragraph 2 of this Law.

Compulsory Insurances

Article 11

A special law on compulsory insurance shall govern compulsory traffic insurance and other compulsory insurances.

Reinsurance

Article 12

An insurance company shall be obliged to reinsure the obligations under an insurance contract exceeding the self-insured retention limit with a reinsurance company.

The self-insured retention limit shall be the amount of risks undertaken by insurance contracts that an insurance company retains as its own coverage.

Services Directly Related to Insurance Activities

Article 13

Services directly related to insurance activities shall be:

- 1) insurance brokerage;
- 2) insurance agency;
- 3) adjustment activities and risk and damage assessment;

- 4) brokerage in case of sale and sale of remains of insured damaged property;
- 5) provision of other intellectual and technical services related to insurance activities.

Use of the Word “Insurance”

Article 14

No legal and natural person shall use the word “insurance” or a derivative of the word “insurance” in respect of a trade name, or name of its product or service, unless it uses those words on the basis of provisions of this Law or special law.

Application of Insurance Trade Rules, Good Business Practices and Code of Conduct

Article 15

Insurance companies and other entities providing services directly related to insurance activities shall be obliged to carry out the business according to insurance trade rules and observe best business practices and code of conduct.

III. INSURANCE COMPANY

Pursuit of Insurance Business

Article 16

Only insurance companies licensed by the regulatory authority to pursuit insurance business, in accordance with this Law, may pursuit the insurance business in Montenegro.

The entities referred to in paragraph 1 of this Article can only pursuit those classes of insurance for which they were licensed by the regulatory authority.

Prohibition of Entry into Brokerage or Agency Contracts

Article 17

Insurance companies, within the granted authority, may enter into insurance brokerage contract and insurance agency contract solely with persons licensed to pursuit such activities.

Organizational Form of Insurance Companies

Article 18

Legal and natural persons may form an insurance company if they meet the conditions prescribed by this Law.

An insurance company shall be established as a joint-stock company.

The name of an insurance company shall contain the designation: AD.

Any change in status, name or head office of an insurance company shall be subject to the mandatory approval of the regulatory authority.

Pursuit of Insurance Activities

Article 19

An insurance company may engage only in:

- 1) insurance activities, or
- 2) reinsurance activities.

An insurance company may not engage in life and non-life insurance at the same time.

An insurance company may also perform services directly related to insurance activities in accordance with this Law.

Only an insurance company licensed to pursue the reinsurance business may perform reinsurance activities.

An insurance company may perform also voluntary pension insurance activities in accordance with special law.

Additional Clause for Life Insurance Activities

Article 20

Notwithstanding Article 19, paragraph 2 of this Law, an insurance company engaged in life insurance activities may also perform activities related to associated accident insurance and voluntary health insurance with respect to health care expenses, provided that these classes of insurance refer to the person that concluded the life insurance contract.

Minimum Share Capital

Article 21

Share capital for an insurance company cannot be below:

- 1) EUR 2,000,000 for company engaged in non-life insurance activities, excluding some classes of insurance referred to in Article 9 paragraph 1, items 10 to 15 of this Law;
- 2) EUR 3,000,000 for company engaged in non-life insurance activities including some classes of insurance referred to in Article 9 paragraph 1, items 10 to 15 of this Law;
- 3) EUR 3,000,000 for company engaged in life insurance activities.

Share capital of reinsurance company cannot be below EUR 3,000,000.

Shares of Insurance Company

Article 21a

Share of an insurance company shall be bearer shares.

Shares referred to in paragraph 1 of this Article must be fully paid up in money before the registration in the Central Registry of Business Entities (hereinafter referred to as: the CRPS).

Insurance company may issue preferred shares up to 25% of the total number of shares.

Paragraph 2 of this Article shall not apply in the event of mergers of an insurance company or divisions of an insurance company.

Prohibition of Cross Ownership

Article 22

Cross ownership of capital or voting rights in insurance companies, reinsurance companies, insurance brokerage companies and insurance agency companies shall be prohibited.

Approval for Qualifying Holding

Article 23

A person who intends to acquire, directly or indirectly, a qualifying holding in an insurance company shall be obliged to obtain a prior consent for acquisition of such shares from the regulatory authority.

A person who intends to increase the size of a qualifying holding which would reach or exceed 20%, 33% or 50% of the capital or shares with voting rights, or so acquires 100% of holding in capital or voting rights in an insurance company shall be obliged to obtain a prior consent for such acquisition from the regulatory authority.

Consents referred to in paragraphs 1 and 2 of this Article shall cease to be valid if the applicant fails to acquire the shares for which the consent was issued within six months as of the day of issuing the consent.

The qualifying holder who intends to sell or otherwise dispose of the shares below the level for which it has received the consent, shall be obliged submit a prior notification thereof to the regulatory authority.

Insurance company shall be obliged to notify the regulatory authority forthwith on any change in qualifying holding in the capital of the company.

Related Parties

Article 24

Related parties, within the meaning of the Law, are considered to be the legal persons mutually inter-connected through joint management, capital or in any other way to achieve mutual business objectives, so that the business activities or business results of one person may significantly affect the business activities or business results of the other person.

Related parties, within the meaning of this Law, shall also be persons mutually inter-connected as follows:

- 1) As members of immediate family;
- 2) in such a way that a person, or persons considered to be related under this paragraph have indirect or direct holding in the other person;
- 3) in such a way that the same person has holdings in these persons, or persons deemed to be related as defined in other items of this paragraph;
- 4) in a way as stipulate for related persons under the law governing the legal status of business organizations;
- 5) as members of managing bodies or employees on the basis of a labour contract, as well as immediate family members of such persons.

Immediate family members, within the meaning of this Law, shall be considered to be:

- 1) spouse, or a person he/she cohabitates which under the law has the same legal capacity as marriage;
- 2) children or foster children;
- 3) relatives up to the third degree of kinship, including relatives-in-laws;
- 4) other persons who do not have full work capacity and have been awarded custody.

Restrictions on investments of an insurance company in a specific legal person or of a legal person in an insurance company shall also refer to both direct and indirect investments according to law.

Related persons shall be considered as one person in the event of assessing holdings in capital or acquisition of qualifying holding, as well as when assessing participation in management.

Application for Obtaining Consent for Qualifying Holding **Article 25**

A person wishing to acquire qualifying holding shall be obliged to submit documents referred to in Article 30, paragraph 2, items 7 to 9 of this Law along with the application for obtaining consent for acquiring qualifying holding.

If entity person has submitted the application for the license to pursue insurance activities, the decision about granting of the approval referred to in paragraph 1 of this Article shall be rendered within the procedure of rendering decision on the application for obtaining approval for pursuit of insurance activities.

If additional data and information are needed to render decision about the application, the regulatory authority may request, within 50 day as of the day of receipt of a duly application, the needed data and information to be provided.

The regulatory authority may give to the applicant maximum 20 days for delivery of data and information referred to in paragraph 3 of this Article as of the day of receipt of the application. A standstill of the procedure shall occur during that period.

The regulatory authority shall be obliged to render a decision upon the application referred to in paragraph 1 of this Article within 60 days as of the day of receipt of a duly application.

If the regulatory authority fails to render a decision within the deadline referred to in paragraph 5 of this Article, it shall be deemed as that the consent was issued.

In the even referred to in paragraph 6 of this Article, the regulatory authority shall be obliged to issue a decision on issuing the consent, upon a request of the applicant for acquiring a qualifying holding, within eight days as of the day of receipt.

Rejection of Application for Obtaining Qualified Participation Approval **Article 26**

In the procedure upon a request for acquiring qualifying holding, the regulatory authority shall assess the eligibility of the applicant based on:

- 1) business reputation, as well as of legal status or financial standing of the applicant;
- 2) reputation and professional qualification of persons holding managing position, in case of applicants who are legal persons;
- 3) financial stability of the applicant, considering the type of business it carries out;

- 4) possibility of efficient supervision of the company which is acquiring the holding upon possible issuing of the consent;
- 5) in terms of that acquisition, possibility of making possible money laundering and terrorism financing or if it was made or attempted to do so.

The regulatory authority shall reject the application for issuing the consent for acquiring the qualifying holding if based on the criteria referred to in paragraph 1 of this Article it assess that:

- 1) due to the business or activities currently performed or actions taken in pursuit of the insurance business by the applicant for acquisition of qualifying holding or its related party, the operations of the insurance company might be jeopardized;
- 2) due to the business or activities of the applicant for acquisition of qualifying holding or its related party or because of the nature of their relation, the insurance company supervision might be impossible or difficult;
- 3) the acquisition of the qualifying holding would be against the conditions stipulated by the law governing the securities market;
- 4) in terms of that acquisition, possibility of making possible money laundering and terrorism financing or if it was made or attempted to do so.

Prior to rendering the decision referred to in paragraph 2 of this Article, the regulatory authority shall be obliged to enable a period not exceeding 15 days for the applicant, within the deadline referred to in Article 25 paragraph 5 of this Law, to make statement about facts that may serve to reject the application.

Loss of Voting Rights Article 27

A person that acquires qualifying holding in an insurance company without a consent of the regulatory authority shall not have voting rights in the management of the insurance company, for the shares so obtained and shall be obliged to divest them within 30 days as of the day of acquisition.

Withdrawal of Consent for Acquisition of Qualifying Holding Article 28

The regulatory authority shall withdraw the granted consent for acquisition of qualifying holding, by way of a decision, if:

- 1) the consent was granted on grounds of false and inaccurate information;
- 2) the operation of the insurance company is jeopardized due to the business and activities carried out or actions conducted by the qualifying holder or its related party;
- 3) the supervision over the insurance company is impossible or difficult due to the business and activities conducted by qualifying holder or its related party, or due to the nature of their relation,;
- 4) the qualifying holder breaches the obligation to obtain the consent for acquisition of qualifying holding or for the increase of such holding, or otherwise disturbs the supervision over the insurance company;
- 5) qualifying holder ceases to meet the conditions based on which the consent was granted.

On the basis of the decision referred to in paragraph 1 of this Article, the qualifying holder shall lose the voting right arising from the shares related to qualifying holding and shall be obliged to divest them within 30 days as of the day of acquisition.

Null and Void Decisions

Article 29

Decisions rendered by the corporate bodies of the insurance company with participation of the votes of the qualifying holders, without consent for acquisition of qualifying holding or whose consent for acquisition of qualifying holding was withdrawn, shall be null and void.

Consequences of Failure to Divest Shares

Article 29a

If a person, who acquired shares contrary to this Law fails to divest of those shares within deadlines referred to in Articles 27 and 28 of this Law, any property or non-property-based rights must not be ceased based on those shares until those are divested.

Application for Obtaining a License for Pursuit of Insurance Business

Article 30

Application for obtaining a license for pursuit of insurance business shall be submitted to the regulatory authority by founders of the insurance company or, on their behalf, by a person authorized by them.

The application referred to in paragraph 1 of this Article shall be accompanied with the following:

- 1) Contract or Memorandum of Association;
- 2) proposed Articles of Association;
- 3) evidence that monetary assets equal to minimum of share capital referred to in Article 21 of this Law and funds for covering foundation and other start-up expenses have been provided;
- 4) business plan of the insurance company for a three-year period, with the opinion of an authorized actuary;
- 5) insurance terms and conditions and premium tariffs;
- 6) list of shareholders with their name, family name and permanent residence for natural persons, or name and head office address for legal persons, number and total nominal value of the shares and percentages of holding in the share capital of the insurance company;
- 7) for shareholders – legal persons intending to acquire the qualifying holding:
 - evidence of registration from a competent authority;
 - data about founders, including also data on total nominal value of shares and percentages of holding in the share capital of the insurance company;
 - data about persons responsible for managing such legal person, including also data on their previous work engagements and qualifications;
 - financial reports with an authorised auditor's opinion, for the last three years;
 - evidence on amount of reported or paid property tax and profit tax for the last three years;
- 8) for shareholders – natural persons intending to acquire qualifying holding:
 - evidence on personal data and previous work engagement of such person;
 - evidence that the person was not a member of the board of directors or individual endowed with special authority in a legal person which has undergone the liquidation or bankruptcy proceedings, for the past three years;
 - evidence that the person was not unconditionally sentenced to imprisonment for more than three months for crimes against payment operations and economic operations, property and official duty,

- evidence on amount of reported or paid property tax and total amount of personal income tax during the past three years, issued by a competent administrative authority;
 - evidence on source of funds for purchase of shares;
- 9) data on persons related with the founders or the qualifying holder with the statement of the nature of such relations referred to in Article 24 of this Law;
- 10) for the natural persons proposed to be members of the Board of Directors and Executive Director of the company, evidence:
- that he/she meets the requirements in terms of his/her education, qualifications and professional experience,
 - that the person has not been a member of Board of Directors or individual endowed with special authority in a legal entity which has undergone the liquidation or bankruptcy proceedings, for the past three years,
 - that the person is not subject to restrictions referred to in Article 48 paragraph 2 of this Law;
 - that the person has not been unconditionally sentenced to imprisonment for more than three months;
 - that no criminal proceedings are instituted against such person;
 - on the amount of reported or paid property tax and on total amount of personal income tax for the past three years;
- 11) name and family name of the person nominated to render activities of an authorised actuary, including data referred to in item 10 of this paragraph, or pre-contract on rendering actuarial services signed with the authorised actuary company, as well as evidence of professional liability insurance for authorised actuaries against damage that could be caused by a given opinion;
- 12) evidence that the insurance company has the organizational, personnel and technical capacity for the pursuit of insurance business;
- 13) evidence of owning or leasing the business premises in which the business will be conducted;
- 14) other evidence and data as may be required by the regulatory authority.

For the founders – foreign persons, the documents referred to in paragraph 2 of this Article should be submitted in certified translation, in the language in official use in Montenegro.

The state administration authority in charge of finance affairs (hereinafter referred to as the Ministry of Finance) shall specify the detailed requirements and manner of meeting the requirements referred to in paragraphs 2 and 3 of this Article by way of its regulation.

Business Plan of Insurance Company

Article 31

Business plan of an insurance company shall contain, *inter alia*:

- 1) an outline of business policy;
- 2) a group or class of insurance that will be licensed (insurance terms and conditions and premium tariffs);
- 3) table of maximum self-insured retention amounts for all classes of insurance that will be licensed;
- 4) reinsurance program;
- 5) amount of expected solvency margin, determined in accordance with this Law;
- 6) planned foundation expenses and manner of their coverage;
- 7) company's liquidity plan;
- 8) a detailed study of expected results of business operations, particularly the expected income from premiums, expected expenses for damages and amount of technical provisions and

provisions prescribed by this Law, expected values of funds and their sources and preliminary cost estimate for pursuit of insurance business, together with assessment of economic viability as related to the market size and structure.

Application for Obtaining a License for Pursuit of Reinsurance Activities

Article 32

An application for the licensing of reinsurance activities shall be accompanied with the evidence, proposed documents and data referred to in Article 30, paragraph 2 of this Law, whereby the business plan shall not contain the data referred to in Article 31, item 2 of this Law.

Issuing the License for Pursuit of Insurance Activities

Article 33

The license for pursuit of insurance activities shall be granted to the insurance company to engage in one or several classes of insurance.

The regulatory authority shall decide on the application to pursuit insurance activities by way of a decision by no later than within 90 days as of the day of submission of an application by either issuing it or refusing to issue it.

The decision referred to in paragraph 2 of this Article must always list the classes of insurance for which the license is being issued.

The decision referred to in paragraph 2 of this Article shall be final.

An administrative dispute may be instituted against the decision referred to in paragraph 2 of this Article.

The decision on issuing license for pursuit of insurance activities to an insurance company shall be published in the "Official Gazette of Montenegro".

Registration of Company

Article 34

Founders of the insurance company shall be obliged to submit, within 60 days as of the day of receiving a license for pursuit of insurance activities, the registration application to the Central Registry of the Commercial Court (hereinafter referred to as the CRPS).

The application referred to in paragraph 1 of this Article shall also be accompanied with the license for pursuit of insurance activities.

The insurance company shall be obliged to submit the decision on registration to the regulatory authority within seven days as of the day of receipt of such decision.

Changes in License for Pursuit of Insurance Activities

Article 35

The insurance company that intends to perform certain classes of insurance that are not covered by its license or to stop performing a certain class of insurance for which it has been

licensed, shall submit an application to the regulatory authority for the change of the license for pursuit of insurance activities.

The provisions of Articles 30, 31, 33 and 34 of this Law shall accordingly apply to the change in the license referred to in paragraph 1 of this Article.

Rejection of Applications for Obtaining a License for Pursuit of Insurance Activities

Article 36

A license for pursuit of insurance activities shall not be issued:

- 1) if the insurance company fails to submit the evidence on fulfilling the conditions prescribed by Article 30 of this Law ;
- 2) if the founder – qualifying holder fails to meet the requirements for obtaining the consent for acquisition of qualifying holding;
- 3) if the provisions of the memorandum of association, articles of association and business acct of the insurance company are contravening the provisions of law;
- 4) if members of the managing bodies of the insurance company fail to submit the necessary evidence for their eligibility for carrying out functions of members of managing bodies or if nominated persons fail to meet the prescribed conditions;
- 5) if, on the basis of the articles of association of the insurance company and other acts and submitted documents, and data, it can be concluded that the insurance company does not have organizational, staffing and technical capacity for pursuit of insurance activities in the scope envisaged in its business plan;
- 6) if the insurance company fails to meet other conditions stipulated by law.

If the application for issuing licensing for pursuit of insurance activities is rejected, the reasons of the rejection of the application must be indicated.

Termination of Validity of License for Pursuit of Insurance Activities

Article 37

The license for pursuit of insurance activities shall cease to be valid in the following cases:

- 1) if the company fails submit the registration application to the CRPS within 60 days as of the day of license being issued;
- 2) if the company fails to commence its business activities within six months as of the day of issuing the license for pursuit of insurance activities;
- 3) if makes a decision on opening a voluntary liquidation, based on a prior consent of the regulatory authority.

In cases referred to in paragraph 1 of this Article, the regulatory authority shall render a decision on termination of validity of the license for pursuit of insurance activities.

The decision referred to in paragraph 2 of this Article shall be final and shall be published in the “Official Gazette of Montenegro”.

An administrative dispute may be instituted against the decision referred to in paragraph 2 of this Article.

The insurance company the license of which cease to be valid can no longer engage in insurance activities, but it is not released from meeting obligations under concluded insurance contracts.

Pursuit of Reinsurance Activities

Article 38

Provisions of this Law governing the insurance companies shall apply accordingly to issuing a license for pursuit of reinsurance activities and operation of reinsurance companies.

General Acts, Annual Business Plans and Business Policy Acts of the Company

Article 39

The insurance company shall adopt the articles of association, other general acts, annual business plan and business policies acts.

The insurance company's business policies acts referred to in paragraph 1 of this Article shall include:

- 1) general and special conditions of insurance and premium tariffs;
- 2) decision on technical bases of insurance;
- 3) decision on criteria, manner of determination and table of maximum self-insured retention amount and total self-insured retention amount;
- 4) Rulebook on conditions and manner of depositing and investing funds of the company;
- 5) Rulebook on maximum rates of loading expenses;
- 6) Rulebook of forming and manner of calculating and amounts of unearned premiums;
- 7) Rulebook of forming and manner of calculating mathematical reserves;
- 8) Rulebook of forming and using reserves for bonuses (for life insurance only);
- 9) Rulebook of determining the part of a pure premium for the disbursement of outstanding obligations incurred (outstanding claims);
- 10) Rulebook of forming and using risk equalisation reserves (for non-life insurance only);
- 11) Rulebook on the conditions and the manner of co-insurance and reinsurance;
- 12) Rulebook on the conditions and the manner of exercising recourse;
- 13) other business policy acts.

Articles of Association shall be subject to the approval of the regulatory authority.

Foundation of Organizational Parts

Article 40

An insurance company established under this Law may establish organizational parts without the status of a legal person.

Organizational parts referred to in paragraph 1 of this Article shall be founded with prior consent of the regulatory authority.

Insurance company may pursue insurance activities in a foreign country via a branch, with application of regulations of a country where insurance activities are carried out.

In order to establish a branch in a foreign country, the insurance company must obtain a permit from the regulatory authority.

The regulatory authority shall reject the request for issuing permit referred to in paragraph 4 of this Article, if, considering the regulation or practice in application of regulations in the country where the insurance company intends to open the branch, if supervision under this Law would be impossible or considerably difficult.

Paragraphs 3 to 5 of this Article shall not apply on reinsurance companies.

Status Changes of Insurance Company

Article 41

An insurance company may perform the status changes, including division, merger or acquisition, only with prior consent of the regulatory authority.

The insurance company shall be obliged to submit the documents as specified by the Ministry of Finance along with the application for obtaining the consent for status change.

IV. A PART OF FOREIGN INSURANCE COMPANY

Application for Licensing

Article 42

A foreign insurance company licensed for pursuit of insurance activities or reinsurance activities in the country of its head office may pursue insurance activities or insurance activities in Montenegro via a branch.

The regulatory authority shall issue a license for pursuit of insurance activities or reinsurance activities for a branch based on an application of the foreign company.

The foreign insurance company shall submit the application referred to in paragraph 2 of this Article accompanied with the following:

- 1) operating license, articles of association and financial reports with reports of conducted audit for the last three years;
- 2) data on qualifying holders (name, family name and permanent residence for natural persons or name and head of officer for legal persons, data on level of holding in the capital or voting rights in the insurance company, and list of related parties);
- 3) decision on establishment of the branch;
- 4) business plan of the branch for the following three years, with a detailed description of intended insurance or reinsurance activities, expected premium income, expected expenses for insurable events, and foundation and start-up costs estimate;
- 5) approval of the supervisory authority of the country of head office for establishment of the branch in Montenegro;
- 6) evidence on the capital adequacy of the branch;
- 7) data on at least two persons who will be responsible for pursuit of insurance activities or reinsurance activities in the branch who meet requirements referred to in Article 30 item 10 of this Law;
- 8) evidence on organisational, personnel and technical capacity of the branch to carry out activities;
- 9) other evidence and data as may be requested by the regulatory authority.

The documentation referred to in paragraph 1 of this Article shall be submitted in the original or authenticated photocopy.

Together with the request and documentation referred to in paragraph 3 of this Article, which are submitted in a foreign language, a certified translation of these documents in the language officially used in Montenegro shall also be submitted.

Disposing with Funds Article 42a

Branch should have, at all times, at its disposal funds in the amount of one-half of the capital referred to in Article 21 of this Law deposited with a bank with registered office in Montenegro.

The Branch referred to in paragraph 1 of this Article should have, at all times, at its disposal on the territory of Montenegro, adequate property, at least at the level of one-half of the guaranteed capital referred to in Article 98a of this Law and on deposited funds in the amount of one-quarter of guaranteed capital of the branch as a security for payment of obligations under insurance contracts entered into Montenegro, or contracts covering risks on the territory of Montenegro.

The branch will hold a surplus of own funds of the branch above the capital referred to in paragraph 1 of this Article or of the guaranteed capital, if higher, on business account with a bank with registered office in Montenegro.

Deciding upon Applications Article 43

The regulatory authority shall be obliged to render a decision, within 90 days as of the day of submitting the request referred to in Article 42, paragraph 2 of this Law.

The regulatory authority shall reject the request referred to in paragraph 1 of this Article if the establishes that requirements as set forth under this Law are not met, or that with respect to regulations or practice in application and execution of those regulations of the country of head office of the foreign insurance company:

- 1) supervision in accordance with this Law could be made more difficult;
- 2) it would not been made possible to insurance companies with head office in Montenegro to pursuit insurance activities in such country or would prevent them from pursuing insurance activities under conditions equal to those for insurance companies of such country.

Paragraph 2 of this Article shall not apply to rendering of decisions on licensing for establishment of the branch of insurance company having head office in member country of the World Trade Organisation.

The decision referred to in paragraph 1 of this Article shall be final.

Revocation of License Article 44

The regulatory authority shall revoke the license of a branch if the home country competent authority revokes the license of the foreign company being the founder of the branch.

Provision of this Law governing revocation of the license for insurance company shall apply accordingly to the revocation of license of the branch

Application of Regulations Article 45

The provisions of this Law and other regulations that refer to insurance companies shall apply to foreign company branch operations.

V. MANAGEMENT AND GOVERNANCE OF COMPANY

Bodies of Insurance Company Article 46

Bodies of an insurance company shall be: general meeting of shareholders and board of directors.

An insurance company shall have an executive director and company secretary.

Election, revocation, scope of authority and procedural rules of bodies of the company shall be regulated in detail in the Articles of Association of the insurance company.

Board of Directors and the executive director of the insurance company, in addition to obligations set forth by regulations governing the organisation of business organisations, shall be obliged to:

- 1) ensure efficient system of management of the company;
- 2) ensure pursuit of insurance business in accordance with regulations governing the insurance sector in accordance with nature and scope of business activities;
- 3) establish functional and reliable administrative and accounting procedures, as well as an adequate system of internal control.

Employment Obligation for Members of Board of Directors Article 47

The Articles of Association of the insurance company shall regulate the employment obligation for members of the Board of Directors.

Appointment Criteria for Members of Board of Directors Article 48

A person who has an appropriate university education and at least three years of experience at management positions in insurance or other insurance related areas may be appointed as a member of the board of directors.

At least one member of the Board of Directors shall be obliged to have knowledge of the language in official use in Montenegro to the extent required for him/her to carry out activities.

A person may not be elected as a member of the board of directors who:

- 1) is a member of the board of directors or an executive director of another insurance company or subsidiaries of those companies;
- 2) is related to a legal person in which the insurance company has a qualifying holding;
- 3) was in the management of a business organization or other legal person that was subject to bankruptcy proceedings or whose license was revoked;
- 4) fails to meet general requirements as envisaged by the law governing the organisation of business organisations.

Approval of Appointment of Members of Board of Directors

Article 49

Only a person who received consent of the regulatory authority may be appointed as a member of the board of directors.

Along with the request for obtaining the consent referred to in paragraph 1 of this Article, the insurance company shall submit evidence of meeting the conditions referred to in Article 30 of this Law.

Consent for Appointment of Executive Director

Article 50

Only a person who received consent of the regulatory authority may be appointed as an executive director.

The consent for the appointment of the executive director shall be given in the procedure and in the way prescribed for giving consent for the appointment of a member of the board of directors.

The executive director must not be a member of the Board of Directors of that company.

The executive director shall be obliged to have knowledge of the language in official use in Montenegro to the extent required for him/her to carry out activities.

Denying a Request for Giving Consent for Appointment of Members of the Board of Directors or Executive Director

Article 50a

The regulatory authority shall not give consent for appointment of members of the board of directors or an executive director of the insurance company, if:

- 1) proposed person fails to meet conditions set forth under this Law;
- 2) proposed person was released from duty in accordance with Article 146 of this Law;
- 3) proposed person was revoked a consent, in accordance with Article 50b of this Law, for a period of three years preceding the submission of the request for consent;
- 4) the regulatory authority, based on available data, assesses that the appointment of the proposed person could endanger the operation of the company due to the business and activities being performed or actions taken by him/her.

Revoking Consent

Article 50b

The regulatory authority will revoke the consent for appointment of a member of the board of directors or an executive director, if establishes that:

- 1) consent was given based on inaccurate or untrue data or conditions referred to in Article 48, paragraph 3 of this Law apply for a person for whose appointment the consent was given;
- 2) member of the board of directors or the executive director ceases to meet the conditions set forth under this Law and the law governing the organisation of business organisations;

- 3) member of the board of directors or the executive director fails to meet the obligations referred to in Article 46 paragraph 4 of this Law and other obligations established under this Law;
- 4) an interim administration is introduced in the insurance company in accordance with this Law.

VI. INSURANCE BROKERAGE, INSURANCE AGENCY AND ANCILLARY INSURANCE SERVICES

1. Insurance Brokerage

Insurance Brokerage Activities Article 51

Insurance brokerage activities, within the meaning of this Law, shall be the activities related to connecting an insured person or policyholder, with an insurance company in order to make an insurance contract or to manage temporary activities pertaining to entering into an insurance contract, as well as provision of assistance when exercising rights from the insurance contract, and in particular in the event of settling claims of indemnity from the insurance company.

Insurance Brokerage Company Article 52

Insurance brokerage activities are the only activities that can be carried out by an insurance brokerage company licensed by the regulatory authority for pursuit of such activities, under this Law.

Insurance brokerage company may not engage in insurance agency activities.

Prohibition of Insurance Brokerage Article 53

An insurance brokerage company may not perform brokerage activities for the purpose of concluding an insurance contract with an insurance company if has not obtained a license from the regulatory authority for pursuit of insurance activities.

Name of Insurance Brokerage Company Article 54

Name of an insurance brokerage company must contain an indication of its business - "insurance brokerage".

Establishment of Insurance Brokerage Company Article 55

An insurance brokerage company shall be established as a joint-stock company or a limited liability company.

Application for Insurance Brokerage License

Article 56

An application for obtaining a license for pursuit of insurance brokerage activities shall be submitted to the regulatory authority by founders of the insurance brokerage company or, on their behalf, by a person authorized by them.

The following documents shall be submitted along with the application referred to in paragraph 1 of this Article:

- 1) memorandum of association;
- 2) proposed articles of association;
- 3) list of shareholders, or owners of holdings, with the data referred to in Article 30 paragraph 2 items 6, 7 and 8 of this Law;
- 4) evidence that natural persons nominated as members of a board of directors and executive director meet the conditions referred to in Article 30 of this Law ;
- 5) evidence on at least two persons to be employed in the company, having authorisation for pursuit of insurance brokerage activities, with pre-contract on employment and with personal data of persons to be responsible for insurance brokerage activities;
- 6) statement on relation with respect to holding in capital or voting rights of insurance companies, reinsurance companies, insurance brokerage or insurance agency companies;
- 7) evidence on liability insurance for damages which may result from pursuit of business in the amount of at least EUR 200,000 for each damage or EUR 250,000 on aggregate level for one year;
- 8) business plan for the following three years, including data and evidence on personnel and technical capacity of the company;
- 9) other evidence and data as may be requested by the regulatory authority.

Issuing Insurance Brokerage Licenses

Article 57

The regulatory authority shall render a decision on applications for licensing of insurance brokerage activities referred to in Article 56 of this Law within 90 days as of the day the application is submitted.

The decision referred to in paragraph 1 of this Article shall be final.

An administrative dispute may be instituted against the decision referred to in paragraph 1 of this Article.

Registration of the Company

Article 58

The founders of the insurance brokerage company shall submit, within 60 days as of the day of the receipt the license for pursuit of insurance brokerage activities, an application for registration with the CRPS.

The application for registration shall also be accompanied with the obtained license for pursuit of insurance brokerage activities.

The insurance brokerage company shall be obliged to submit the decision on registration to the regulatory authority within seven days as of the day of the receipt of such decision.

Revocation of License for Insurance Brokerage Activities

Article 59

The regulatory authority shall revoke the license for pursuit of insurance brokerage activities of an insurance brokerage company if:

- 1) an insurance brokerage company is no longer meeting one of the conditions for obtaining the license for pursuit of insurance brokerage activities ;
- 2) the operation of the insurance brokerage company threatens the interests of the insured persons or a violation of the law and other regulations was established;
- 3) the insurance brokerage company acts for an insurance company that is not licensed for pursuit of insurance activities;
- 4) license was obtained by stating false data;
- 5) the insurance brokerage company is in breach of timely reporting to the regulatory authority or fails to act in accordance with imposed measures for remedying illegalities and irregularities.

Authorization for Performing Insurance Brokerage (Authorized Brokers)

Article 60

Insurance brokerage activities in an insurance brokerage company may be performed only by persons authorized by the regulatory authority (hereinafter referred to as: authorized brokers).

The authorization referred to in paragraph 1 of this Article may be issued to a person who meets the following conditions:

- 1) has full business capacity;
- 2) has passed the professional examination for pursuit of insurance brokerage activities;
- 3) has not been imposed a safety measure or measure of prohibition of business conduct by a final and non-appealable court ruling;
- 4) has not been unconditionally sentenced, by a final and non-appealable decision, for criminal offences against property or economy to an imprisonment exceeding 3 months.

The professional examination referred to in paragraph 2 item 2) of this Article shall be taken before the commission appointed by the regulatory authority.

The Ministry of Finance shall prescribe, by way of its regulation, the contents of and procedure for taking the examination referred to in item 2 paragraph 2 of this Article.

The regulatory authority shall also issue authorisation for insurance brokerage to a foreign natural person who meets the conditions referred to in paragraph 2, items 1, 3 and 4 of this Article and who is issued with an insurance brokerage authorisation by the competent authority of a foreign country.

Revocation of Authorization

Article 61

The regulatory authority shall revoke the authorisation for pursuit of insurance brokerage activities from a person who:

- 1) obtained the authorisation based on false and incorrect information;

- 2) no longer fulfils the conditions referred to in Article 60, paragraph 2 of this Law;
- 3) breached the provisions of this Law governing the pursuit of insurance brokerage.

Special Obligations of Insurance Brokerage Companies

Article 62

An insurance brokerage company or authorised insurance broker shall be obliged to pursue insurance business or insurance activities in such manner to protect the interest of policyholder or insured person.

In carrying out the obligations referred to in paragraph 1 of this Article, the person referred to in paragraph 1 of this Article shall be obliged, *inter alia*, to:

- 1) prepare adequate risk analysis and propose adequate coverage;
- 2) prepare evaluation of solvency of the insurance company based on the information on business operations of the company;
- 3) mediate, for the purpose of negotiation on concluding an insurance contract with the insurance company, in line with the request of future policyholder in terms of the adequate coverage;
- 4) inform the insurance company about the intention of the insured person to conclude the insurance contract and offer the terms and conditions of an insurance policy to the insured person and inform him/her about the rules for calculating premium;
- 5) check the contents of the insurance policy;
- 6) provide assistance to the insured person during the insurance contract validity, before and after the occurrence of an insurable event, and especially take care that the insured person performs actions important for maintaining or exercising the rights from the insurance contract within the specified time schedule;
- 7) follow the execution of the insurance contract which the insured person concluded through his/her mediation;
- 8) permanently check insurance contracts and prepare proposal for the amendment of the concluded insurance contract, for the purpose of greater safety of the insured person.

The analysis referred to in paragraph 2, item 1 of this Article shall be prepared in writing, by comparing several adequate insurance contracts available on the market, in order to provide adequate recommendations for concluding insurance contracts the policyholder would use to meet its needs and requirements.

Insurance brokerage company or insurance broker shall be obliged to protect interests of an insurance company when pursuing insurance brokerage activities, which the policyholder is obliged to protect before or after the insurance contract is concluded.

Persons referred to in paragraph 4 of this Article shall be obliged to notify the insurance company on all risks known to them or must have been known to them.

Funds paid by the insured person to the insurance brokerage company with respect to the insurance contract shall be deemed as paid to the insurance company, while funds intended for the insured person paid by the insurance company to the insurance brokerage company shall be deemed as paid to the insured person on a day when the insured person receives such funds.

Conflict of Interests

Article 63

An insurance brokerage company shall be obliged to notify the insured person of all legal and economic relationships with the insurance company that might affect the impartiality of the insurance brokerage company in meeting obligations towards the insured person.

The legal and economic relationships referred to in paragraph 1 of this Article shall be considered to include, but not be limited to, the provisions of the brokerage contract signed between the insurance brokerage company and the insurance company, based on which the insurance brokerage company:

- 1) is obliged to act exclusively towards concluding the insurance contract with the particular insurance company;
- 2) has contracted the right to an increased commission in relation to the usual brokerage commission for certain classes of insurance.

Governing Provisions

Article 64

Provisions of Articles 36 and 37 of this Law pertaining to insurance companies shall apply accordingly to insurance brokerage companies.

2. Insurance Agency

Insurance Agency Activities

Article 65

Insurance agency activities shall be, within the meaning of this Law, the activities of initiating, proposing, preparing and concluding insurance contracts on behalf and for the account of insurance companies.

Insurance agency activities, as the sole business, shall be performed by insurance agency companies or entrepreneurs-insurance agents licensed by the regulatory authority to carry out said activities.

Notwithstanding provisions of paragraph 2 of this Article, banks may engage in insurance agency activities provided with an approval of the Central Bank in accordance with law, and based on the consent of the regulatory authority.

The agency activities referred to in paragraph 3 of this Article shall be performed based on an agency contract entered into between the bank and an insurance company, separately from other banking operations and may be performed only by persons employed with the bank having an authorisation of the regulatory authority to carry out insurance agency activities..

The regulatory authority shall stipulate detailed requirements for pursuit of insurance agency activities referred to in paragraph 3 of this Article.

Provisions of the law governing obligations shall apply accordingly to agency contract regulating in more details agency activities referred to in paragraph 1 of this Article.

An insurance company shall keep records of persons having entered into insurance agency contracts.

Insurance Agency Restrictions

Article 66

An insurance agency company, entrepreneur-insurance agent and bank issued with the consent for pursuit of insurance agency activities may carry out insurance agency activities on behalf of one insurance company.

Exceptionally, persons referred to in of paragraph 1 of this Article may engage in insurance agency activities on behalf of several insurance companies for products not directly in competition one to another, while for products which are in direct competition only with written consent of such insurance companies.

Persons referred to in paragraph 1 of this Article shall be obliged to display in their business premises, on a visible place, the name of the insurance company for which they are agent of.

Name of Insurance Agency Company and Insurance Agent

Article 67

The name of an insurance agency company or insurance agent must also contain an indication of the business "insurance agency".

Establishment of Insurance Agency Company

Article 68

Insurance agency company shall be established as a joint-stock company or a limited liability company.

Application for Licensing of Insurance Agency Company

Article 69

An application for obtaining a license for pursuit of insurance agency activities shall be submitted to the regulatory authority by founders of the insurance agency company or, on their behalf, by a person authorized by them.

The application referred to paragraph 1 of this Article shall be accompanied with the following:

- 1) Memorandum of Association;
- 2) proposed Articles of Association;
- 3) list of shareholders or owners of holdings, together with the data referred to in Article 30 paragraph 2 items 6, 7 and 8 of this Law ;
- 4) evidence that the persons proposed as members of bodies of the company meet the conditions referred to in Article 30 of this Law;
- 5) personal data on at least two persons to be employed in the company, having authorisation for pursuit of insurance agency activities and personal data of persons to be responsible for insurance agency activities;
- 6) statement on relation with respect to holding in capital or voting rights of the insurance companies, reinsurance companies, insurance brokerage companies or insurance agency companies;
- 7) pre-agreement or agreement on insurance agency with the insurance company, which contains provisions on the right of the insurance company to supervise performance of such agreement;

- 8) business plan for the following three years, with data and evidence on personnel and technical capacity of the company;
- 9) other evidence and data as may be requested by the regulatory authority.

License to Pursuit of Insurance Agency Activities

Article 70

The provisions of this Law that refer to issuing, revoking and terminating a validity of license for insurance brokerage companies shall accordingly apply to the issuing, revoking and terminating the validity of license of insurance agency company or revoking and terminating validity of consent referred to in Article 65, paragraph 3 of this Law.

Entrepreneur - Insurance Agent

Article 71

An entrepreneur - insurance agent shall be a natural person carrying out insurance agency business based on prior obtained license issued by the regulatory authority.

An application for obtaining a license for referred to in paragraph 1 of this Article shall be accompanied with the following:

- 1) authenticated copy of identity document with a photography;
- 2) evidence of permanent residence;
- 3) evidence of education level;
- 4) evidence that applicant, for the last three years, was not a member of management body or individual endowed with special authority in a legal person that has undergone the liquidation or bankruptcy proceedings;
- 5) evidence that the applicant was not sentenced to an unconditional imprisonment sentence for crimes against payment operations and economic operations, property and official duty exceeding three months;
- 6) evidence from a competent authority on settled tax liabilities of the applicant;
- 7) authorization for insurance agency pursuant to Article 72 of this Law;
- 8) business plan for three-year period, with data and evidences on personnel and technical capacity for pursuit of insurance agency activities;
- 9) pre-agreement or agreement on agency signed with an insurance company, which contains provisions on the right of the insurance company to supervise the performance of the agreement;
- 10) statement on relation with respect to holding in capital or voting rights in insurance companies, reinsurance companies, insurance brokerage companies or insurance agency companies;
- 11) other evidence and data as may be requested by the regulatory authority.

The provisions of this Law that refer to issuing, revoking and terminating a validity of license for insurance agency companies shall accordingly apply to the issuing, revoking and terminating the validity of license of the entrepreneur and registration in the CRPS.

Authorization for Pursuit of Insurance Agency Activities

Article 72

A natural person authorized by the regulatory authority for pursuit of insurance agency activities (hereinafter: authorized agent) may perform insurance agency activities referred to in Article 65 of this Law.

Persons performing insurance agency activities based on an employment in an insurance company shall not require the authorisation referred to in paragraph 1 of this Article.

The authorization referred to in paragraph 1 of this Article may be issued to a person:

- 1) who has full business capacity;
- 2) who has passed the professional examination for pursuit of insurance agency activities;
- 3) who was not imposed a safety measure or measure of prohibition of business conduct by a final and non-appealable court ruling;
- 4) who was not unconditionally sentenced, by a final and non-appealable verdict, for criminal offences against property, official duty or payment operations and economic operations to an imprisonment exceeding 3 months.

The professional examination referred to in paragraph 3, item 2 of this Article shall be taken before the commission appointed by the regulatory authority.

The Ministry of Finance shall prescribe, by way of its regulation, the contents of and procedure for taking the examination referred to in paragraph 3 item 2 of this Article.

The regulatory authority shall also issue authorisation for insurance agency to a foreign natural person who meets the conditions referred to in paragraph 3, items 1, 3 and 4 of this Article and who has authorisation for agency issued by a competent authority of a foreign country.

Provision of Article 61 of this Law shall apply accordingly to revoking the authorisation for pursuit of insurance agency activities.

Right to Inspect Insurance Agency Contract

Article 73

The insurance agency contracts shall be kept in the business premises of the contractual parties.

The regulatory authority shall be entitled to inspect the contracts referred to in paragraph 1 of this Article.

Handling Monetary Assets and Payment Instruments

Article 74

Insurance agency company and entrepreneur – insurance agent shall be obliged to pay the monetary instruments and other payment instruments and security instruments that has collected, or taken over from the insured persons or policyholders, on behalf and for the account of an insurance company, to the insurance company within the deadline determined by the agency contract or deliver other payment instruments and security instruments with supporting documentation within the same deadline.

Funds paid by the insured person to the insurance agency company or entrepreneur-insurance agent with respect to the insurance contract shall be deemed as paid to the insurance company, while funds intended for the insured person paid by the insurance company to the insurance agency company or entrepreneur-insurance agent shall be deemed as paid to the insured person on a day when the insured person receives such funds.

Persons referred to in paragraph 1 of this Article shall be obliged to keep funds and payment and security instruments in a safe place until the day of payment, or delivery to the insurance company.

Liability for Insurance Agency Article 75

An insurance company shall be liable for actions undertaken in pursuit of insurance agency activities.

An insurance agent shall be liable to an insured person for losses sustained by the insured person where the insurance agent has misrepresented or acted with negligence, or if the insurance agent has failed to disclose that he/she is performing the business in an agency capacity.

Executive director of an insurance company, or a person with special authorities who has signed an agency contract, shall be liable to the insurance company for the loss caused to the company arising out of that contract.

3. Ancillary Insurance Services Provider

Activities of the Provider Article 76

An ancillary insurance services provider (hereinafter referred to as the provider) shall be a legal person engaged in activities of determining and assessing risks and claims, intermediation in the sale and sales of the remains of insured damaged items, and provision of other intellectual and technical services related to insurance activities.

Prohibition of Pursuit of Insurance Activities and Insurance Brokerage and Insurance Agency Activities Article 77

The provider may not engage in insurance activities or insurance brokerage and insurance agency activities.

Establishment of Ancillary Insurance Services Provider Article 78

The provider shall be established as a joint-stock company or a limited liability company,

Application for Obtaining the License for Provision of Ancillary Insurance Services Article 79

An application for obtaining a license for provision of ancillary insurance services shall be submitted by founders of the provider or, on their behalf, by a person authorized by them.

The application referred to in paragraph 1 of this Article shall be accompanied with the following:

- 1) Memorandum of Association;
- 2) proposed Articles of Association;
- 3) business plan for the three-year period;
- 4) list of shareholders, or owners of holdings, with the data referred to in Article 30 paragraph 2 items 6 to 8 of this Law;
- 5) evidence that the natural persons nominated as members of management bodies meet the conditions referred to in Article 30 of this Law;
- 6) evidence of the staffing and technical capacities;
- 7) evidence of not being a related party of insurance companies, or =insurance agency companies or insurance brokerage companies, according to provisions of this Law and the law governing the legal status of business organizations;
- 8) other evidence and data as may be requested by the regulatory authority.

Separately Organized Unit

Article 80

Activities referred to in Article 76 of this Law may also be performed by other business organizations, provided they have a separately organized unit for performing these activities, if they have staffing and technical capacity to provide ancillary insurance services.

License to Provide Ancillary Insurance Services

Article 81

Provisions of this Law referring to insurance brokerage companies shall apply on issuing and revoking license for performing ancillary insurance services and evidence of registration with the CRPS of the business organizations referred to in Articles 76 and 80 of this Law.

4. Exceptions from Application of Provisions on Insurance Brokerage or Agency

Persons exempted from Application of Provisions on Brokerage and Agency

Article 81a

Provisions of Articles from 51 to 81 of this Law shall not apply on persons not having as core business insurance brokerage or agency activities that are engaged in insurance brokerage or agency activities for the purpose of signing insurance contracts, if:

- 1) requiring knowledge of only one class of insurance, to which the contract refers, in order to sign a contract;
- 2) not covering life insurance or liability insurance;
- 3) being a supplement to a product or service and covering:
 - risk of malfunction, loss or damage of products or things;
 - risk of damage or loss of luggage or other dangers related to travel booked via a tourist agency even if the insurance contains provisions of life insurance or liability insurance, provided that those provisions are supplemental to the insurance covering the main risk of the subject travel
- 4) the amount of annual premium does not exceed EUR 500.00 and if the insurance contract, including extensions, is entered into for a period exceeding five years.

5. Special Provisions on Pursuit of Insurance Brokerage and Agency Activities and Provision of Information aimed at Consumer Protection

Charging a Commission Article 81b

Insurance brokerage company must not request payment of a commission or other charge from a policyholder or insured person, unless otherwise explicitly contracted by a contract entered into with the policyholder.

Insurance brokerage company shall be entitled to a commission as of the day of commencement of validity of the insurance contract.

If the contract with a policyholder explicitly contracted the right of the insurance brokerage company to a commission or other charge, the insurance brokerage company must not request from insurers a commission or other charge under that insurance contract.

Insurance brokerage company must not subsequently agree a change of the manner of calculation, or level of commission for concluded insurance contracts that has brokered.

Insurance agency company must not request payment of the commission or other charge from a policyholder or insured person.

Information provided to Policyholder by Insurance Broker or Insurance Agent Article 81c

Authorised broker or authorised agent shall be obliged to provide the following data to a policyholder before entering into an insurance contract, as well as in the event of amendments, supplement or renewal of the contract:

- 1) his/her name, family name and address;
- 2) register of his/her registration, including registration number and address of the register;
- 3) name of the insurance brokerage or insurance agency company, where he/she is employed;
- 4) name and head office of the insurance company with which has a concluded contract;
- 5) data on own or holding of the insurance brokerage or insurance agency company in capital or voting rights of the insurance company for which he/she provides brokerage or agency services, if such holding is more than 10%;
- 6) data on holding of the insurance company or parent insurance company in the capital or voting rights of the insurance brokerage or insurance agency company, if such holding exceeds 10%;
- 7) information on rights to a complaint and manner of dispute resolution between user of services and provider of services.

Data referred to in paragraph 1 of this Article shall be provided in writing or on permanent medium available to the policyholder in way that is clear and comprehensible to the policyholder and in the language in official use in Montenegro, unless otherwise contracted.

Data referred to in paragraph 2 of this Article may be provided orally, upon request of the policyholder or in the event when risk coverage needs to be provided forthwith, and in such case the person referred to in paragraph 1 of this Article shall be obliged to provide such data immediately after insurance contract is concluded in the manner established under paragraph 2 of this Article.

Data Provided by Insurance Company to Policyholder

Article 81d

Insurance company shall be obliged to inform a policyholder, before concluding an insurance contract, about general and special insurance terms and conditions and to provide data on:

- 1) name of the company, legal and organisational form and head office, and name of the branch concluding the contract;
- 2) contract period;
- 3) manner and conditions for contract termination;
- 4) amount of insurance premium, manner of payment of insurance premium, amount of contributions, taxes and other expenses calculated in addition to the insurance premium, and total amount for payment;
- 5) validity period of the insurance company's offer;
- 6) right to terminate and conditions for termination of the contract or surrender of the contract;
- 7) manner of resolution of complaints;
- 8) law governing the insurance contract.

When concluding a life insurance contract, the policyholder must also be provided with the following data, in addition to data referred to in paragraph 1 of this Article:

- 1) base and criteria for bonuses and manner and deadlines for payment;
- 2) table of redemption values;
- 3) right to capitalise life insurance contract and rights arising from such insurance;
- 4) tax regulations applicable to the life insurance;
- 5) prospectus of a fund and investment structure, for contracts where insured person undertakes an investment risk (unit-linked insurance).

If changes to general or special terms and conditions or change of data referred to in paragraphs 1 and 2 of this Article take place during the contract period, the insurance company shall be obliged to forthwith inform policyholder on occurrence of changes of general or special terms and conditions or change of data.

The insurance company shall be obliged to notify once a year in writing the policyholder on the status of bonuses.

Notification with data referred to in paragraphs 1 to 4 of this Article shall be provided in writing to the policyholder, in a clear and comprehensible manner, in the language in official use in Montenegro.

Manner of Resolution of Complaints in Insurance Companies

Article 81e

Insurance company shall be obliged to adopt internal rules for establishment and operation of a department for resolution of complaints of policyholders with respect to insured person.

VII. PROPERTY AND BUSINESS OPERATIONS OF INSURANCE COMPANY

Insurance Premium

Article 82

An insurance premium shall be monetary amount, which is liable to be paid by the policyholder, or the insured person as a security against certain risk.

The insurance premium shall consist of functional premium and loading expenses.

The functional premium shall consist of pure premium and loss prevention loading, if included in the insurance premium.

The pure premium shall be used to pay damages, contracted sums insured and other liabilities from the insurance contract.

The loss prevention loading shall be used for implementation of measures of prevention and control of risk, which could imperil property and persons.

The loading expenses shall be used to cover expenses for insurance implementation.

Technical Provisions

Article 83

An insurance company shall be obliged to establish technical provisions in amount sufficient to cover liabilities that could occur based on pursuit of insurance activities.

The insurance company shall be obliged to establish the following types of technical provisions:

- 1) reserves for unearned premiums;
- 2) reserves for outstanding claims;
- 3) preserves for bonus and malus;
- 4) other technical provisions.

An insurance company engaged in life insurance activities or insurance with multi-annual duration, where savings funds are accumulated for risk coverage in the forthcoming years of insurance and where probability tables are applied as well as calculations applicable to life insurances, shall also be obliged to establish a mathematical reserve, in addition to reserves referred to in paragraph 2 of this Article.

An insurance company engaged in credit insurance activities shall also be obliged to establish a risk equalisation reserve for such class of insurance, in addition to reserves referred to in paragraph 2 of this Article.

An insurance company engaged in insurance activities where insured person undertakes an investment risk (unit-linked insurance) shall also be obliged to establish special technical provisions for such insurance.

The regulatory authority shall stipulate criteria and the manner of calculation of technical provisions referred to in this Article.

Unearned Premiums

Article 84

Unearned premiums shall be established from the total insurance premium, separately for each class of insurance, in proportion to the duration of insurance.

Unearned premiums shall be used to cover insurance obligations which will occur in the forthcoming accounting period.

Outstanding Claims

Article 85

Outstanding claims shall be established in an amount equal to the assessed liabilities for claims incurred and reported but not paid and claims incurred but not reported in the current period.

If claims for certain classes of insurance appear in the form of annuities, the outstanding claims shall be established in a capitalized amount that represents the amount of all future obligations.

Bonus-Malus Reserves

Article 86

Bonus-malus reserves shall be established up to the level of compensations and other payments the insured persons and other insurance beneficiaries are entitled to, and which arise from:

- 1) right to participate in profit or other rights under an insurance contract (bonus);
- 2) rights to partial reduction of a premium (malus);
- 3) right to compensation of a part of a premium resulting from unused period of insurance coverage due to premature contract termination (cancellation).

Mathematical Reserve

Article 87

Mathematical reserve shall be established in an amount equal to present value of future liabilities of an insurance company decreased by the present value of future obligations of a policyholder (insurance premium) and shall be calculated separately for each insurance contract.

Risk Equalization Reserves

Article 88

Risk equalization reserves shall be established at the account of insurance company expenditures, separately for each class of non-life insurance and shall be used for the equalisation of maturity of the course of the claims in individual classes of insurance.

The reserves referred to in paragraph 1 of this Article shall be established based on standard deviations of applicable loss ratio during the current accounting period from the average of applicable loss ratio for each class of non-life insurance performed by the insurance company during the observed period.

Other Technical Provisions

Article 88a

Other technical provisions shall be established with respect to specific future liabilities and risks against large claims caused by earthquakes, floods, claims from nuclear liability insurance, producer liability for pharmaceutical products, as well as other liabilities and risks for which provisions were not established under Article 83 paragraph 2, items 1 to 3 and paragraphs 3 and 4 of this Law.

1. Maintenance of Liquidity and Solvency

Maintenance of Liquidity

Article 89

The insurance company shall be obliged to maintain liquidity and to pay claims and other obligations of the company in a timely manner.

The insurance company may deposit and invest idle funds, provided that it maintains constant liquidity and pays claims and other obligations of the company in a timely manner.

In dealings with insurance funds, an insurance company shall be obliged to undertake all necessary actions to provide safety of depositing or investing of the funds, in order not to affect their real value and liquidity of the company in meeting obligations under insurance contracts and other obligations.

The idle funds of technical provisions shall be determined by reducing the total technical provisions as of a given day by the obligations that have become due and payable from those funds.

The insurance company shall be obliged to report the regulatory authority on depositing and investing the funds referred to in paragraph 2 of this Article quarterly.

The regulatory authority shall prescribe in more detail the method of determining and monitoring liquidity of insurance companies.

Depositing and Investing of Technical Provisions

Article 90

Technical provisions shall be deposited and invested in:

- 1) securities issued by Montenegro, central banks and governments of foreign countries that have at least "A" rating or its equivalent awarded by widely-accepted, internationally recognized rating agencies;
- 2) bonds or other debt securities traded on the organized security market in Montenegro;
- 3) bonds, or other debt securities not traded on the organized securities market, if the issuer is a legal person with the registered office in Montenegro;
- 4) shares traded on the organized security market in Montenegro;
- 5) with banks having their head offices in Montenegro.

Notwithstanding paragraph 1 of this Article, the Ministry of Finance may also prescribe other types of depositing and investing of technical provisions funds, which are, with respect to safety, yield and marketability, adequate for depositing and investing.

Limitations of Individual Deposits and Investments

Article 91

The Ministry of Finance shall establish limitations of technical provisions for deposits and investments in accordance with Article 90 of this Law by way of its regulation.

Insurance Company Capital

Article 92

Capital of an insurance company shall be a sum of core and additional capital referred to in Articles 92a and 92b of this Law less deductible items referred to in Article 92c of this Law.

Core Capital

Article 92a

Core capital of an insurance company shall consist of:

- 1) paid up share capital of the insurance company, except share capital paid for cumulative preferred shares;
- 2) capital reserves not related to insurance-based liabilities;
- 3) profit reserves;
- 4) profit brought forward from previous years.

Calculated core capital referred to in paragraph 1 of this Article shall be reduced by:

- 1) redeemed own shares;
- 2) intangible assets;
- 3) losses brought forward and losses of the current year;
- 4) difference of non-discounted and discounted technical provisions for outstanding claims.

Notwithstanding paragraph 2 of this Article, when calculating core capital for insurance referred to in Article 9, paragraph 1, items 1 and 2 of this Article, as well as reserves for annuities from other insurances referred to Article 9, paragraph 1 of this Law, the difference of non-discounted and discounted technical provisions shall not be a deductible item.

Additional Capital

Article 92b

Additional capital of an insurance company shall consist of:

- 1) share capital paid up for cumulative preferred shares;
- 2) subordinated debt instruments;
- 3) capital reserves related to cumulative preferred shares;
- 4) other categories.

Other categories referred to in paragraph 1 item 4 of this Article shall include:

- 1) value of mathematical reserves excluding from its calculation actual cost of insurance acquisition less value of mathematical reserves including in its calculation actual cost of acquisition, whereby actual costs of acquisition in calculation of mathematical reserves must not exceed 3.5% of sum insured;
- 2) revaluation reserves of assets not included in the assets for technical provisions coverage.

In calculation of additional capital the insurance company may include other categories referred to in paragraph 2 of this Article only based on consent of the regulatory authority.

Amount of additional capital referred to in paragraph 1 of this Article cannot exceed 50% of amount of the core capital referred to in paragraph 92a of this Law.

The regulatory authority shall stipulate characteristics of subordinated debt instruments referred to in paragraph 1 item 2 of this Article, which can be included in the additional capital.

Deductible Items in Calculation of Capital

Article 92c

When calculating capital of an insurance company, the sum of core and additional capital shall be reduced by:

- 1) holdings in other insurance companies, reinsurance companies, banks, broker and dealer companies, management companies and other financial institutions, if such holdings exceed 20% of participation in capital and are included in capital adequacy calculation of those companies;
- 2) investments in subordinated debt instruments and other investments in companies referred to in item 1 of this Article, which are taken into account when calculating capital adequacy of those companies;
- 3) shares not listed in organised markets and other assets that cannot be used to settle due monetary liabilities.

Depositing and Investing Capital

Article 93

An insurance company shall be obliged to deposit and invest at least one third of the capital funds referred to in Article 92 of this Law in types of assets referred to in Article 90 of this Law.

Restrictions for Depositing and Investing Capital Funds

Article 94

The Ministry of Finance shall stipulate by way of its regulation restrictions for depositing and investing the capital funds.

Depositing and Investing Insurance Funds

Article 95

The funds of an insurance company shall be deposited and invested in Montenegro.

The insurance company may also deposit and invest the funds referred to in paragraph 1 of this Article abroad.

The Ministry of Finance shall prescribe by way of its regulation the amount of funds referred to in paragraph 2 of this Article that may be deposited and invested abroad.

Calculating the Solvency Margin **Article 96**

The insurance company shall be obliged to calculate the solvency margin in the manner specified by the regulatory authority.

Maintenance of the Solvency Margin **Article 97**

The insurance company shall be obliged to ensure during its operation that the solvency margin is at all times at the level determined by the regulatory authority.

Ratio between Capital and Solvency Margin **Article 98**

The insurance company shall be obliged to maintain the capital at least at the level of the solvency margin.

Guaranteed Capital **Article 98a**

Guaranteed capital shall be a sum of core and additional capital referred to in Articles 92a and 92b of this Law.

Guaranteed capital must not be below 1/3 of the solvency margin.

The insurance company shall be obliged to maintain the guaranteed capital at the level of share capital referred to in Article 21, paragraphs 1 and 2 of this Law.

Provisions of Article 21 paragraphs 3 and 4 of this Law shall apply according to calculation of the guaranteed capital.

Measures of the Insurance Company to Ensure Solvency **Article 99**

If the capital is reduced or guaranteed capital is reduced below level referred to in Article 98 and Article 98a of this Law respectively, the insurance company shall be obliged to immediately notify the regulatory authority thereon in writing and adopt a program of measures for reaching the required level of capital within 15 days as of the day of establishing the reduction.

The company shall be obliged to submit forthwith to the regulatory authority the program of measures referred to in paragraph 1 of this Article.

Risk Management Rules **Article 100**

An insurance company shall be obliged to manage risks in such manner to ensure permanent and timely meeting of obligations the operations are exposed to, in accordance with law.

Risk management shall include at least the following operations of the insurance company:

- 1) payment of indemnity, contracted sums insured and execution of other obligations related to insurance in accordance with Article 8, paragraph 2 and Article 89, paragraph 1 of this Law;
- 2) carrying out co-insurance and reinsurance activities of excess risks above maximum self-insured retention level, in accordance with Article 12 of this Law;
- 3) creating technical provisions in accordance with Article 83 of this Law;
- 4) maintaining liquidity in accordance with Article 89 of this Law;
- 5) depositing and investing technical provisions in accordance with Articles 90 and 91 of this Law;
- 6) maintaining capital in accordance with Article 92 of this Law;
- 7) depositing and investing capital funds in accordance with Articles 93 and 94 of this Law;
- 8) maintaining the solvency margin level referred to in Article 97 of this Law;
- 9) the ratio of capital and solvency margin in accordance with Article 98 of this Law;
- 10) maintaining the guaranteed capital in accordance with Article 98a of this Law;
- 11) performing other activities related to risk management.

The insurance company shall be obliged to prepare internal procedures for identification, measurement and monitoring of risks its operations are exposed to.

Income Article 101

Income of an insurance company shall consist of insurance premiums and inwards reinsurance and other income from insurance activities, income from investing, and non-operating income and extraordinary income.

Segregation of Insurance Acquisition Expenses Article 102

Expenses for insurance acquisition shall be segregated in the proportion of unearned premiums to total premiums.

Expenses Article 103

Expenses of an insurance company shall be expenses for indemnities and contracted sums insured, expenses for indemnities under inwards reinsurance operations, expenses for premiums related to outwards reinsurance operations and other expenses from insurance activities, expenses for pursuit of insurance and reinsurance business (costs of implementing insurance and reinsurance), as well as costs of financing, non-operating expenses and extraordinary expenses.

The expenses for indemnities referred to in paragraph 1 of this Article shall also be expenses of determining and assessing claims, expenses for recourse claims, court expenses and fees in litigations related to insurance liabilities, loss adjustor expenses and other expenses related to payment of indemnities.

Expenses of an insurance company may also include:

- 1) provisions for insurance, co-insurance and reinsurance claims;
- 2) allocations from life insurance premium for mathematical reserves;
- 3) allocations in cases where the insured person decides to increase the insured sum and similar payments for life insurance, in accordance with terms and conditions of the life insurance contract;
- 4) allocations for risk equalization reserves.

Profit or Loss Determination by Classes of Insurance Article 104

An insurance company engaged in life insurance activities shall determine profit and loss separately for each class of life insurance, and separately for reinsurance activities.

An insurance company engaged in non-life insurance shall be obliged to determine profit and loss separately for all types of non-life insurance and separately for reinsurance activities.

The regulatory authority shall specify by way of its rules the determination of operating result, distribution of generated income, loss coverage, and loss coverage program of measures.

Regulatory Authority's Program of Measures for Financial Recovery of Insurance Company Article 105

The regulatory authority may impose on an insurance company, if rights of insured persons are endangered due to endangered ability of the company to meet obligations under insurance contract or due to other reasons, to adopt a financial plan for a period of at least three years, including proposal of measures to maintain or recover the financial standing of the company.

The financial plan referred to in paragraph 1 of this Article shall include, *inter alia*, the following:

- 1) assessment of costs for insurance implementation;
- 2) detailed assessment of revenues and expenditures from direct insurance activities;
- 3) proposal of balance sheet and income statement;
- 4) calculation of the solvency margin, capital and guaranteed capital and calculation referred to in Articles 96, 98 and 98a of this Law;
- 5) assessment of required funds to cover all insurance-related liabilities;
- 6) reinsurance policy.

Based on the financial plan referred to in paragraph 2 of this Article, the regulatory authority may instruct the insurance company to secure capital in the amount above the level stipulated by this Law.

In addition to measures referred to in paragraphs 1 and 3 of this Article, the regulatory authority may prohibit the company to dispose freely of its assets.

2. Financial Report and Annual Operating Report

Obligation to Prepare Financial Report and Annual Operating Report Article 106

An insurance company shall be obliged to prepare financial report on operations for financial – calendar year, in accordance with law.

The annual financial report, referred to in paragraph 1 of this Article, together with opinion of an authorized actuary and opinion of an external auditor, must be discussed and adopted at the General Shareholders' Meeting of the insurance company.

Chart of Accounts Article 107

Insurance company shall be obliged to keep its books in accordance with the Chart of Accounts prescribed by the regulatory authority.

VIII. INTERNAL AUDIT

Internal Audit Article 108

An insurance company shall be obliged to set up an internal audit, which shall operate autonomously and independently.

A separate organizational unit of the company, as defined in the company's articles of association, shall perform the internal audit of the insurance company.

The internal audit unit of the insurance company shall be directly responsible for its work to the board of directors of the company.

Internal Audit Operations Article 109

Internal audit operations of the insurance company shall be regulated by a general act on internal audit operations, adopted by a board of directors of the insurance company.

Internal Audit Tasks Article 110

The internal audit of the insurance company shall assess:

- 1) adequacy and effectiveness of internal control systems in the insurance company;
- 2) compliance of the insurance company's operations with the law, regulations, and the company's established policies and practices;
- 3) adequacy and application of prescribed risk control policies and procedures;
- 4) quality and reliability of electronic data processing systems;
- 5) accuracy, timeliness and reliability of accounting, financial and other reports and records.

The internal audit of the insurance company shall exercise the internal auditing of company's operations in accordance with the professional standards and auditing standards, professional code of ethics of auditors and rulebook on operation of the internal audit.

Internal Auditors

Article 111

To carry out internal audit activities, an insurance company must have at least one employee who is qualified as an authorised auditor.

Persons performing internal audit activities may not perform other activities in the insurance company, or be members of the company's management bodies.

An internal auditor shall prepare report of each performed internal audit.

Annual Internal Audit Work Programme

Article 112

The board of directors of the company shall adopt annual internal audit work programme of the insurance company.

Annual internal audit work programme shall specify areas of operations to be reviewed by the internal audit, the summarised contents of the planned audits by individual areas, the manner of carrying out the audits and methods and deadlines for reporting on the internal audits conducted.

In addition to internal audit established under the programme referred to in paragraph 1 of this Article, the internal audit unit shall carry out specific audits upon request of authorized company's bodies.

Internal Audit Reports

Article 113

The internal audit unit of an insurance company shall prepare quarterly and annual reports on internal audit.

Quarterly report on internal audit shall contain, *inter alia*:

- 1) description of the performed audits (subject matter of audit);
- 2) evaluation of documentation processing method, procedure for concluding insurance contracts, policy issuance and claims settlement;
- 3) unlawfulness and other irregularities identified by the internal audit during the audit procedure with explanations and consequences of observed irregularities and indication of responsible persons;
- 4) proposed actions to correct the found irregularities and deadlines for their implementation;
- 5) other statements, evaluations and recommendations in relation to the correction of irregularities noted by the internal audit;
- 6) other data and information as requested by the regulatory authority.

The annual report on internal audit shall contain, *intern alia*:

- 1) report on realization of annual work programme of the internal audit;
- 2) summary of significant statements regarding performed audit;
- 3) evaluation of actions undertaken to correct noted irregularities.

The internal audit unit shall submit the reports referred to in paragraph 1 of this Article to the insurance company's board of directors.

The annual report on internal audit, together with the opinion of the board of directors of the insurance company, shall be considered at the general shareholders' meeting, which also considers the annual financial report of the company.

Notification to the Insurance Company's Board of Directors

Article 114

Notwithstanding Article 113 of this Law, if internal audit finds that an insurance company does not act in accordance with risk management rules and the insurance company is thus threatened by illiquidity or insolvency, or realises that the safety of the company's operations or interests of insured persons are compromised, it shall be obliged to notify insurance company's board of directors thereon without delay.

IX. SUPERVISION OF INSURANCE BUSINESS

Entities Subject to Supervision

Article 115

The regulatory authority shall exercise supervision, in accordance with this Law and Core Principles for Efficient Insurance Supervision, over the operations of insurance companies, branches of foreign insurance companies, insurance brokerage companies, insurance agency companies, entrepreneurs-insurance agents, ancillary insurance service providers and the legal persons referred to in Article 80 of this Law.

The regulatory authority may inspect business records of legal persons which are related to the insurance company, as well as the business records of all participants in a transaction that is subject to supervision if so is considered necessary in order to supervise the insurance company's operations.

In cases when another supervisory body is responsible for supervising legal persons referred to in paragraph 2 of this Article, the regulatory authority will exercise supervision in collaboration with the competent supervisory body.

Data Registry

Article 116

The regulatory authority shall keep the registry of data on insurance companies licensed for pursuit of insurance activities, with the data on company founders, qualifying holders, members of company's board of directors and executive director, as well as measures imposed in the process of supervision of the company operations.

In addition to the registry referred to in paragraph 1 of this Article, the regulatory authority shall keep the registry of insurance brokerage companies, insurance agency companies and insurance agents licensed by it for pursuit of insurance brokerage and insurance agency activities, the registry of authorized brokers and authorized agents, the registry of ancillary insurance service providers, the registry of the legal persons referred to in Article 80 of this Law and the registry of authorized actuaries.

All changes to the data shall also be recorded in the registries referred to in paragraphs 1 and 2 of this Article.

The regulatory authority shall specify in more details the contents and manner of keeping the registries referred to in paragraphs 1 and 2 of this Article.

Activities Subject to Supervision Article 117

Supervision of insurance company operation shall include a control of:

- 1) compliance of pursuit of company's operation with license issued;
- 2) compliance of general acts and business policies and procedures acts with law and other regulations;
- 3) legality of work;
- 4) liquidity and solvency relating to pursuit of insurance business;
- 5) manner of determining technical provisions;
- 6) compliance with obligations under insurance contracts;
- 7) depositing and investing of insurance funds in accordance with law;
- 8) preparation of bookkeeping and other records, keeping of business books and preparation of financial reports in accordance with law, other regulations, general acts and business policies and procedures acts;
- 9) implementation of measures imposed by the regulatory authority;
- 10) functioning of the internal audit;
- 11) compliance with the terms and conditions set forth in this Law for founders of the company, qualifying holders, members of the board of directors and executive director;
- 12) staffing and technical capacity of the company;
- 13) expenses relating to commissions for insurance brokerage and agency;
- 14) unpaid premiums and other receivables of the company;
- 15) implementation of co-insurance and reinsurance policy.

Manner of Performing Supervision Article 118

Supervision of operations of insurance companies shall be performed by:

- 1) collecting, monitoring and analysing reports, data and notices that the insurance company is obliged to submit to the regulatory authority by operation of law;
- 2) on-site examination of the operations of the insurance company;
- 3) following up implementation of measures imposed in accordance with this Law and by bringing charges to competent authorities if there is reasonable doubt that the illegality and irregularities found have the characteristics of a criminal offence, commercial violation or minor offence.

Persons Authorized to Conduct Supervision Article 119

Supervision of insurance companies operations shall be performed by employees of the regulatory authority, who are authorized by the regulatory authority in writing to perform such activity (hereinafter referred to as: the authorized person).

Authorized person may be a person who, in addition to general requirements prescribed by law, shall meet the following requirements:

- 1) university degree in economics or law;
- 2) working experience of at least two years;

- 3) not to be unconditionally sentenced to imprisonment for more than 6 months;
- 4) criminal proceedings are not conducted against him/her.

Notwithstanding paragraph 1 of this Article, experts not employed with the regulatory authority may also be engaged for performance of certain tasks in supervision over the insurance company's operations.

Authorizations in a Control Procedure

Article 120

In carrying out on-site insurance supervision, the authorized person shall have right to:

- 1) inspect general acts, business policies and procedures acts and business books of the company, as well as to inspect all other acts, documentation and data relating to the company's operations;
- 2) demand from members of the board of directors, internal auditor, authorised actuary and person with special authorizations to give information and explanations within their scope of work regarding operations of the company;
- 3) temporarily revoke documents that indicate the existence of actions having the characteristics of a criminal offence, commercial violation or minor offence.

Obligations of Insurance Company

Article 121

An insurance company shall be obliged to provide the following to the authorized person upon his/her request:

- 1) enable supervision of the company's operations in its head office and other premises in which the company, or other person under its authorization, performs the business activity and operations supervised by the regulatory authority;
- 2) enable examination of business and other documents, accuracy and correctness of business and other books and other records, accuracy and correctness in compiling financial reports and annual reports on the company's operations, as well as reports and notifications submitted to the regulatory authority;
- 3) provide access to accounting and other documents, business books or parts of business books and other records;
- 4) data extracts on a media chosen by the authorized person, as well as enable full access to the electronic data processing system for accounting records.

The authorized person shall be obliged to perform supervision in such manner to minimize the disruption to the regular operations of the company.

Supervision Report (Minutes)

Article 122

The supervision report shall be made within 15 days as of the day of the performed supervision.

The insurance company may lodge a complaint to the regulatory authority against the report referred to in paragraph 1 of this Article within eight days as of the day of receipt of the report.

If the complaining party fails to substantiate its complaints against claims from the report regarding the found illegalities and irregularities in operations or violations of risk management rules, the regulatory authority shall impose on the company measures foreseen by this Law.

1. Insurance Company Reporting to the Regulatory Authority

Regular Reporting Article 123

The insurance company shall submit to the regulatory authority:

- 1) annual financial reports and annual report on operations, with an opinion of the authorised actuary and report of the external auditor;
- 2) report on carrying out policy of co-insurance and reinsurance, with the opinion of the authorised actuary;
- 3) the articles of association, other general acts, business policy acts;
- 4) notification on changes in the company's capital structure;
- 5) notification on change of authorised actuary and auditor;
- 6) proof of changes in data to be registered in the CRPS;
- 7) notification on calling a general meeting of shareholders and minutes from the general meeting;
- 8) other notifications, reports and data set forth by law and regulations adopted on the basis of the law.

Quarterly Reporting Article 124

Insurance company shall be obliged to report to the regulatory authority on a quarterly basis on:

- 1) capital structure;
- 2) co-insurance and reinsurance of excess risks above maximum self-insured retention limit, with the authorised actuary's opinion;
- 3) amount and structure of collected premiums;
- 4) number and amounts of claims reported and processed claims and disputed claims, with the authorised actuary's opinion;
- 5) technical provisions, with the authorised actuary's opinion;
- 6) deposited and invested technical reserves funds, status and changes of other assets;
- 7) liquidity of the company, with the authorised actuary's opinion;
- 8) capital and guaranteed capital, with the authorised actuary's opinion;
- 9) depositing and investing of capital;
- 10) solvency margin, with the authorised actuary's opinion;
- 11) internal audit findings, with the evaluation of the board of directors;
- 12) other prescribed data.

Reporting at Request of the Regulatory Authority Article 125

An insurance company shall be obliged to submit also other reports, information and data important for supervisory activities, at the request of the regulatory authority.

Statistical Data Article 126

An insurance company shall provide to the regulatory authority statistical data and other data by groups and classes of insurance, within deadlines and in a manner prescribed by the regulatory authority.

The processed data referred to in paragraph 1 of this Article shall be used for the preparation of technical base and premium tariffs and for the performance of actuary duties.

Contents, Deadlines and Manner of Reporting

Article 127

The regulatory authority shall stipulate in more details the contents, deadlines and manner of submission of reports and other information and data referred to in this Law.

An insurance company shall be obliged to submit to the regulatory authority accurate and reliable data referred to in paragraph 1 of this Article.

Cooperation with Other Supervisory and Regulatory Authorities

Article 128

The regulatory authority shall cooperate with other supervisory and regulatory authorities, in order to carry out its supervisory and regulatory role efficiently, with the objective to encourage a harmonised development of a network for supervision of financial institutions, in accordance with agreements concluded.

Supervisory or regulatory authorities may convey information obtained from the regulatory authority to other regulatory authority only upon prior approval of the regulatory authority.

Exchange of information in accordance with concluded agreements referred to in paragraph 1 of this Article, in the process of cooperation of the regulatory authority with other supervisory and regulatory authorities shall not be considered as disclosure of confidential information.

2. Supervisory Measures

Types of Supervisory Measures

Article 129

In exercising supervision over operations of an insurance company, the regulatory authority may:

- 1) warn the insurance company in writing and request for irregularities established in operation to be corrected within a specified deadline;
- 2) order measures to correct illegalities and irregularities;
- 3) order special measures against responsible persons in the company;
- 4) order transfer of insurance portfolio to the another insurance company;
- 5) introduce interim administration in the company;
- 6) revoke a license for pursuit of specific or all insurance activities.

The regulatory authority shall impose measure referred to in paragraph 1 item of this Article on the insurance company if irregularities established in operation:

- do not affect directly and substantially financial operations of the company and rights of insured persons or insurance contract beneficiaries;

- could have a substantial effect on financial operations of the company and rights of insured persons or insurance contract beneficiaries.

Measures referred to in paragraph 1 items 2 to 6 of this Law shall be imposed by way of a decision.

Decision imposing measures referred to in paragraph 1 items 5 and 6 of this Article shall be published in the “Official Gazette of Montenegro”.

Actions to Correct Illegalities and Irregularities **Article 130**

The regulatory authority, shall order the insurance company to correct illegalities and irregularities in operations, by way of decision, if establishes the following:

- 1) company stops to meet any of requirements prescribed for pursuit of insurance activities;
- 2) company performs activities, which under this Law cannot be performed;
- 3) company acts contrary to the rules of keeping business books and preparing business reports, or rules on internal audit, or audit of financial reports;
- 4) company fails to act in line with reporting and information requirements of the regulatory authority;
- 5) member of the board of directors or executive director of the company fails to meet prescribed requirements;
- 6) company acts contrary to law, other regulations and general acts which govern the insurance company operations;
- 7) company acts towards insured persons and other insurance beneficiaries contrary to the rules of insurance profession, good business practice and business ethics;
- 8) company breaches rules on risk management referred to in Article 100 of this Law.

If the regulatory authority establishes that the insurance company breached risk management rules referred to in paragraph 1 item 8 of this Article, the regulatory authority shall, by way of its decision on correcting illegalities and irregularities, order to the insurance company to ensure:

- 1) co-insurance and reinsurance of excess risks above the self-insured retention;
- 2) payment of claims, contracted insured sums and execution of the insurance related obligations;
- 3) capital in the prescribed amount;
- 4) stipulated technical provisions;
- 5) liquidity of the company;
- 6) depositing and investing technical provisions funds in line with prescribed amount and structure;
- 7) depositing and investing capital funds in line with prescribed amount and structure;
- 8) alignment of capital and the solvency margin or guaranteed capital and solvency margin;
- 9) meeting of obligations pertaining to risk management established under this Law.

In addition to measures referred to in paragraph 2 of this Article, the regulatory authority may:

- 1) prohibit entering of new insurance contracts for specific or all classes of insurance and expansion of undertaken obligations;
- 2) order termination of insurance contract, insurance brokerage or insurance agency contract, if application thereof would cause damage to the company;
- 3) limit risk level to be assumed by the company;
- 4) prohibit execution of certain payments;
- 5) prohibit transactions with specific shareholders, members of managing bodies of the company, related parties or other legal persons;

- 6) order appointment of an adviser for segment of operations where illegalities and irregularities are established;
- 7) order change of organisation of work;
- 8) order collection of receivables;
- 9) prohibit or limit temporarily disposal of assets;
- 10) order updating of business books, inventory of assets and liabilities, reconciling receivables and liabilities and assessment of balance and off-balance items;
- 11) order the improvement of electronic data processing system;
- 12) order the improvement of organization and manner of carrying out the internal audit;
- 13) order undertaking of other activities in accordance with law.

By way of a decision on imposing measures referred to in paragraphs 1, 2 and 3 of this Article, the regulatory authority shall also determine the deadline for removal of identified illegalities and irregularities.

The insurance company shall be obliged to correct the established irregularities within the deadline referred to in paragraph 4 of this Article and report to the regulatory authority on the implementation of the ordered measures.

The decision of the regulatory authority referred to in paragraphs 1, 2 and 3 of this Article shall be final.

Report on Implementation of a Measure Article 131

An insurance company shall be obliged to submit to the regulatory authority a report on implementation of ordered measures, accompanied with documents and other evidence showing that the established illegalities and irregularities were corrected, within the deadline specified in the decision referred to in Article 130, paragraph 2 of this Law.

If the report referred to in paragraph 1 of this Article, and the attached evidence, show that the illegalities and irregularities were corrected, the regulatory authority shall adopt a ruling establishing that illegalities and irregularities were corrected.

Before adopting the ruling referred to in paragraph 2 of this Article, the regulatory authority may re-examine operations of the insurance company on-site to an extent necessary to determine whether the illegalities and irregularities were corrected.

If the report on implementation of measures to correct illegalities and irregularities is incomplete, the regulatory authority may order the insurance company to complete the report and determine a deadline for its submission.

The regulatory authority shall be obliged to adopt a ruling stating whether the illegalities and irregularities were corrected within 30 days as of the day of receiving the report referred to in paragraph 1 of this Article.

If it is established, based on the reports referred to in paragraphs 1 and 4 of this Article, that the illegalities and irregularities were not corrected, the regulatory authority shall undertake other measures in accordance with the Law.

Article 132

Deleted (Official Gazette of Montenegro, No 45/12)

Transfer of Insurance Portfolio

Article 133

When the regulatory authority establishes illegalities and irregularities in operations of an insurance company that may jeopardize or are jeopardizing its ability to meet its obligations arising from pursuit of insurance activities, the regulatory authority may order, by way of decision, the company to transfer its insurance portfolio to another insurance company.

The decision referred to in paragraph 1 of this Article shall be final.

An administrative dispute may be conducted against the order referred to in paragraph 1 of this Article.

The transfer of an insurance portfolio shall be exercised in accordance with the provisions of Articles 148 to 152 of this Law.

Introducing Interim Administration

Article 134

The regulatory authority may introduce an interim administration in an insurance company, if:

- 1) the company failed to meet its obligations under insurance contracts or will not be able to do so at maturity;
- 2) assets of the company are not sufficient to provide contractual protection to the insured persons or creditors of the company;
- 3) part of the assets recorded in business books or other company records, or the assets under the company management, are not appraised and stated in a prescribed manner;
- 4) capital is at such a level, or its level is decreasing to such a degree, that it may have harmful consequences to insured persons or creditors of the company;
- 5) the company has established or stated the results of its operations in an incorrect or illegal manner;
- 6) the company fails to act in compliance with the measures imposed by the regulatory authority.

The interim administration in an insurance company may not be longer than a year.

Appointment of Interim Administrator

Article 135

The decision on introducing interim administration shall appoint the interim administrator of the insurance company.

The decision referred to in paragraph 1 of this Article may appoint two or more interim administrators that represent interim administration of the insurance company.

The decision referred to in paragraph 1 of this Article shall be final.

An administrative dispute may be conducted against the decision referred to in paragraph 1 of this Article.

Qualifications of Interim Administrator **Article 136**

A person with a university degree, having at least three years of work experience in the field of insurance, may be appointed as an interim administrator.

Employment Status of Interim Administrator **Article 137**

During the interim administration, all rights and obligations that the interim administrator had under his/her employment with a previous employer shall be stand still.

The regulatory authority shall determine the wage or remuneration of the interim administrator.

Powers and Duties of Interim Administrator **Article 138**

All powers of the general meeting of shareholders, board of directors and executive director of the insurance company, except the power to decide to close the company, shall be delegated to the interim administrator on the day of assuming the duty of the interim administrator.

The interim administrator shall be obliged to protect the assets and documentation of the insurance company.

The interim administrator shall be obliged to undertake all necessary measures for regaining the stability and liquidity of the insurance company.

Interim Administration Reports **Article 139**

The interim administrator shall be obliged to submit to the regulatory authority, at least quarterly, a report on financial situation and operating conditions of the insurance company.

Within nine months following the day of appointment, the interim administrator shall be obliged to submit to the regulatory authority a report on evaluation of economic stability of the insurance company and possibilities for its further operation, including, but not limited to, the following:

- 1) Evaluation of ability and willingness of the insurance company shareholders to improve the financial condition of the company by increasing their holdings;
- 2) Possibility to remove loss of the company;
- 3) Unaccounted liabilities that can affect financial standing of the company;
- 4) Evaluation of possible measures to correct illiquidity of the company, along with the cost assessment for implementation of such measures;
- 5) Evaluation of conditions for initiation of liquidation or bankruptcy proceedings of the company.

Increase in Share Capital for the Provision of Economic Stability of the Insurance Company

Article 140

If the regulatory authority, on the basis of the report of an interim administrator, estimates that the share capital of the company needs to be increased with new monetary investments in order to ensure matching of capital and solvency margin of insurance company, or to correct reasons for illiquidity of the company, the regulatory authority may order the interim administrator of the company to convene a general meeting of shareholders and to propose the adoption of the decision on such increase of the share capital.

The interim administrator shall be obliged to publish, the notification on convening of the general meeting of shareholders for decision making on increase in the share capital referred to in paragraph 1 of this Article by no later than eight days as of the day of receipt of the order of the regulatory authority.

The interim administrator shall be obliged to warn shareholders about legal consequences of failing to adopt the decision on increase of capital, or of unsuccessful issue of shares in the notification on convening of the general meeting of shareholders.

Evaluation of Results of Interim Administration

Article 141

The regulatory authority shall evaluate the results of interim administration at least once in three months.

The regulatory authority shall make the final evaluation of the results of the interim administration within three months following the receipt of the report referred to in paragraph 2 Article 139 of this Law at the latest.

If the regulatory authority evaluates that during the work of interim administration economic situation of the insurance company improved in such manner that matching of capital and solvency margin was ensured and is fulfilling its due obligations regularly, it shall adopt a decision on termination of the interim administration and dismissal of the interim administrator.

By way of the decision referred to in paragraph 3 of this Article, the regulatory authority shall order the interim administrator to convene general shareholders meeting to return the control over the company to the shareholders.

If the regulatory authority evaluates that during an interim administration economic condition of the insurance company did not improve as the company has not achieved matching of the capital and solvency margin or is not able to fulfil due liabilities regularly, it shall adopt a decision on stating that conditions for submission of the petition to initiate liquidation or bankruptcy proceedings of the insurance company are met.

Termination of Interim Administration

Article 142

The interim administration of the insurance company shall terminate as of the day of:

- 1) Submission to the company of the regulatory authority's decision on revoking the interim administration;

- 2) Adoption of the decision on initiation of bankruptcy or liquidation proceeding.

Entry of Interim Administration in the Registry

Article 143

The decision on placing an interim administration and decision on terminating an interim administration shall be submitted to the CRPS.

3. License Revocation

Terms for Revocation of License

Article 144

The regulatory authority may revoke, by way of a decision, a license of the insurance company for pursuit of some or all the insurance activities if:

- 1) illegalities and irregularities in operations of the company were established, and further pursuit of insurance activities would jeopardize interests of insured persons and other insurance beneficiaries;
- 2) the company has concluded an insurance brokerage or agency contract with an insurance brokerage company or insurance agent, respectively, that does not have an appropriate license of the regulatory authority;
- 3) the company does not conduct its business activity in accordance with trade rules, good business practices and business ethics;
- 4) the company conducts its business activity in a manner violating the rights of insured persons, insurance beneficiaries, or third affected parties, or if the company fails to pay indemnities or fails to meet other liabilities;
- 5) the company has presented inaccurate data or information about its operations that may mislead insured persons, insurance beneficiaries or third affected parties;
- 6) the company fails to maintain capital in the prescribed amount;
- 7) the company has adopted a financial report and annual operating report, or any business policy act without previous consideration of the opinion of an authorized actuary;
- 8) the company failed to enable supervision;
- 9) the company failed to provide the performance of auditing activities by an authorised auditor in a prescribed manner,
- 10) the company failed to provide the performance of actuary activities in a prescribed manner;
- 11) the company failed to submit reports, documents and other data in a manner and within deadlines prescribed in accordance with this Law;
- 12) if transfers its insurance portfolio to another insurance company without the approval of the regulatory authority,
- 13) the company fails to comply with a measure imposed by the regulatory authority within the prescribed deadline, or fails to correct reasons for imposing such a measure;
- 14) in other cases when the company fails to act in accordance with this Law, other regulations and measures of the regulatory authority.

The decision referred to in paragraph 1 of this Article shall be final.

An administrative dispute may be instituted against the decision referred to in paragraph 1 of this Article.

License revocation referred to in paragraph 1 of this Article shall not release the insurance company from its obligations under the insurance contracts signed.

Revocation of License for Pursuit of Insurance Activities

Article 145

The regulatory authority shall revoke, in form of a decision, the license of an insurance company for pursuit of insurance activities if:

- 1) the license was granted on the basis of false and incorrect data;
- 2) the company ceases to conduct insurance activities for more than six months;
- 3) the company ceases to meet requirements based on which it obtained the license for pursuit of insurance activities;
- 4) the company carries out insurance activities without license of the regulatory authority;
- 5) the company fails to act in line with measures referred to in Article 130 of this Law, within the prescribed deadlines;
- 6) the company fails to pay contributions in the guarantee fund, fails to meet obligations under an international card of automobile liability insurance, or if it fails to meet other legal and international contractual obligations;

The decision referred to in paragraph 1 of this Article shall be final.

An administrative dispute may be instituted against the decision referred to in paragraph 1 of this Article.

The revocation of license referred to in paragraph 1 of this Article shall not release the company from obligations under insurance contracts signed.

Conditional Revocation of License

Article 145a

The regulatory authority may, by way of a decision on license revocation, establish that the license will not be revoked if the insurance company does not make a new breach which could be a reason for license revocation in a period which cannot be shorter than six months nor longer than one year.

By way of the decision referred to in paragraph 1 of this Article, the regulatory authority may determine whether the license revocation will take place even if the insurance company fails to correct irregularities, within a specified deadline, which were the cause for imposing a measure of temporary license revocation, or if fails to carry out additional imposed measures within the deadline referred to in paragraph 1 of this Article.

The regulatory authority shall revoke the license if the insurance company commits new illegalities and irregularities, within the period referred to in paragraph 1 of this Article, which could be a reason for license revocation.

Special Measures against Responsible Persons

Article 146

If, during its supervisory activities, the regulatory authority determines that a board member, executive director or person with special authorizations failed to act in accordance with law, general acts of the company or imposed measures, or repeats breaches of the obligation of reporting and notification to the regulatory authority, it may impose by way of a decision:

- 1) dismissal of a member of the board of directors or executive director of the company or person with special authorisations;

- 2) temporary prohibition from performing insurance business to a member of the board of directors, or executive director or person with special authorisations.

If criminal proceedings, caused by activities referred to in paragraph 1 of this Article, are conducted against a board member, executive director or person with special authorizations, the regulatory authority may propose that such person is suspended until the termination of criminal proceedings.

If the person had his/her employment relation terminated due to reasons established in paragraph 1 of this Article, such person cannot be employed or otherwise participate in activities of a related person of the insurance company for the period of five years as of the day such measure was imposed.

Governing Provisions

Article 147

The provisions of this Law on supervision of the insurance business shall apply accordingly to supervision of operations of insurance brokerage companies, or insurance agency companies or entrepreneurs - insurance agents and ancillary insurance services providers.

X. TRANSFER OF INSURANCE PORTFOLIO

Request for Obtaining Consent for Transfer of Insurance Portfolio

Article 148

An insurance company, upon obtaining consent of the regulatory authority, may transfer the entire or part of the insurance portfolio to one or several other insurance companies licensed for pursuit of insurance activities being transferred, with their consent.

The request for obtaining the consent for transfer of the insurance portfolio shall be accompanied with the following documents:

- 1) insurance portfolio transfer contract that must include type and amount of funds of technical provisions that are to be transferred together with the portfolio to the insurance company taking over the portfolio, as well as deadline for the portfolio transfer;
- 2) list of insurance contracts by classes of insurance that are subject of transfer, including general insurance terms and conditions;
- 3) explanation of reasons for the insurance portfolio transfer and opinion on expected effects of the insurance portfolio transfer;
- 4) changes in the business plan of the company taking over the insurance portfolio, needed due to the takeover of the insurance portfolio;
- 5) reports on financial operations of the company transferring the insurance portfolio and the company taking over the insurance portfolio, with the authorised actuary's opinion;
- 6) the authorised actuary's opinion on the insurance portfolio transfer.

There shall be no need for consent of insured persons for the insurance portfolio transfer.

Deciding Upon Request for Obtaining the Consent for Insurance Portfolio Transfer

Article 149

The regulatory authority shall decide on the request referred to in Article 148, paragraph 2 of this Law in the form of a decision, within 60 days as of the day of receiving the request.

The decision referred to in paragraph 1 of this Article shall be final and published in the "Official Gazette of Montenegro".

An administrative dispute may be conducted against the decision referred to in paragraph 1 of this Article.

The transfer of insurance portfolio may take place on a day of submission of the decision issuing the consent for the insurance portfolio transfer, at the earliest.

By way of the decision on issuing consent for the insurance portfolio transfer, the regulatory authority shall also decide, at the same time, on changes in the license for pursuit of insurance activities of the insurance company transferring the insurance portfolio.

Company's Obligations with Respect to Portfolio Transfer

Article 150

An insurance company that has transferred the insurance portfolio shall be obliged to inform policyholders whose contracts are included in the transfer of insurance portfolio, directly in a written form or through public information media outlets, about the name and head office of the insurance company that has taken over the insurance portfolio and the deadline for finalising the transfer of insurance portfolio, within 15 days as of the day of receipt of the decision issuing consent for the insurance portfolio transfer.

An insured person shall have the right to cancel the insurance contract, notifying thereof the insurance company that took over the insurance portfolio in writing, within 30 days as of the day of receipt of the notification referred to in paragraph 1 of this Article.

Insured persons under a non-life insurance, in the case referred to in paragraph 2 of this Article, shall have the right to a premium portion that corresponds to the remaining validity of the contract, whereas insured persons under a life insurance shall have the right to the amount of mathematical reserve calculated on the day of insurance portfolio transfer, provided that life insurance funds are sufficient to cover that amount, or to the amount reduced proportionately to the decrease in life insurance funds.

Rejecting the Request for Issuing Consent for Insurance Portfolio Transfer

Article 151

The regulatory authority may reject the request for issuing consent for the insurance portfolio transfer, if it estimates that the transfer would damage capacity of the insurance company taking over the insurance portfolio to meet obligations under insurance contracts that are included in the insurance portfolio transfer, or if the insurance portfolio transfer would jeopardize liquidity and solvency of the company transferring the insurance portfolio.

Legal Consequences of Insurance Portfolio Transfer

Article 152

On the day of the insurance portfolio transfer, the insurance company taking over the insurance portfolio shall become a party to the insurance contracts ceased to it by the insurance portfolio

transfer, and shall take over all the rights and obligations from these contracts, whereas the company transferring the insurance portfolio shall be released from obligations to the insured persons.

The transfer of insurance portfolio without the consent of the regulatory authority shall not be legally valid.

XI. ACTUARY ACTIVITIES AND AUDITING

1. Actuary Activities

Article 153

Actuary activities in the insurance company shall be performed as mandatory.

Only an authorised actuary may perform actuarial activities.

An authorised actuary shall be a person with authorisation of the regulatory authority to perform actuary activities.

The insurance company must not appoint as an authorised actuary person subject to restrictions referred to in Article 48 paragraph 3 of this Law.

A person meeting following requirements may be issued with the authorisation referred to in paragraph 3 of this Law:

- 1) knowledge of language in official use in Montenegro;
- 2) passed professional exam for carrying out activities of an authorised actuary;
- 3) was not unconditionally sentenced to imprisonment for more than three months by a final and non-appealable ruling;
- 4) was not revoked of authorisation to carry out authorised actuary activities.

The regulatory authority shall prescribe requirements for taking the exam, manner of taking and program of the professional exam referred to in paragraph 5 item 2 of this Article.

A person appointed as the authorised actuary of the company shall be obliged to take professional liability indemnity insurance for damage that could be caused to the company with carrying out actuary activities.

Insurance company shall be obliged to appoint an authorised actuary within 60 days as of the day of its registration with the CPRS, as well as to notify the regulatory authority on change of the authorised actuary within eight days as of the day of appointment of a new actuary.

Authorised Actuary Activities

Article 154

An authorised actuary shall:

- 1) provide an opinion on
 - the method of calculating premium tariffs;
 - whether technical provisions were established in accordance with this Law;

- business policy acts in the process of their preparation, or in the process of their subsequent amendments and implementation of business policy acts;
 - the company's financial reports and annual report on operations from the aspect of rules of the actuarial profession;
 - the report on implementation of co-insurance and reinsurance policy;
 - whether mathematical reserves were calculated in accordance with the Law;
 - the transfer of insurance portfolio;
- 2) calculate solvency margins of the company;
- 3) perform other actuary duties in accordance with law.

Competent bodies of the insurance company shall be obliged to consider the opinion of the authorised actuary in the process of adoption of acts referred to in paragraph 1 of this Article.

The opinion of the authorised actuary shall also be submitted to the internal auditor and board of directors of the company.

Independence and Autonomy of Authorised Actuary

Article 155

An authorised actuary shall perform independently and autonomously his/her activities and s/he shall be responsible for the opinion given.

The authorised actuary shall be obliged to perform his/her duty in accordance with the Law and rules of actuarial profession, good business practices and business ethics.

The regulatory authority may prescribe elements that should be contained in the opinion of the authorised actuary.

Corrective Measures

Article 156

When an authorised actuary finds out irregularities in operations of an insurance company, s/he shall be obliged to propose corrective measures to the board of directors of the company.

Obligations of Insurance Company

Article 157

Insurance company shall be obliged to provide an authorised actuary with continuous and unimpeded access to the business data that are needed and requested by the authorised actuary for the purpose of performing actuarial activities referred to in Article 154 of this Law.

Conflict of Interests

Article 158

A person who is a member of the Board of Directors of the insurance company, internal auditor of the company or a person with special powers and responsibilities in the company cannot be appointed as an authorised actuary.

Supervision of Authorised Actuary

Article 159

The regulatory authority shall supervise the work of authorised actuaries.

If, during the performance of activities within his/her competence, the authorised actuary fails to comply with obligations prescribed by this Law, the regulatory authority may pronounce the following measures:

- 1) warning measure;
- 1a) prohibit performance of actuarial activities in the insurance company for a period of up to two years;
- 2) revocation of the authorisation.

Warning Measure

Article 160

The regulatory authority may pronounce a warning measure to an authorised actuary, if the authorised actuary violates the rules referred to in Article 155 paragraph 2 of this Law.

Warning measure referred to in paragraph 1 of this Article may also contain the manner and deadline to correct established irregularities in the work of the authorised actuary.

Prohibition to Perform the Activity

Article 160a

The regulatory authority shall impose a measure prohibiting the performance of activities referred to Article 159 paragraph 2 item 1a of this Law to an authorised actuary, if the authorised actuary:

- fails to act in line with the warning measure, or
- repeats the breach of obligation referred to in Article 155 paragraph 2 of this Law despite the imposed warning measure.

License Revocation

Article 161

The regulatory authority, by way of a decision, shall revoke the authorisation of an authorised actuary, if:

- 1) the authorisation was obtained based on false and incorrect data;
- 2) the authorised actuary was convicted unconditionally for a crime that makes him unsuitable for the actuarial activities;
- 3) the authorised actuary has repeated the violation of Article 155 paragraph 2 of this Law, even after the expiry of measure prohibiting the performance of activities.

The decision referred to in paragraph 1 of this Article shall be final.

An administrative dispute may be conducted against the decision referred to in paragraph 1 of this Article.

Termination of Validity of Authorisation and Appointment of a New Authorised Actuary **Article 162**

If, the regulatory authority imposes on an authorised actuary the measure referred to Articles 160a and 161 of this Law or if circumstances referred to in Article 158 of this Law occur, the insurance company shall be obliged to appoint a new authorised actuary within 30 days as of the day of submitting the decision on imposing the measure or as of the day of occurrence of the circumstances.

If the insurance company fails to appoint a new authorised actuary within the deadline referred to in paragraph 1 of this Article, the regulatory authority shall order the company, by way of a decision, to appoint a new authorised actuary with a specific deadline.

Informing the Regulatory Authority on Rejecting Authorised Actuary's Opinion **Article 163**

When a competent body of an insurance company rejects the opinion of the authorised actuary, the insurance company shall be obliged to inform the regulatory authority within 15 days as of the day of occurrence of that circumstance and state reasons why such body has rejected the opinion of the authorised actuary.

In the case referred to in paragraph 1 of this Article, the regulatory authority may adopt a decision ordering adequate measures to be taken.

Reconsidering the Opinion of Authorised Actuary **Article 164**

If the authorised auditor establishes that the financial report of an insurance company does not reflect the true and objective state of the assets, as well as operating results, the company shall submit such report, within five days, to the authorised actuary who prepared the opinion on the financial report of that company.

The authorised actuary shall be obliged to reconsider his/her opinion within eight days as of the day of submitting the report referred to in paragraph 1 of this Article, and inform thereof the body of the insurance company competent for adoption of the financial report.

Reconsidering Report of Authorised Auditor **Article 165**

If the authorised actuary does not agree with the report on the performed audit, the insurance company shall be obliged to inform the regulatory authority of the authorised actuary's opinion within three days.

Position of the Regulatory Authority **Article 166**

The regulatory authority shall consider the authorised actuary opinion and audit report, and advise the insurance company of its opinion.

If irregularities are found, the regulatory authority shall make a decision ordering the insurance company to take measures for removing the disclosed irregularities, and the company shall be obliged to act in accordance with the decision, and notify thereof the regulatory authority in writing within 30 days as of the day of the adoption of the decision.

Verification of Authorised Actuary's Opinion

Article 167

During the supervision, the regulatory authority may request the authorised actuary's opinion to be reviewed by another authorised actuary appointed by the regulatory authority, if there are reasons to doubt the correctness of the authorised actuary's opinion.

The insurance company shall bear costs of the procedure referred to in paragraph 1 of this Article, unless the opinion of the authorised actuary appointed by the regulatory authority confirms correctness of the authorised actuary's opinion appointed by the insurance company, in which case the regulatory authority shall bear the costs .

2. Auditing

External Auditor

Article 168

Audit of financial reports of the insurance company shall be done in accordance with the law governing auditing of financial reports, unless otherwise prescribed by this Law for certain issues.

Audit of financial reports of the insurance company shall be done by an external auditor appointed by general meeting of shareholders of the insurance company, subject to prior approval of the regulatory authority.

The external auditor cannot perform the audit activities of the insurance company to which s/he is related, neither provide tax nor consulting services for such company.

Related party status referred to in paragraph 3 of this Article shall exist even when the auditor generated more than half of his/hers revenues in the previous year by auditing financial reports of such insurance company.

The insurance company may select the same external auditor for four consecutive years at the most.

If the insurance company breaches the obligations referred to in paragraphs 3 and 5 of this Article, the regulatory authority shall order a new audit by another auditor.

Auditor's Report

Article 169

The auditor shall be obliged to issue an opinion in the report on compliance of financial reports of the insurance company with regulations and standards of the accounting trade.

The auditor shall be obliged to notify forthwith the regulatory authority on established actions and irregularities in activities of the company that represent:

- 1) major breach of law, regulations or provisions based on which the license for the insurance company was issued;
- 2) major fraud or embezzlement;
- 3) substantially significant change of financial result in financial report if compared to financial result stated in non-audited financial reports;
- 4) major breach of internal acts of the insurance company.

The auditor shall also be obliged to notify the regulatory authority about other facts and circumstances that may jeopardize operation of the insurance company.

Provision of information to the regulatory authority, within the meaning of this Law, shall not be considered as breach of law or contractual obligations between an auditing firm and insurance company governing confidentiality of data.

The regulatory authority shall prescribe a more detailed content of the external auditor's report.

Verification of External Auditor's Report

Article 170

During the supervision, the regulatory authority may request the external auditor's report to be verified by another auditor appointed by the regulatory authority, if there are reasons to doubt the correctness of the external auditor's opinion.

The external auditor shall bear costs of the procedure referred to in paragraph 1 of this Article, unless the opinion of the auditor appointed by the regulatory authority confirms the reasons due to which the regulatory authority examined the correctness of the external auditor's report, in which case the regulatory authority shall bear the costs.

Notifying the Authority in Charge of Supervising the Work of Auditors

Article 171

The regulatory authority shall notify the authority in charge of supervising the work of auditors on the established omissions and irregularities in the audit report and external auditor's work during the audit of the insurance company.

Publishing the Summary of the Audited Financial Report

Article 172

The summary of the audited financial report shall be published in at least one printed media outlet distributed in the entire territory of Montenegro, within 30 days as of the day of adoption.

The regulatory authority may govern in more details the contents of the summary referred to in paragraph 1 of this Article.

XII. CONSENTS, AUTHORIZATIONS AND FEES

Deadline for Making Decisions

Article 173

The regulatory authority shall be obliged to render a decision within 60 days as of the day of submitted request for obtaining a consent and authorization under this Law.

Manner of Decision Making

Article 174

The regulatory authority shall decide upon the requests referred to in Article 173 of this Law in the form of a decision.

The decision referred to in paragraph 1 of this Article shall be final.

An administrative dispute may be conducted against the decision referred to in paragraph 1 of this Article.

Fees

Article 175

Fees shall be paid for obtaining a license, approval, consent and authorisation in accordance with this Law.

The companies referred to in Article 4 paragraphs 1 and 2 of this Law shall pay the annual fee in an amount up to 1% of gross insurance premium.

An insurance company imposed with a supervisory measure under this Law shall pay a special fee.

The fees referred to in paragraphs 1, 2 and 3 of this Article shall be the revenues of the regulatory authority.

The amount of special fee referred to in paragraph 3 of this Article shall be specified in the decision on imposing supervisory measures, whereby that amount cannot exceed 0.5% of the amount of capital of the insurance company being imposed a supervisory measure.

The regulatory authority shall determine amounts, manner of calculation and payment of the fees referred to in paragraphs 1, 2 and 3 of this Article, subject to the consent of the Government.

XIV. STATUS AND COMPETENCY OF THE REGULATORY AUTHORITY

Status Article 176

The activities of the regulatory authority determined by this Law shall be performed by the Insurance Supervision Agency (hereinafter referred to as: the Agency), which shall have the status of a legal person.

The Agency shall be independent in carrying out activities within its scope of work.

The Agency shall perform the activities referred to in paragraph 1 of this Article primarily in order to protect interests of insured persons and other insurance beneficiaries, provide stability and development on the insurance business based on sound competition and equal operating conditions.

Montenegro is the founder of the Agency.

The Council of the Agency shall exercise the rights of founders on behalf of Montenegro, in accordance with law.

Competency Article 177

Within the scope of its competency, the Agency shall:

- 1) issue licenses for the pursuit of activities related to insurance, reinsurance and coinsurance, brokerage and agency, and other activities directly related to insurance activities;
- 2) give consent to acts and activities defined by this Law;
- 3) perform the supervision of the pursuit of insurance activities;
- 4) adopt acts set forth under this Law;
- 5) keep registers in accordance with this Law;
- 6) consider complaints and appeals of insured persons and other insurance beneficiaries;
- 7) cooperate with other supervisory authorities in the country and abroad;
- 8) give initiatives for regulating insurance related issues;
- 9) perform other activities set forth in the Law.

Agency Statute Article 178

The Agency shall have its Statute.

The Statute of the Agency shall include, *inter alia*:

- 1) the Agency's head office and business activity;
- 2) the Agency's internal organization;
- 3) the manner of work, decision-making and competency of the Agency's bodies;
- 4) more detailed decision-making process, in particular related to petitions from natural and legal persons to the work of insurance companies, insurance agents, brokers, branches of foreign insurance company and ancillary insurance service providers;
- 5) manner of publishing annual financial statements.

The Parliament of Montenegro (hereinafter referred to as the Parliament) shall give a consent to the Statute of the Agency.

Agency Bodies Article 179

The Agency bodies shall be the Council of the Agency and Director.

Composition and Appointment of the Council of the Agency Article 180

The Council of the Agency shall consist of a president and two members.

The Parliament shall appoint and dismiss the president and members of the Council of the Agency.

President and one member of the Council of the Agency shall be appointed at the proposal of the working body of the Parliament competent for elections and appointments, whereas one member at the proposal of the Government.

President and members of the Council of the Agency shall be appointed for the period of five years and may be reappointed.

President and members of the Council of the Agency shall be responsible for their work to the Parliament.

President of the Council of the Agency shall discharge his office as a professional, while members of the Council shall discharge their office on part-time basis.

Conditions for Appointment of the President and Members of the Council of the Agency Article 181

A person to be appointed as a President or a member of the Council of the Agency shall meet the following requirements:

- 1) is a citizen of Montenegro;
- 2) holds university degree;
- 3) has professional experience in the field of insurance, law or economics of at least three years;
- 4) during the three years prior to the appointment was not a member of a management body in a legal entity under liquidation or bankruptcy proceedings.

Conflict of Interest Article 182

A person cannot be appointed as a member of the Council of the Agency who is:

- 1) member of the Parliament and member of a municipal assembly;
- 2) elected, appointed to and employed in the Government;
- 3) an official in a political party (party presidents, members of presidencies, their deputies, members of executive and main boards, and other party officials);

- 4) as an owner of holdings, shareholder, member of a management body, employee or a person bound by the contract, has an interest in legal persons conducting insurance business, in the manner that membership of that person in the Council of the Agency may lead to a conflict of interest;
- 5) convicted by a final and non-appealable decision for a criminal offence against official duty, criminal offence of corruption, fraud or theft, regardless of the pronounced penalty or is sentenced by a final and non-appealable decision for another criminal offence to more than a six months of imprisonment, during the period of legal consequences of the sentence;
- 6) a spouse of persons referred to in items 1 to 4 of this paragraph or relative thereof in the straight line of kinship, regardless of the degree of kinship, and in the lateral line of kinship, up to second degree of kinship.

The candidate for a member of the Council of the Agency shall be obliged to submit to the proposer a written statements confirming that there are not impediments for the appointment according to law.

Remuneration for Work

Article 183

The president and members of the Council of the Agency shall be entitled to a wage or remuneration for their work which is determined by a special act of the Agency.

Dismissal of President and Members of the Council of the Agency

Article 184

President or member of the Council of the Agency may be dismissed prior to expiration date of the term in the office:

- 1) upon a personal request;
- 2) due to permanent loss of working capacity to discharge the office;
- 3) if circumstances referred to in Article 192 of this Law occur;
- 4) if violates the obligation of keeping confidential data.

Competency of the Council of the Agency

Article 185

The Council of the Agency shall:

- 1) decide on licenses, consents, authorizations and other issues within the competence of the Agency;
- 2) pass rules and other acts set forth in the law;
- 3) pass Statute of the Agency;
- 4) adopt annual report on conditions on the insurance market;
- 5) adopt annual work plan and annual report on activities of the Agency;
- 6) *deleted (with entry into force of the Law on Amendments and Supplements to the Law on Budget (Official Gazette of Montenegro, No 53/09) provisions of Article 185 item 6 of the Law on Insurance (Official Gazette of the Republic of Montenegro, No 78/06) have ceased to be valid, and in Article 193 words "5 and 6" are replaced with words "and five");*
- 7) appoint and recall auditor for auditing annual financial statements of the Agency;
- 8) appoint bankruptcy board and bankruptcy administrator;
- 9) render decisions upon objections to supervision reports and complaints and petitions received from insured persons;
- 10) perform also other activities determined by the law and the statute.

Decision Making of the Council of the Agency

Article 186

The Council of the Agency shall operate and decide at the session attended by more than half of members of the Council, unless otherwise stipulated by this Law for individual issues.

The Council of the Agency shall decide by majority vote of the total number of Council members.

In case of equal number of votes, the President of the Council of the Agency shall have the casting vote.

Rules adopted by the Agency shall be published in the "Official Gazette of Montenegro".

Director of the Agency

Article 187

The director of the Agency shall be appointed by the Council of the Agency based on a public competition, for the four-year period.

A person to be appointed as the director of the Agency shall meet the requirements for appointment of a member of the Council of the Agency determined by Article 181 of this Law, in addition to the general requirements.

A person who cannot be appointed as a member of the Council of the Agency pursuant to this Law, as well as a person who does not have a permanent residence in Montenegro, cannot be appointed as the director of the Agency.

Authorizations of the Director

Article 188

The Director of the Agency shall:

- 1) represent and act on behalf of the Agency;
- 2) organize and manage operations of the Agency;
- 3) enforce the decisions passed by the Council of the Agency;
- 4) propose work plans, operating reports, periodic and annual accounting statements of the Agency to the Council of the Agency;
- 5) perform other duties established by this Law and the Statute of the Agency.

Keeping Confidential Data

Article 189

The President and members of the Council of the Agency, the Director of the Agency and employees of the Agency, shall be obliged to keep as confidential data on persons over which the Agency exercises supervision, as well as other data in accordance with this Law and the Agency's Statute, except for the data which are disclosed according to the provisions of this Law and which are available for review by interested parties.

Confidential data, within the meaning of this Law, shall be considered to be, *inter alia*, data from the supervision procedure and data on imposed supervision measures under this Law.

The obligation referred to in paragraph 1 of this Article shall continue for three years after termination of their office or employment in the Agency.

Funds for Operation of the Agency **Article 190**

Funds for operation of the Agency shall be provided from:

- 1) fees determined in accordance with this Law;
- 2) funds allocated by the companies under Article 4 paragraphs 1 and 2 of this Law, up to 1% of gross insurance premium;
- 3) other revenues of the Agency, in accordance with the law.

Basic Contents of the Report on Insurance Market Conditions **Article 191**

The report on insurance market conditions shall include, *inter alia*, data on operations of insurance companies by classes of insurance, degree of promptness in indemnity payment, amount and composition of capital, liquidity and solvency trends, achieved operational efficiency (productivity, cost-effectiveness and profitability) and other matters relevant for the evaluation of insurance market conditions.

Basic Contents of the Agency Operating Report **Article 192**

Annual operating report of the Agency shall include, *inter alia*: information on actions undertaken by the Agency in carrying out supervision, issued licenses and consents, as well as data on the Agency's cooperation with other supervisory authorities in the country and overseas and other matters important for the operations of the Agency.

Reporting **Article 193**

After being adopted by the Agency, the reports and statements referred to in Article 185 items 4 and 5 of this Law shall be submitted to the Parliament for adoption.

XIV. ASSOCIATIONS OF INSURANCE COMPANIES

Associations of Insurance Companies **Article 194**

Insurance companies may form associations of insurance companies for the purpose of achieving common interests and performing public authorizations, in accordance with law.

Membership of the Associations shall be mandatory for insurance companies engaged in compulsory insurance activities.

A special law shall govern public authorizations of the Associations regarding compulsory traffic insurance.

The Association referred to in paragraph 1 of this Article shall have the status of a legal person.

XV. PENALTY PROVISIONS

Offences

Article 195

A pecuniary fine ranging from EUR 2,500 to EUR 20,000 shall be imposed for an offence on a legal person if:

- 1) it uses the word “insurance” or words derived from such word in its name or the name of its product or service, without being authorized to do so by this or another law (Article 14);
- 2) it submits false data with the request for obtaining a license (Articles 30, 42, 56 and 79).

A pecuniary fine ranging from EUR 550 to EUR 2,000 shall also be imposed for the offence referred to in paragraph 1 of this Article on a responsible person in the legal person.

A pecuniary fine ranging from EUR 550 to EUR 6,000 shall be imposed for the offence referred to in paragraph 1 item 1 of this Article on an entrepreneur.

Article 196

A pecuniary fine ranging from EUR 2,500 to EUR 20,000 shall be imposed for an offence on a legal person, if:

- 1) fails to reinsure with the reinsurance company the obligations under insurance contracts exceeding the self-insured retention limit (Article 12);
- 2) carries out classes of insurance for which it does not have the license of the regulatory authority (Article 16 paragraph 2);
- 3) concludes the contract on insurance brokerage and insurance agency with a person not licensed to perform such activities (Article 17);
- 4) fails to obtain the consent of the regulatory authority for a change in the company name, head office or articles of association (Article 18, paragraph 4 and Article 39 paragraph 3);
- 5) acquires cross ownership of capital with another insurance company, reinsurance company, insurance brokerage company or insurance agency company (Article 22);
- 6) acquires qualifying holding in the insurance company without the prior approval of the regulatory authority (Article 23 paragraph 1);
- 7) fails to notify, forthwith, the regulatory authority on every change in qualifying holding in the capital of the company (Article 23 paragraph 5);
- 8) fails to divest shares acquired without the authorisation of the regulatory authority (Article 27);
- 9) fails to divest of shares whereon the consent was revoked (Article 28 paragraph 2);
- 10) fails to submit to the regulatory authority the decision on registration with the CRPS within seven days as of the day of receiving the decision (Article 34 paragraph 3);
- 11) establishes an organizational part without the status of a legal person without the consent of the regulatory authority (Article 40 paragraphs 1 and 2);
- 12) carries out status changes of the company, divisions, mergers or acquisitions without a prior consent of the regulatory authority (Article 41 paragraph 1);
- 13) appoints a board of directors member or executive director without the consent of the regulatory authority (Articles 49 paragraph 1 and 50 paragraph 1);
- 14) insurance brokerage company performs insurance agency activities (Article 52, paragraph 2);

- 15) mediates for the purpose of concluding an insurance contract with an insurance company without a license of the regulatory authority for pursuit of insurance business (Article 53);
- 16) enables an entity not authorized by the regulatory authority to perform insurance brokerage activities (Article 60, paragraphs 1 and 5);
- 17) fails to perform an insurance business or insurance activities in such manner as to protect interest of policyholders or insured persons (Article 62 paragraph 1);
- 18) fails to inform an insured person on all legal and economic relationships with the insurance company influencing impartiality of the insurance brokerage company in meeting obligations towards the insured person (Article 63 paragraph 1);
- 19) fails to keep records of persons with whom has entered into insurance agency contracts (Article 65 paragraph 7);
- 20) performs insurance agency activities for several insurance companies for products mutually competitive without a prior written consent (Article 66 paragraph 2);
- 21) fails to keep insurance agency contracts on its business premises (Article 73);
- 22) operates contrary to the provisions of Article 77 of this Law;
- 23) subsequently agrees a change of a manner of calculation, or amount of commission for concluding insurance contracts that mediated (Article 81b paragraph 3);
- 24) prior to concluding an insurance contract, as well as in the event of amendments, supplements or renewal of the contract, fails to provide needed data to a policyholder (Article 81c);
- 25) prior to concluding an insurance contract fails to notify a policyholder on general and special terms and conditions of the insurance or fails to provide needed data to the policyholder (Article 81d paragraph 1);
- 26) fails to forthwith notify a policyholder on occurrence of change in general or special conditions or on change of data referred to in Article 81d paragraphs 1 and 2 of this Law (Article 81d paragraph 3);
- 27) fails to notify in writing, once a year, a policyholder on status of bonuses (Article 81d paragraph 4);
- 28) fails to submit in writing to a policyholder a notification with data referred to in Article 81d paragraph 1 to 4, in clear and comprehensible manner, in a language in official use in Montenegro (Article 81d paragraph 5);
- 29) fails to adopt internal rules for establishment and operation of a department for resolution of complaints of policyholders or insured persons (Article 81e);
- 30) fails to establish technical provisions in the amount sufficient to cover liabilities which may arise from pursuit of insurance activities (Article 83 paragraph 1);
- 31) fails to establish stipulated types of technical provisions (Article 83 paragraphs 2, 3 and 4);
- 32) fails to invest and deposit technical provision funds in accordance with Article 90 of this Law (Articles 90 paragraph 1);
- 33) fails to deposit and invest at least one third of the capital referred to in Article 92 of this Law in the prescribed manner (Article 93);
- 34) fails to deposit and invest funds in the prescribed manner (Article 95);
- 35) fails to maintain the capital at least at the level of the solvency margin (Article 98);
- 36) fails to notify forthwith in writing the regulatory authority on occurred reduction of the capital or guaranteed capital below the level prescribed under Article 98 and Article 98a respectively, and fails to adopt the program of measures for reaching the required level of capital within 15 days as of the day the reduction is established, or fails to submit forthwith such program to the regulatory authority (Article 99);
- 37) fails to determine profit and loss by classes of insurance, in the prescribed manner (Article 104);
- 38) fails to submit or untimely submits to the regulatory authority a financial plan for at least three years, with proposal of measures to maintain or recover the financial standing of the company (Article 105);
- 39) fails to organize internal audit in the prescribed manner (Article 108);

- 40) fails to enable a person in charge of supervision to perform supervisory activities in the prescribed manner (Article 121);
- 41) fails to submit to the regulatory authority statistical and other data by groups and classes of insurance within deadline and in the manner set forth by the regulatory authority (Articles 126);
- 42) fails to correct the established illegalities and irregularities in operations within the prescribed deadline, and fails to submit a report thereof to the regulatory authority in a timely manner (Articles 130, 131);
- 43) transfers the entire portfolio or part of the insurance portfolio to another insurance company without the consent of the regulatory authority (Article 148);
- 44) fails to notify the policyholders about the transfer of insurance portfolio in the prescribed manner and within the prescribed deadline (Article 150 paragraph 1);
- 45) fails to appoint an authorised actuary or fails to appoint him/her within the prescribed deadline (Article 153);
- 46) fails to enable to an authorised actuary a continuous and unimpeded access to the business data that are needed for pursuit of actuarial activities and requested by the authorised actuary (Article 157);
- 47) fails to appoint a new authorised actuary upon an order of the regulatory authority (Article 162 paragraph 1);
- 48) fails to inform, within the prescribed deadline, the regulatory authority on the fact that a competent body of the company did not accept the opinion of the authorised actuary (Article 163);
- 49) fails to submit, within the prescribed deadline, to an authorised actuary the financial report (Article 164);
- 50) fails to notify the regulatory authority within the prescribed deadline of the authorised actuary's refusal to accept the opinion of an authorised auditor (Article 165);
- 51) appoints as an authorised auditor a person it is related with, or person who provided tax or consulting services (Article 168 paragraph 3);
- 52) appoints as an authorised auditor a person who carried audit for such person during the previous four years (Article 168 paragraph 5);
- 53) fails to publish a summary of audited financial reports in at least one printed media outlet distributed on the entire territory of Montenegro within 30 days as of the day of adoption (Article 172 paragraph 1).

A pecuniary fine ranging from EUR 550 to EUR 2,000 shall also be imposed for the offence referred to in paragraph 1 of this Article on a responsible person in the legal person.

A pecuniary fine ranging from EUR 550 to EUR 6,000 shall be imposed for the offence referred to in paragraph 1 item 1 of this Article on an entrepreneur.

Article 197

A pecuniary fine ranging from EUR 550 to EUR 2,000 shall be imposed for an offence on a natural person:

- 1) on an internal auditor of the insurance company, if s/he fails to perform internal audit activities in the prescribed manner (Articles 110);
- 2) on an authorised actuary, if s/he carries out activities of the authorised actuary contrary to Article 155 of this Law ;
- 3) on an authorised actuary, if s/he fails to propose to the board of directors measures to remove regularities (Article 156);
- 4) on an authorised actuary, if s/he fails to consider his/her opinion within a prescribed deadline or fails to inform a competent body of the insurance company competent for adoption of the financial report of his/her opinion (Article 164, paragraph 2).

XVI. TRANSITIONAL AND FINAL PROVISIONS

Performance of Activities Article 198

The Agency shall be established within six months as of the day this Law enter into force.

The working body competent for election and appointments of the Parliament and the Government shall submit to the Parliament the proposal for appointment of the president and members of the Council of the Agency, within 90 days as of the day this Law enters into force.

Until the Agency has been set up, the Ministry of Finance shall perform the duties of the regulatory authority set forth under this Law.

The Ministry of Finance shall be obliged to transfer documentation in the area of insurance of property and persons to the Agency within 30 days as of the day of its establishment.

Continuing Operation of the Council Article 198a

The president of the Council and members of the Council of the Agency appointed under the Law on Insurance ("Official Gazette of Montenegro", No 78/06) shall continue with work in accordance with this Law until the expiry of the term they are appointed to.

The president of the Council shall enter into employment with the Agency within 15 days as of the day this Law enter into force.

Funds for Starting up the Agency Article 199

Until starting to generate its own revenues, the Agency will be provided with funds for its operations from the Budget of Montenegro, in the form of a cash borrowing.

The Agency shall be obliged to repay the borrowed funds referred to in paragraph 1 of this Article in the manner and within the deadlines determined by a loan contract concluded with the Ministry of Finance.

Status of Existing Insurance Companies Article 200

Insurance and reinsurance organisations and legal and natural persons conducting insurance related services with a head-office in Montenegro and established before the day this Law enters into force shall continue their operations for the licensed activities under the terms of their original registration with the CRPS.

Organisations Conducting One Group of Insurance Activities Article 201

Insurance organisations referred to in Article 200 of this Law that are conducting only one group of insurance activities, on the day this Law enters into force, shall be obliged to harmonize their operations, acts and organisation, within no later than a year as of the day this Law enters into force, with this Law and provide guarantee reserve equal to one-half of the monetary part of the core capital prescribed in Article 21 of this Law and provide adequate evidence thereon to the Agency.

The Agency shall impose measures in accordance with this Law against insurance organisations that fail to act in accordance with paragraph 1 of this Article.

The insurance organisations referred to in paragraph 1 of this Article shall be obliged, within no later than two years as of the day this Law enters into force, to submit to the Agency an application for licensing for pursuit of insurance activities, supported by evidence on provided guarantee reserve in the amount of the monetary part of the core capital prescribed in Article 21 of this Law.

The Agency shall issue a license for pursuit of appropriate insurance activities to the organisation referred to in paragraph 3 of this Article that has harmonized its organisation, operations, acts and guarantee reserve with this Law.

The Agency shall revoke licenses, by way of a decision, of the organisation that failed to harmonize its organization, operations, acts and guarantee reserve amount with this Law or failed to submit to the Agency the request for obtaining the license for pursuit of insurance activities, within the time referred to in paragraph 3 of this Article.

Alignment of Share Capital Level **Article 201a**

Insurance companies engaged in non-life insurance activities shall be obliged to align the level of the share capital referred to in Article 21 of this Law within one year as of the day this Law enters into force.

Insurance companies engaged in life insurance activities shall be obliged to align the level of the share capital referred to in Article 21 of this Law:

- 1) within one year as of the day this Law enters into force, at least to the level of EUR 1,000,000;
- 2) within two years as of the day this Law enters into force, at least to the level of EUR 1,300,000;
- 3) within three years as of the day this Law enters into force, at least to the level of EUR 1,600,000;
- 4) within four years as of the day this Law enters into force, at least to the level of EUR 1,900,000;
- 5) within five years as of the day this Law enters into force, at least to the level of EUR 2,200,000;
- 6) within six years as of the day this Law enters into force, at least to the level of EUR 2,600,000;
- 7) within seven years as of the day this Law enters into force, at least to the level of EUR 3,000,000.

Calculation of the guaranteed capital of insurance companies shall be aligned with the level of the share capital within deadlines referred to in paragraphs 1 and 2 of this Article.

The regulatory authority shall revoke the license of a company that fails to align the level of the share capital within deadlines referred to in this Article.

Organizations Conducting Several Groups of Insurance Activities

Article 202

Insurance organisations conducting life and non-life insurance activities or reinsurance activities on the day this Law enters into force may continue to perform these activities simultaneously for maximum of four years as of the day this Law enters into force.

An insurance organisation referred to in paragraph 1 of this Article shall be obliged to:

- 1) harmonize its organisation, operations and general acts with this Law, within no later than one year as of the day this Law enters into force, except for compliance concerning the separation of insurance activities, as well provide guarantee reserve equal to one-half of the monetary part of core capital and provide appropriate evidence thereon to the Agency;
- 2) provide guarantee reserve equal to monetary part of core capital prescribed in Article 21 of this Law, within no later than two years as of the day this Law enters into force, and provide appropriate evidence thereon to the Agency.

The Agency shall impose measures in accordance with this Law against the organisation referred to paragraph 1 of this Article that fails to act in accordance with paragraph 2 of this Article.

The organisation referred to in paragraph 1 of this Article shall be obliged to perform, within four years as of the day this Law enters into force, appropriate changes in its legal status and operations in accordance with Article 19 of this Law and provide adequate evidence thereon to the Agency.

Based on the evidence referred to in paragraph 4 of this Article, the regulatory agency shall evaluate, within 30 days as of the day of receiving such evidence, whether the conditions for issuing appropriate licenses prescribed by this Law were met.

If the conditions referred to in paragraph 5 of this Article were not met, the Agency shall revoke license, by way of a decision, from the organisation referred to in paragraph 1 of this Article.

Persons Conducting Activities Directly linked with Insurance Activities

Article 203

Persons referred to in Article 200 of this Law conducting activities considered to be activities directly linked with insurance activities, within the meaning of this Law, on the day this Law enters into force, shall be obliged to harmonize their organisation, general acts and operations with this Law and apply with the Agency for the licensing of such activities, within no later than one year as of the day this Law enters into force.

The Agency shall issue appropriate license to the persons referred to in paragraph 1 of this Article that have harmonized their organisation, operations and general acts with the provisions of this Law.

Harmonising Organisation of Companies Engaged in Insurance Brokerage and Insurance Agency Activities
Article 203a

Insurance brokerage companies shall be obliged to harmonise their organisation with Article 56 of this Law within six months as of the day this Law enters into force.

Insurance agency companies shall be obliged to harmonise their organisation with Article 69 of this Law within six months as of the day this Law enters into force.

Insurance liability contracts resulting from pursuit of brokerage activities concluded before the day this Law enters into force shall be valid until expiry of the contract period.

Parts of Insurance Organisations with Head-Offices outside Montenegro
Article 204

Insurance organisations with head offices outside Montenegro shall be obliged to organise their parts operating in Montenegro in accordance with this Law within no later than two years as of the day this Law enters into force.

Upon expiry of the prescribed deadline, parts of insurance organisations referred to in paragraph 1 of this Article shall cease to operate unless they act in accordance with paragraph 1 of this Article.

Authorised Actuaries
Article 205

Persons who acquired the title of an authorised actuary before the day this Law enters into force pursuant to regulations that were applicable before the day this Law enters into force may perform activities of an authorised actuary determined by this Law.

Deadline for Obtaining Consent for Actuaries
Article 205a

Persons who acquired the title of an authorised actuary before the day this Law enters into force pursuant to regulations that were applicable before the day this Law enters into force shall be obliged to obtain consent of the regulatory authority, in order to perform activities of the authorised auditor as set forth under this Law, within three years as of the day this Law enters into force.

Deadline for Change of External Auditor
Article 205b

Insurance company appointing the same external auditor in the period of four calendar years preceding entry into force of this Law shall be obliged to appoint a new external auditor within 60 days of the day this Law enters into force.

Authorised Brokers and Authorised Agents

Article 206

The Agency shall recognise the title of an authorised insurance broker or an authorised insurance agent to the persons with at least three years of working experience in insurance activities or insurance brokerage and insurance agency activities on the day this Law enters into force, but who have not passed relevant professional examination, and shall enter them in the register of authorised insurance brokers or authorised insurance agents, provided that they meet other requirements set forth under this Law.

Requests for the title recognition referred to in paragraph 1 of this Article supported by the required evidence shall be submitted to the Agency within one year as of the day this Law enters into force.

Reporting to the Regulatory Authority

Article 207

An insurance company shall be obliged, within the period of one year as of the day this Law enters into force, to report semi annually to the Agency on the data and facts referred to in Articles 89, 91, 94 and 124 of this Law.

Deadline for Adoption of Enabling Regulations

Article 208

Regulations for implementation of this Law shall be adopted within six months as of the day this Law enters into force.

Until adoption of the regulations referred to in paragraph 1 of this Article, the regulations valid on the day this Law enters into force shall apply.

Deadline for Adoption of Enabling Legislation

Article 208a

Enabling legislation for implementation of this Law shall be adopted within one year as of the day this Law enters into force.

Pending Procedures

Article 209

Applications for obtaining licenses and consents submitted before the day this Law enters into force shall be decided pursuant to the provisions of this Law.

Special Capital Requirement

Article 210

Monetary amount of the core capital for the insurance company which applies for license for pursuit of insurance activities within one year as of the day this Law enters into force must be at least equal to one-half of the minimum monetary amount of the capital prescribed by this Law, provided that, guarantee reserve of such insurance company must be at least the amount of the

minimum monetary amount of the capital prescribed by this Law by no later than within two years as of the day this Law enters into force.

The monetary amount of the core capital for the insurance company that applies for license for pursuit of insurance activities after expiration of one-year-deadline as of the day this Law enters into force must be at least the amount of the minimum monetary amount of the capital prescribed by this Law.

Deferred Application Article 210a

Article 21, paragraphs 3 and 4 and Article 98a paragraph 4 of this Law shall apply as of the day Montenegro becomes a members of the European Union.

Cease of Validity of Other Laws and Regulations Article 211

As of the day this Law enters into force, the Law on System of Insurance of Property and Persons ("Official Gazette of the Socialist Republic of Montenegro", No 37/77 and 23/83) and the Decree on Insurance of Property and Persons ("Official Gazette of the Republic of Montenegro", No 42/00) shall cease to be valid, whereas the Law on Insurance of Property and Persons ("Official Gazette of the Federal Republic of Yugoslavia", No 30/96, 53/99) shall cease to apply, except for the provisions on compulsory insurance (Articles 73 to 107) and provisions on delegation of public authorisations to the Association of Insurance Organizations of Serbia and Montenegro (Articles 143 to 146).

Cease of Validity of Laws Article 211a

As of the day this Law enters into force, Article 126 of the Law on Amendments and Supplements to Laws stipulating Pecuniary Fines for Offences ("Official Gazette of Montenegro", No 40/11) shall cease to be valid.

Entry into Force Article 212

This Law shall enter into force on the eighth day as of the day of its publication in the "Official Gazette of Montenegro".

SU – SK Number 01-618/16
Podgorica
11 December 2006

Constituent Parliament of the Republic of Montenegro
Speaker of the Parliament
Ranko Krivokapic, m.p.