

Act LX of 2003

on Insurance Institutions and the Insurance Business

In the interest of protecting the interests of policyholders, stimulating self-government, increasing confidence in insurance and insurance companies, strengthening the role of the insurance industry in general and of the insurance companies in the nation's economy, enhancing the feasibility and reliability of the insurance industry, as well as the guarantees for insurance services, facilitating the effective exercise of freedom to provide insurance services under uniform rules in order to guarantee the competitiveness of market actors on equal grounds, improving the supervisory system of the insurance industry created for the reliable operation of the insurance system, promoting the role of insurance companies in preventing damage, furthermore, with a view to approximation to the legislation of the European Union, and that insurance industry is to achieve a level in terms of governing principles, quality and security it provides to market players as it is required from all national laws of Member States of the European Union, Parliament has adopted the following Act:

PART ONE

GENERAL PROVISIONS

Scope

Section 1.

- (1) Unless otherwise provided by international agreement, this Act shall apply to:
- a) insurance activities pursued in the territory of the Republic of Hungary and the activities involved in or closely related to insurance, and the insurance activities and the activities involved in or closely related to insurance carried on by an insurer established in the territory of the Republic of Hungary by authorization conferred under this Act;
 - b) insurance mediation and insurance consulting performed in the territory of the Republic of Hungary, and the activities involved in or closely related to insurance or insurance mediation carried on by an independent insurance intermediary established in the territory of the Republic of Hungary;
 - c) activities pursued by the Hungarian branches of foreign insurance companies, insurance intermediaries and consultants;
 - d) outsourcing service providers solely with respect to the outsourced activities;
 - e) the activities of the body designated to administer the Claims Security capital (hereinafter referred to as "Claims Fund") from which are settled damages caused by motorists without compulsory motor vehicle liability insurance or by unknown motorists, in respect of the activities concerning the administration of the Account;
 - f) the supervisory activities of the State Financial Institutions Commission (hereinafter referred to as the "Commission") conferred under this Act; and
 - g) the obligations of companies - specified in this Act - that are subject to supervision on a consolidated basis or supplementary supervision.
- (2) The provisions of this Act shall apply to the insurance, insurance mediation and insurance consulting and/or insurance, insurance mediation and insurance consulting representation activities of resident insurance companies, insurance intermediaries and insurance consultants that are performed abroad only if the law of the country in which the services in question are provided does not provide otherwise.

Section 2.

- (1) This Act shall not apply to:
- a) insurance forming part of a statutory system of social security,

- b) operations of provident, mutual benefit and mutual assistance institutions whose benefits vary according to the resources available and in which the contributions of the members are determined on a flat-rate basis,
- c) the procedure of insurance constituting an agreement to divide any losses that might occur regarding specific perils equally among two or more people in a risk group (pooling arrangement),
- d) export credit insurance operations by order of or under guarantee by the State,
- e) voluntary mutual insurance funds and private pension funds,
- f) services provided under the international third-party motor insurance system (Green Card Agreement),
- g) the activities of associations where the articles of association of members contain provisions for calling up additional contributions or reducing their benefits, their business does not cover liability risks other than what is contained in Schedule No. 1, Part A), class 19, the combined annual premium and contribution income must not exceed 50 million forints, and at least half of the contribution income must come from persons who are members of the association,
- h) activities of organizations that undertake to provide benefits solely in the event of death, where the amount of such benefits does not exceed the average funeral costs for a single death or where the benefits are provided in kind,
- i) operations carried out by organizations that do not have a legal personality with the purpose of providing mutual cover for their members without payment of premiums or creation of technical provisions,
- j) the Miklós Wesselényi Flood Control Emergency Relief Fund.

(2) The provisions laid down in Paragraphs a) and e) of Subsection (1) shall not affect the right of insurance companies to provide services under specific other legislation to the social security system and to voluntary mutual insurance funds and private pension funds.

(3) This Act shall not apply to the services indicated under class 18 of Part A) of Schedule No. 1, which are otherwise included in the insurance business, if the organization providing the services fulfills the following conditions:

- a) it does not pursue any insurance activity falling within the scope of this Act,
- b) the assistance activity is carried out exclusively on a local basis and consists only of benefits in kind, and
- c) the total annual income collected in respect of its assistance activity does not exceed 50 million forints.

(4) The provisions of this Act shall not apply to any emergency assistance services normally provided in the domestic territory in the event of an accident or breakdown involving a road vehicle by an organization other than an insurer, such as:

- a) on-the-spot breakdown service for which the organization providing cover uses, in most circumstances, its own staff and equipment,
- b) conveyance of the vehicle to the nearest or the most appropriate location at which repairs may be carried out,
- c) accompaniment, normally by the same means of assistance, of the driver and passengers to the nearest location from where they may continue their journey by other means, or
- d) conveyance of the vehicle, possibly accompanied by the driver and passengers, to their home or to the corporate headquarters of the operator of the vehicle, or to the point of departure or original destination.

(5) This Act shall not apply to the activities defined under Paragraphs a)-c) of Subsection (4) if the accident or breakdown involving a road vehicle occurs in a foreign country, provided the person to whom the service is provided holds a membership in an assistance organization and if the assistance is provided:

- a) on the basis of a reciprocal agreement,
- b) without any additional charges,
- c) only if the membership card is produced, and
- d) by an assistance organization of the kind operating in the country in which the accident or breakdown has occurred.

Definitions

Section 3.

(1) For the purposes of this Act

1) parent company, subsidiary, dominant influence:

a) "parent company" means any company that effectively exercises a dominant influence over another company;

b) "subsidiary" means any company over which a parent company effectively exercises a dominant influence. All subsidiaries of subsidiary companies shall also be considered subsidiaries of the parent company;

c) "dominant influence" shall have the same meaning as defined in Act CXII of 1996 on Credit Institutions and Financial Enterprises;

2) "subordinated loan capital" means all loans effectively provided to the insurance company if the loan contract contains a clause to permit use of the loan amount to settle the liabilities of the insurance company and the lender's claim ranks after the claims of all other creditors but before the shareholders and if the original maturity of the loan is for more than five years;

3) identification data:

a) "personal identification data and address of natural persons" means the name, maiden name, mother's name, date and place of birth, citizenship, residence address, mailing address, identification document (passport) number, number of any other document suitable for identification under Act LXVI of 1992 on Records of the Personal Data and Addresses of Citizens,

b) "company identification data" means the name, abbreviated name, registered address, place of business and branch, tax number, name and position of authorized representatives;

4) "unit-linked life assurance" means a type of life assurance policy where the insurer places the amount of the technical provisions relating to the insurance contract into individual reserve funds created by the insurer comprising theoretical settlement components of identical value (investment units) having its own investment policy or into other investment funds operated by a company authorized to manage investment funds, whichever is selected by the insured party, for the purpose of investment, according to the rules and regulations laid down in the contract;

5) "qualifying holding" means a direct or indirect holding of a person in a company or a relationship between a person and a company by virtue of which the person

a) controls ten per cent or more of the capital or of the voting rights on the whole, or

b) has powers to appoint or remove twenty per cent or more of the members of the company's decision-making, management, supervisory and other bodies, or

c) has powers to exercise a significant influence over the management of the company as stipulated in its memorandum and articles of association or in contract. All direct and indirect interest shall be included when determining the extent of a qualifying holding;

6) "resident" shall have the same meaning as defined in Point 1 of Section 2 of Act XCIII of 2001 Abolishing Foreign Exchange Restrictions and on the Amendment of Certain Related Acts;

7) "branch of insurance" means the two main groups of insurance distinguished on the basis of risk criteria: non-life insurance (Schedule No. 1) and life assurance (Schedule No. 2);

8) "class of insurance" means a subgroup within a branch of insurance consisting of services covering the same or similar perils;

9) "insurance product" means a specific policy designed to provide coverage for specific perils or a number of separate perils under predetermined terms and conditions;

10) "insurance company" means an organization authorized to engage in insurance activities and activities involved in or closely related to insurance under Hungarian law or the laws of a Member State;

11) "insurance holding company" means a parent company, other than a mixed financial holding company, whose main business is to acquire and hold a participating share in subsidiary companies, where those subsidiary companies are exclusively or mainly insurance companies or third-country insurance companies, of which at least one such subsidiary company is an insurance company (of a Member State);

12) "gross technical provisions" means the total amount of technical provisions, calculated net of reinsurance, that is the total amount of the technical provisions set aside by the insurer and the amount of technical provisions on risks covered by reinsurance;

13) "medical data" means medical data within the meaning of Act XLVII of 1997 on the Protection of Personal Data in the Field of Medicine;

14) "co-insurance" means a service provided by several insurers for a global premium by means of a single contract for coverage of damage incurred in connection with risks specified in a contract or providing benefits under contractual conditions in the proportions laid down in writing in advance as well as the creation and management of reserves by each insurer as consistent with their respective share of the commitment;

15) "regulated market" means the regulated market within the meaning of Act CXX of 2001 on the Capital Market (hereinafter referred to as "CMA");

16) "inflationary escalation" means the annual adjustment of the insurance premium and the sum insured, irrespective of the number of claims, consistent with the level of inflation;

17) "securities lending and securities borrowing" means securities lending and securities borrowing within the meaning of the CMA;

18) "managed fund" means the assets set aside from the premium income of unit-linked life assurance policies - less the deductions stipulated in the insurance contract - for investment purposes;

19) "supervisory authority" means the authority supervising the activities of an insurance company, insurance intermediary, insurance consultant in the country where it is established;

20) "Member State of the branch" shall mean the Member State in which the branch making the commitment is situated;

21) "head office" means the place where the company conducts its principal activity and where central decision-making occurs in connection with business matters and accountancy, if done at a place other than its headquarters;

22) "third country" shall mean any country that is not a member of the European Union;

23) "third-country insurance company" means any third-country organization authorized to engage in insurance activities under the laws of the country where it is established and the requirements for authorization are compatible with the provisions of this Act;

24) "cross-border services" means where the Member State of the commitment relating to the activities of an insurance company, insurance intermediary or insurance consultant is not the same as the Member State where the headquarters, place of business or head office of the insurance company, insurance intermediary or insurance consultant is situated;

25) "advertisement" means any attempt to focus attention on a particular insurance company, insurance intermediary or insurance consultant by any commercial means (e.g., in the printed press or by mail); by distribution of labels, cards, stickers, fliers, playing records, catalogues, price lists or other printed materials; by the performance of movies, television or radio programs; conveyed through telecommunications means and networks, including advertisements that appear in articles or programs whose primary purpose is not the advertisement, in the event that the article or the section of the program was created at the request or under the sponsorship of a specific insurance company, insurance intermediary or insurance consultant;

26) "initial capital" means the capital of an insurance association subscribed at the time of foundation;

27) "Information Center" means an organization created for the purpose of supplying data and information in connection with settlement claims originating from third-party liability motor insurance and for discharging other duties conferred upon it by specific other legislation;

28) "subscribed capital, equity" means the subscribed capital and equity within the meaning of Act C of 2000 on Accounting (hereinafter referred to as "Accounting Act");

29) "mortgage loan" means a legal agreement fixed in a public document under which the insurance company agrees to lend money to a life assurance policyholder, where the loan is secured - in addition to the sum to be paid under a life assurance contract concluded by the policyholder - by real property (other than arable land) that is located in Hungary;

30) "affiliated company" means a subsidiary company or a company in which another company (participating company) has a participating interest;

31) "claims representative" means a person appointed by an insurance company covering risks under motor vehicle liability in other Member States for handling and settling claims arising from an accident involving a motor vehicle covered by the insurance company in question in the Member State where the residence (registered address) of the injured party is located and for representing the insurance company vis-à-vis the injured party;

32) "Claims Security capital" means a fund created and funded by the insurance companies covering risks in connection with compulsory motor vehicle liability insurance policies offered in the territory of the Republic of Hungary by making regular contributions for the purpose of providing compensation for damage to property or personal injuries caused by a vehicle for which the insurance obligation provided for by law has not been satisfied or by an unidentified vehicle subject to the limits laid down by legal regulation;

33) "Claims Organization" means an organization operated by the insurance companies covering risks in connection with compulsory motor vehicle liability for handling and settling claims of local residents for damages occurring in a state other than that of the injured party's residence;

34) "agent for service of process" means an attorney or law office registered in the territory of the Republic of Hungary, or the applicant's insurer, insurance intermediary or insurance consultant registered in the territory of the Republic of Hungary, or representative office under this Act;

35) "capital at risk" means the amount payable on death less the mathematical provision for the main risk, or the reserve for unit-linked life assurance policies where applicable;

36) "Member State of the commitment" means the Member State

a) for risks covered under the life assurance branch:

aa) where the policy holder has his/her habitual residence, if a natural person, or

ab) where the policy holder's establishment, to which the contract relates, is situated, if a legal person;

b) for risks covered under the non-life insurance branch the place where the risk is situated:

ba) the Member State in which the property is situated if the insurance relates either to buildings or to buildings and their contents, in so far as the contents are covered by the same insurance policy,

bb) the Member State where the certificate of registration has been issued for risks covering any type of motor vehicle,

bc) the Member State where the policy-holder took out the policy in the case of policies of a duration of four months or less covering travel or holiday risks, whatever the class concerned,

bd) the Member State where the policy-holder has his habitual residence or, if the policy-holder is a legal person, the Member State where the latter's establishment, to which the contract relates, is situated, in all cases not explicitly covered by the foregoing Paragraphs ba), bb) and bc);

37) "policy loan" means a loan - not treated as a financial service - that may be provided by the insurer to the holder of a life assurance policy up to its cash surrender value and which is settled by the parties upon or before the occurrence of the insurance event or the termination of the contract;

38) "indirect holding" means control of shares in the capital or exercise of voting rights in a company (hereinafter referred to as "original company") through the shares or voting rights held by another company in the original company (hereinafter referred to as "intermediary company"), as taken into account in accordance with Schedule No. 3;

39) "nonresident" shall have the same meaning as defined in Point 2 of Section 2 of Act XCIII of 2001 Abolishing Foreign Exchange Restrictions and on the Amendment of Certain Related Acts;

40) "nonresident insurance intermediary" means a foreign company authorized to engage in insurance mediation under the laws of the country where it is established;

41) "nonresident insurance company" means a foreign company authorized to engage in insurance activities under the laws of the country where it is established;

42) "nonresident insurance consultant" means a foreign company authorized to engage in insurance consulting under the laws of the country where it is established;

43) "major error" means when the combined total of all errors and the impacts thereof substantially alters the amount of equity or the amount of technical provisions in the manner and to the extent set forth in the accounting policy, rendering - in consequence - any financial, income and earnings figures already disclosed misleading. It shall be treated as a major error, without exception, if the error results in a variation of at least 20 per cent (whether negative or positive) in the amount of equity shown in the balance sheet for the financial year preceding the year in which the error was discovered, or if it alters the amount of any particular type of technical provision by 3 per cent or more of the balance sheet total of the financial year preceding the year in which the error was discovered;

44) "residual rights" means the rights defined in the terms and conditions of a life assurance contract that remain in the case of non-payment of premium and/or the termination of the contract without payment of the sum insured;

45) "matching assets" means the representation of underwriting liabilities that can be required to be met in a particular currency by assets expressed or realizable in the same currency;

46) "minimum security capital" means the assets consistent with the size of the risk in the classes undertaken by insurance companies when they are set up and in the subsequent course of business;

47) "National Agency" means the organization of insurance companies covering risks in connection with compulsory motor vehicle liability insurance policies offered in the territory of the Republic of Hungary handling coordination and claims adjustment and settlement relating to the international third-party motor insurance system;

48) "net claims reserve" means pending reserves net of reinsurance cessions;

49) "participation" means a relationship between a person (organization) and a company that constitutes the direct or indirect ownership of a minimum of 20 per cent or a maximum of 50 per cent of the voting rights or capital of the company. With respect to voting rights, the relevant provisions of the Accounting Act shall apply, regardless of whether or not the person (organization) in question falls within the scope of the Accounting Act;

50) "participating company" means the parent company or a company holding a participation in another company (affiliated company);

51) "assistance operation" means an insurance activity in which assistance is provided by the service operator for persons who get into difficulties while traveling due to an accidental, unforeseen event. It shall consist in undertaking, against the prior payment of a premium, to make aid immediately available to the beneficiary under an assistance contract when that person is in difficulties following the occurrence of a chance event, in the cases and under the conditions set out in the contract. The aid may consist of the provision of benefits in cash or in kind. The provision of benefits in kind may also be effected by means of the staff and equipment of the person providing them. The assistance activity does not cover servicing, maintenance, after-sales service or the mere indication or provision of aid as an intermediary;

52) "professional aptitude and a good business reputation" means all of the requisites to be possessed by the executives and owners for the prudent and sound management of the insurance company;

53) "solvency margin" means a supplementary reserve at the disposal of insurance companies and calculated according to the provisions of this Act, represented by free assets, which can be mobilized to meet their underwriting liabilities without having to obtain the consent of any third party if such liabilities are not covered by the premiums collected or by the technical provisions;

54) "derivative instrument" means the instrument within the meaning of the CMA;

55) "Member State of the head office (Member State of the establishment)" means the Member State where the insurance company, insurance intermediary or insurance consultant of the commitment is established;

56) "Member State of the provision of services" mean the Member State of the commitment, if the commitment is covered by an assurance company or a branch situated in another Member State;

57) "Member State" means a country that is a member of the European Union;

58) "technical interest rate" means the rate of interest used by the insurance company when calculating the premiums and premium reserve for life and medical insurance policies, and benefit payment reserve for accident and liability insurance policies, where the ceiling rate is specified in specific other legislation;

59) "product plan" means a plan designed for a specific class of insurance concerning the feasibility of a network of services intended to be distributed by the insurance company, the formal requirements for which are laid down in Schedule No. 4;

60) "surplus yield" means the difference between the return on investment of mathematical provisions and the yield calculated by the technical interest rate;

61) "client" means the contracting party, the policyholder, the beneficiary, the injured party, any other person entitled to receive services from the insurer; for the purposes of data protection regulations, "client" also means any person who makes a contractual offer to the insurer;

62) "safeguarding the interests of clients" means protection of the financial security of insurance services and preservation of the legal security of policyholders;

63) "outsourcing" means when any part of specific insurance activities is performed by others;

64) "managing director" means the executive officer in the employ of the assurance company appointed to operate the company, and his deputies. The chief executive officer of the assurance company is placed in charge of the company's work organization;

65) "business secret" means the business secret within the meaning of Subsection (2) of Section 81 of Act IV of 1959 on the Civil Code of the Republic of Hungary (hereinafter referred to as "Civil Code");

66) "gainful (for-profit) business activity" means for-profit business activity within the meaning of the CMA;

67) "financial reserves" means liquid assets tied up in a credit institution (cash deposits or debt securities issued or guaranteed by a credit institution or the government with a remaining maturity of more than 180 days that can be redeemed or liquidated on demand) or a bank guarantee;

68) "localization of assets" means the existence of assets, whether movable or immovable, within a Member State, but it shall not be construed as involving a requirement that movable assets be deposited or that immovable assets be subjected to restrictive measures such as the registration of mortgages; assets represented by claims against debtors shall be regarded as situated in the Member State where they are realizable;

69) "enterprise" means any economic organization engaged in for-profit business activities and branch offices of third-country assurance companies;

70) "competitive products" means products within the same class of the same insurance branch under Schedules Nos. 1 and 2;

71) "executive employee" means

a) in the case of insurance companies operating in the form of a public limited company, cooperative or association averaging more than one hundred members throughout a single calendar year, the members of the executive board and the supervisory board, and the managing director,

b) in the case of insurance associations not mentioned in Paragraph *a)*, the chairman of the executive board, the chairman of the supervisory board, the managing director, or the persons holding the equivalent positions regardless of the title denoted in the charter;

c) in the case of branch offices of third-country assurance companies, the general representative and the managing director;

72) "reinsurance" means a contract under which an insurance company partially or totally assumes a risk that is already covered by another insurance company or a third-country insurer for a fee and under the conditions stipulated;

73) "reinsurer" means the company engaged, particularly in the activity defined under point 72;

74) "mixed-activity insurance holding company" means a parent company, other than an insurance company, a third-country insurance company, a reinsurance company or an insurance holding company, that includes at least one insurance company among its subsidiary companies;

75) "regulated entity" shall mean a credit institution, an investment firm or an insurance company;

76) "financial sector" shall mean the banking sector, the investment services sector, the insurance services sector, and mixed financial holding companies;

77) "banking sector" shall mean a sector composed of credit institutions, financial institutions, and associated companies;

78) "investment services sector" shall mean a sector composed of investment firms;

79) "insurance services sector" shall mean a sector composed of insurance companies, reinsurance companies, and insurance holding companies;

80) "mixed financial holding company" shall mean a parent company, other than a regulated entity, which together with its subsidiaries, at least one of which is a regulated entity which has its head office in the European Union, and other entities, constitutes a financial conglomerate.

81) "group" shall mean a group of companies which consists of a parent company, its subsidiaries and the entities in which the parent company or its subsidiaries exercise dominant influence or hold a participating share.

82) "competent authorities concerned" shall mean:

a) the national authorities of the Member States which are empowered to supervise regulated entities in a financial conglomerate; or

b) the coordinator appointed in accordance with Section 189/H; or

c) other competent authorities concerned designated by the authorities referred to in Paragraph *a)* and *b)*, if the market share of the regulated entities of the conglomerate in the Member State of the authority concerned reaches five per cent, and the importance in the conglomerate of any regulated entity authorized by this authority is significant.

83) "close link" shall have the same meaning as defined in the CIFE.

(2) The terms European Union and Member States of the European Union shall be understood as the European Economic Area and Member States of the European Economic Area (hereinafter referred to as "EEA Member State"), with the exception of Subsection (1) of Section 227.

Basic Requirements for Insurance Activities, Insurance Mediation and Insurance Consultancy

Section 4.

Insurance underwriting is a commitment that is based on an insurance contract, legal regulation, or membership relation whereby the insurer undertakes to designate a group of persons deemed to be exposed to the same risk or similar perils (risk group) in order to assess the risks that can be measured by mathematical and statistical means, establish a consideration (premium) for the commitment, create specific reserves, assume the risks stipulated and provide services as contracted.

Section 5.

(1) With the exceptions set out in Subsection (2), insurance activities, independent insurance mediation and activities involved in or closely related to insurance may be performed in the territory of the Republic of Hungary only in possession of the Commission's authorization.

(2) An insurance company, insurance intermediary or insurance consultant established in a Member State may perform cross-border services in the territory of the Republic of Hungary or through its Hungarian branch if so authorized in the Member State in which it is established.

(3) Subject to the exception set out in Subsection (7), third-country insurance companies, insurance intermediaries and insurance consultants may only provide services in the territory of the Republic of Hungary through branch offices registered in Hungary.

(4) Insurance activities may only be carried out by insurance companies.

(5) Apart from the insurance activities described in Section 4 and the activities involved in or closely related to insurance, insurance companies are not allowed to pursue any other business activities.

(6) The Commission shall have powers to resolve any dispute over the issue of whether a given activity is to be interpreted under this Act as an insurance activity or as an activity involved in or closely related to insurance. The following in particular shall be treated as activities involved in or closely related to insurance:

a) management and investment of the insurance company's own assets, management of its own financial affairs, including derivative transactions for hedging purposes as regards technical provisions, for the purpose of efficient portfolio management or for the purpose of arbitrage;

b) management of the assets of voluntary mutual insurance funds and private pension funds by insurance companies limited by shares as defined in Paragraphs *l*) and *n*) of Subsection (1) of Section 3 of the CIFE,

c) management of the assets of insurance associations by joint-stock insurance companies;

d) mediation of financial services under Paragraph *h*) of Subsection (1) of Section 3 of the CIFE (agency);

e) agency activities under Paragraph *e*) of Subsection (1) of Section 81 of the CMA;

f) mortgage lending;

g) securities lending and securities borrowing under the conditions laid down in the CMA,

h) services provided by an insurance company to its subsidiary or parent, or a company in which it has any participation relating to insurance operations;

i) the activities referred to in Subsection (4) of Section 9 of Act LVIII of 2003 on the Miklós Wesselényi Flood Control Emergency Relief Fund.

(7) Under international agreement, third-country insurance companies may, without having to set up a branch office,

a) engage in re-insurance operations;

b) provide liability insurance coverage for damage to goods and means of transport and vehicles in international trade.

Section 6.

In the course of soliciting clients for any insurance product, it is forbidden to employ any method

a) whereby any advantage is promised to the deficit of other persons in exchange for having the insured or the contracting party pursue others to conclude the same or a similar insurance contract, or

b) that involves an investment on the part of the insured or the contracting party that is to be recovered in part or in full from other persons targeted to conclude the same or a similar insurance contract.

Protection of Designation

Section 7.

(1) The designations "insurance company", "insurance broker", "multiple-insurance agent", "insurance agent", "principal insurance agent", "insurance consultant" or any combination thereof may only be used in the corporate name, advertisement, or in any other manner by insurance companies, insurance brokers, multiple-insurance agents,

insurance agents, principal agents or insurance consultants that are established and operated in accordance with the provisions of this Act. Any insurance agent, principal agent and insurance consultant whose main activities comprise the activities governed under this Act shall be required to include their respective field of activity (insurance agent, principal agent, insurance consultant) in their corporate names.

(2) The provisions of Subsection (1) shall not apply to

- a) the trade organizations of insurance companies, insurance intermediaries and insurance consultants,
- b) educational and scientific organizations as well as
- c) organizations and funds established on the basis of legal regulation.

(3) The Commission shall resolve whether, pursuant to Subsection (1), a person is entitled or obliged to use the designation specified therein.

Advertising Regulations

Section 8.

(1) All promotional and advertising activities by insurance companies, insurance intermediaries and insurance consultants targeted at minors shall be conducted publicly.

(2) Insurance companies, insurance intermediaries and insurance consultants shall not be allowed to send advertising material to clients by direct mail if the client has declined consent in writing.

(3) Advertisements in connection with insurance activities, insurance mediation and insurance consulting may only be published by insurance companies, insurance intermediaries and insurance consultants that are registered in a Member State of the European Union and authorized for their respective activities.

Section 9.

The provisions of Section 8 shall be enforced by the Consumer Protection Agency and its county (Budapest) branches in accordance with the provisions of Act LVIII of 1997 on Commercial Advertising.

PART TWO

SYSTEM OF INSURANCE

Chapter I

PRINCIPAL INSTITUTIONS OF THE INSURANCE SYSTEM

Insurance Companies

Section 10.

(1) In the territory of the Republic of Hungary, insurance underwriters must operate in the form of joint-stock companies, cooperatives, associations or as branch offices of third-country insurance companies.

(2) As regards the various forms of companies, the provisions of the following statutes shall be applied with the exceptions set forth in this Act:

- a) Act CXLIV of 1997 On Business Associations (hereinafter referred to as "Companies Act") if the insurer is a joint-stock company,
- b) Act CXLI of 2000 on New Cooperatives (hereinafter referred to as "Cooperatives Act") if the insurer is a cooperative,
- c) Act II of 1989 On the Freedom of Association (hereinafter referred to as "FAA") if the insurer is an association,

d) Act CXXXII of 1997 on Hungarian Branch Offices and Commercial Representative Offices of Foreign-Registered Companies (hereinafter referred to as "FCA") if the insurer is a branch office.

Joint-stock Insurance Companies

Section 11.

(1) Joint-stock insurance companies shall be allowed to provide the full spectrum of insurance services within the branch of insurance for which they are licensed.

(2) Joint-stock insurance companies

a)

b) the lowest rate of cash contributions in their subscribed capital (Section 66) shall be seventy per cent,

c) in their subscribed capital (Section 66), the non-cash contributions must not include intangible assets as specified in the Accounting Act,

d) shall be registered in the register of companies only if cash contributions are paid up in full.

(3) Any acquisition of the shares of an insurance company shall be subject to authorization by the Commission according to Section 111 if the percentage to be acquired reaches or exceeds ten, twenty, thirty-three, fifty or seventy-five per cent of the subscribed capital. The acquisition of a five per cent share or more, but below the next percentage level for which the Commission's permission is required, shall be reported by the acquiring party to the Commission within thirty days of the day on which the share is acquired.

Insurance Cooperatives

Section 12.

(1) An insurance cooperative may be founded by no less than ten members.

(2) Insurance cooperatives must clearly indicate the fact that they are a cooperative in their corporate names and in the names used in advertisements or in any other manner.

Section 13.

(1) The lowest rate of cash contributions forming part of the minimum amount of share capital (Section 66) subscribed by the members of the insurance cooperative shall be seventy per cent.

(2) In the share capital (Section 66), the non-cash contributions must not include any intangible assets as specified in the Accounting Act.

Section 14.

(1) The face value of each share certificate shall be at least ten thousand forints.

(2) Insurance cooperatives shall be registered in the register of companies only if the cash part of the share capital is paid up in full.

Section 15.

(1) Above and beyond the provisions of Section 17 of the Cooperatives Act, the following shall be defined in the charter:

a) the insurance cooperative's scope of activities broken down by branches and classes of insurance,

b) the principles governing the use of the insurance cooperative's after-tax profit.

(2) The charter may prescribe that any member of the cooperative may be compelled by a general meeting resolution to provide additional funding in the cases, manner and extent specified in the charter.

Section 16.

Persons who are not members of the insurance cooperative and/or are not employed by it may also be elected to the board of directors.

Section 17.

Members of the supervisory board may not be employed by the insurance cooperative. Persons who are not members of the insurance cooperative may be members of the supervisory board.

Section 18.

(1) No payment may be made to a former member (or his heir) on the basis of settlement if it would reduce the cooperative's solvency margin below the prescribed minimum (Sections 121 and 122) or if it would result in an emergency situation as defined in Subsection (1) of Section 216.

(2) Payment may be postponed on the basis of Subsection (1) for up to four years.

(3) Former members (or their heirs) shall receive a share from the profit of the cooperative until the final settlement of accounts.

Insurance Associations

Section 19.

Insurance associations are non-profit organizations established by voluntary members and funded by membership contributions to provide mutual services exclusively to such members. The perils covered and the technical principles are defined in the policy terms and conditions.

Section 20.

(1) Insurance associations may be established and operated by natural persons and legal persons as well as the organizations of such persons without legal personality.

(2) The cash contribution forming part of the initial capital (Section 66) shall be at least seventy per cent.

(3) An insurance association shall receive authorization to commence operations only if all of the cash contributions of the initial capital are paid up in full.

(4) Insurance associations must clearly indicate the fact that they are an association in their corporate names and in the names used in advertisements or in any other manner.

Section 21.

Insurance associations may not provide credit and suretyship insurance; nor may they provide reinsurance.

Section 22.

(1) The charter of an insurance association shall stipulate:

- a) the name and address of the association,
- b) the objective and scope of the association's activities,
- c) the procedures for establishing and terminating membership,
- d) the organizational structure of the association,
- e) the amount of initial capital and the manner in which it is to be paid up,

- f) the principles governing the calculation of membership contributions, the amount for each class of insurance and the means of payment,
 - g) the principles on the appropriation of any profit,
 - h) the manner for settling any losses,
 - i) instructions on ordering any additional contributions, when necessary, and/or on the possibility of any cutback in services,
 - j) the use of the association's assets in case of termination and the ways of settling existing liabilities, including underwriting obligations apart from other liabilities.
- (2) No cutback in services as defined in Paragraph i) of Subsection (1) is allowed in respect of liability insurance policies.
- (3) Any insurance association averaging over one hundred members throughout a calendar year shall elect at its next annual general meeting
- a) its board of directors consisting of a minimum of five and a maximum of eleven members, and
 - b) its supervisory board consisting of a minimum of three and a maximum of fifteen members.
- (4) Within the meaning of Subsection (3), regardless of the title denoted in the charter,
- a) 'board of directors' shall mean the association's management,
 - b) 'supervisory board' shall mean the body overseeing the association's operations.

Section 23.

The extent of the share of profits in a year and the mode by which this share is distributed among the insured persons shall be defined in the charter.

Section 24.

- (1) The supreme body of the association shall have powers to order payment of additional contributions or to cut back in services, where it is permissible under the charter, if other resources are not sufficient for performing the liabilities of the year.
- (2) When additional payment of contribution is required, the payment to be paid by any member of the insurance association may not exceed one hundred per cent of the annual payments required to be made by the member of the insurance association under any title to the insurance association, exclusive of additional contributions.
- (3) Membership fees and additional contributions as well as the insurance services provided by the association on the basis of membership contributions shall, under the same conditions, be defined in the charter by the same principles.

Section 25.

- (1) In order to improve the safe operation of an insurance association, the Commission may order the association to cede a maximum of 90 per cent of its underwriting obligations to a reinsurance operator.
- (2) Insurance associations shall not be allowed to cede all of their commitments to reinsurance operators.

Section 26.

- Above and beyond the cases defined in the FAA, an insurance association shall be terminated if
- a) the period set for its operation in the charter expires,
 - b) its foundation permit or operating license is revoked by the Commission.

Section 27.

- (1) The consent of at least three quarters of all members of the insurance association is required for the dissolution or fusion (merger, acquisition) of the association.

(2) If the insurance association is dissolved, the insurance relation of members shall terminate on the date when the insurance association is terminated.

Section 28.

The membership fees of or additional contributions by members joining or leaving the association during the year shall be prescribed as commensurate. Additional contributions must be ordered consistent with any increase in membership contributions or any cutback in services during the year.

Hungarian Branch Offices of Third-country Insurance Companies

Section 29.

(1) Hungarian branch offices of third-country insurance companies engaged in insurance activities shall be allowed to provide the full spectrum of services within the branch of insurance for which they are licensed.

(2) Branch offices of third-country insurance companies must be able to produce - within thirty days of the date of authorization - the annual report and the scheme of operations of the founding third-country insurance company published in the country of domicile in the language of the country of domicile and also the official Hungarian translation. Branch offices of third-country insurance companies shall provide such annual reports to their clients to review upon request.

Section 30.

(1) Branch offices of third-country insurance companies shall complete the documents that prove the conclusion and existence of insurance contracts - including the contract terms and conditions - in the Hungarian language.

(2) Branch offices of third-country insurance companies may apply for authorization to engage in the branch of insurance for which the parent third-country insurance company is licensed in the country of domicile, taking into account the provisions of Subsection (2) of Section 64.

Hungarian Branch Offices of Insurance Companies Established in Other Member States

Section 31.

Branch offices of insurance companies established in other Member States shall complete the documents that prove the conclusion and existence of insurance contracts - including the contract terms and conditions - in the Hungarian language.

Section 32.

(1) Upon the Commission's receipt of notification from the supervisory authority of another Member State that an insurance company registered in that Member State wishes to establish a branch office in the territory of the Republic of Hungary, the Commission shall supply information to the supervisory authority within two months concerning the conditions for engaging in insurance activities in Hungary.

(2) The Hungarian branch office of an insurance company established in another Member State may commence operations after the information from the Commission has been received or the two-month disclosure period has passed.

(3) The Hungarian branch office of an insurance company registered in another Member State shall be required to notify the Commission one month in advance in writing of any changes in its particulars while engaged in

operations in Hungary such as the scope of activities, scheme of operations, name of the persons appointed to management positions, address of the branch office, structural organization, control and supervision.

(4) The Commission may periodically request information from the branch offices of insurance companies established in other Member States concerning the contract conditions for the insurance policies they provide and documents related to them in order to verify their compliance with Hungarian laws.

Chapter II

OTHER PARTICIPANTS IN THE INSURANCE SYSTEM

Insurance Intermediaries

Section 33.

(1) Activities for the mediation of insurance and re-insurance (hereinafter referred to as "insurance mediation") shall be construed as regular for-profit activities directed at arranging insurance contracts and re-insurance contracts (hereinafter referred to as "insurance contracts"). These activities cover the preliminaries before the conclusion of insurance contracts, the presentation and offering of insurance products, disclosure of related information or the conclusion of insurance contracts, the organization of sales arrangements for insurance contracts and participation in the administration and performance of insurance contracts.

(2) The following shall not be treated as insurance mediation activities:

- a) the supply of information for other professional reasons, if it is not intended to provide assistance for the client in the administration and performance of the insurance contract,
- b) participation in the collection of claims,
- c) damage assessment and appraisal activities.

(3) Dependent and independent insurance intermediaries may engage in insurance mediation activities.

(4) A dependent insurance intermediary (hereinafter referred to as "agent") is engaged in the mediation of the insurance products of a single insurance company or the non-competitive products of several insurance companies. All other insurance intermediaries shall be construed as independent insurance intermediaries with the exceptions laid down in Subsection (5) of this Section and Subsection (1) of Section 35.

(5) "Dependent insurance intermediary" shall also mean the insurance intermediary engaged in intermediating products relating to its main activity, as an ancillary activity, provided it does not involve any movement of monies (premium payments received from clients or payments made to clients).

(6) Dependent insurance intermediaries are engaged in mediating insurance products as paid employees of insurance companies or in a self-employed capacity.

(7) Any person employed by an insurance intermediary - in an employment, agency or other work-related legal relation - for mediating insurance products may not enter into any other employment, agency or other legal relation with another insurance company or insurance intermediary for mediating insurance products. Any person employed by an insurance intermediary - in an employment, agency or other work-related legal relation - for mediating insurance products may not enter into any form of work-related legal relation - which is not treated as employment - with another person for mediating insurance products.

(8) An agent or multiple-insurance agent engaged in insurance mediation on behalf of an insurance company shall be entitled to indemnity under Act CXVII of 2000 on the Commercial Representation Contracts of Self-employed Commercial Agents if his work-related legal relation with the insurance company for the mediating of insurance products is fixed in writing.

Section 34.

Barring the exceptions specified in this Act, only persons registered by the Commission may engage in insurance mediation activities.

Section 35.

(1) Persons engaged solely in insurance mediation activities pertaining to insurance contracts that satisfy all of the conditions specified below may be exempted from the registration requirement:

- a) the mediated insurance products by the insurance intermediary necessitate knowledge of the terms and conditions applicable to them only;
- b) the mediated insurance products are not from the life assurance branch;
- c) the mediated insurance products do not cover liability risks;
- d) insurance mediation is not the intermediary's main activity;
- e) the mediated insurance products are related to the main activities of the intermediary;
- f) the annual premium for the mediated insurance product is 125,000 forints or less, and the full term of the insurance contract is less than five years;
- g) the period of coverage is 365 days or less;
- h) the insurance is provided only to complement a product or service supplied by the service provider and it covers the following risks:
 - ha) damage to or loss of goods supplied by the service provider, or
 - hb) loss of or damage to luggage occurring during a journey arranged by the service provider and other risks, also if the contract is for life assurance or liability risks, provided that the risk covered is ancillary to the main risk relating to the travel.

(2) The rules for registering insurance intermediaries shall not apply where the mediation of the insurance is performed by

- a) the insurance company itself,
- b) an employee of the insurance company, or
- c) a natural person on behalf of an economic operator as a paid employee, provided that such person does not hold a management position with the economic operator and is engaged exclusively in activities auxiliary to insurance mediation,
- d) a natural person employed by a credit institution specified in Subsection (1) of Section 5 of the CIFE or a universal postal service provider specified in Act CI of 2003 on Postal Services in accordance with the employer's instructions, in the customer area of the employer's premises or by way of mobile postal service establishment.
- e) a natural person who is in a service relationship or other work-related relationship with the Customs and Finance Guard, solely for the sale of a compulsory motor vehicle liability insurance policy, as specified in specific other legislation, to the operator (driver) of a vehicle that is registered in a third country and that does not have liability insurance coverage valid for the territory of the EU.

(3) Registration by the Commission is not required for insurance intermediaries registered in other Member States of the European Union to take up and pursue insurance intermediation activities.

(4) Natural persons who are authorized to engage in insurance mediation activities but are not listed in the Commission's register of insurance intermediaries are not obliged to satisfy the requirements set out in Subsection (3) of Section 48.

(5) Natural persons who are employed by credit institutions or postal service providers that are engaged in insurance mediation activities in accordance with Paragraph *d)* of Subsection (2) may engage in insurance mediation activities only if they have been properly trained with regard to the products they mediate. Compliance with professional requirements shall be enforced by the employer and by the insurance company whose product the natural person mediates.

(6) The employers of natural persons engaged in insurance mediation activities in accordance with Paragraph *d)* of Subsection (2) employed by credit institutions or postal service providers shall maintain a register to contain all natural persons they employ for mediating insurance who satisfies the requirement set out in Subsection (5) with regard to training.

Section 36.

(1) The Commission shall keep a register for insurance intermediaries authorized and registered under this Act (central register). The contents of the central register are indicated in Schedule No. 5 of this Act.

(2) In the course of the registration procedure, the Commission shall assign a registration number to each insurance intermediary, whether a natural person or an economic organization.

(3) Each natural person and economic organization shall have only one registration number assigned, and the same registration number shall not be assigned to another natural person or economic organization.

(4) The Commission shall publish the names of natural persons and the names and addresses of economic operators engaged in insurance mediation on its official web site on a regular basis together with the data indicated under Paragraphs 1. A) b)-g) and 1. B) b)-f) of Schedule No. 5.

(5) Any natural person engaged in insurance mediation shall be required to comply with the professional requirements defined in Schedule No. 13 to this Act within 24 months from the date of first registration and to notify the employer insurance company or independent insurance intermediary within 15 days. Any natural person who is registered as a dependent insurance intermediary shall be required to comply with the professional requirements defined in Schedule No. 13 to this Act within 24 months from the date of being registered as an independent insurance intermediary and to notify the employer independent insurance intermediary within 15 days.

(6) The Commission shall remove from the register any natural person engaged in insurance mediation who fails to comply with the professional requirements defined in specific other legislation within the time limit set out in Subsection (5).

(7) The insurance company or the independent insurance intermediary shall be required to notify the Commission within 15 days in the manner defined by the Commission when a natural person engaged in insurance mediation fails to comply with the professional requirements defined in specific other legislation within the time limit set out in Subsection (5).

Section 37.

(1) Before concluding insurance contracts, insurance intermediaries - unless otherwise provided by law - shall disclose the following information in the official language of the Member State of the commitment or in the language stipulated in the agreement concluded with the given client:

a) name (corporate name), permanent residence (corporate domicile), designation of the supervisory authority of the Member State in which the head office is located;

b) whether the insurance intermediary is acting as a dependent or independent insurance intermediary;

c) the name of the insurance company of employment if dependent;

d) all direct and indirect interests held in the insurance company and other insurance intermediaries or insurance consultants;

e) the person to be held liable for any damage caused in his capacity as an insurance intermediary;

f) the procedure for lodging complaints and the body hearing such complaints;

g) the register of insurance intermediaries and proof that they have been registered, including an indication as to where the register may be inspected.

(2) The information shall be supplied to persons who will be potential policyholders, beneficiaries of insurance (re-insurance) coverage or parties to the insurance (re-insurance) contract if concluded.

Independent Insurance Intermediaries

Section 38.

(1) Independent insurance intermediaries shall be in possession of the Commission's authorization for insurance brokering or multiple insurance agency and shall operate in the form of a

a) joint-stock company,

b) limited liability company with at least five million forints in capital,

c) Hungarian branch office of a third-country independent insurance intermediary with at least five million forints in capital.

Insurance mediation must be the exclusive activity of all such companies. Independent insurance intermediaries may engage in insurance consulting and - subject to special authorization by the Commission - in activities involved

in or closely related to insurance or insurance mediation. The provisions of the FCA shall apply to independent insurance intermediary branches with the exceptions set forth in this Act.

(2) The Commission shall have powers to resolve any dispute over the issue of whether an activity is to be interpreted under this Act as an insurance activity or as an activity involved in or closely related to insurance mediation.

(3) The Commission's authorization is not required for the activities of a branch office of an independent insurance intermediary that is established in another Member State of the European Union or if provided as cross-border services.

(4) In the event the own funds of an independent insurance intermediary drops below the mandatory minimum referred to in Subsection (1), the independent insurance intermediary must take measures to comply with the mandatory minimum capital requirement.

(5) The following requirements shall be satisfied by independent insurance intermediaries above and beyond the stipulations of Subsection (1):

- a) ownership title or the right to use or lease premises that are appropriate for the activities,
- b) systems of files and records permitting individual identification of the activities performed.

(6) The director of independent insurance mediation activities shall

a) have no prior criminal record; nor shall he be the executive officer of a business association that has been the subject of bankruptcy or liquidation proceedings during the three-year period preceding the date on which the application is submitted;

b) have a college or university degree and at least three years of experience as an insurance executive or as an insurance consultant at an insurance company, a business association engaged in insurance mediation activities, in the government sector in the field of finance or at trade group; have a total of at least five years experience in the field of insurance in the employment of the above-specified organizations whether under contract of employment, civil service relationship or any other form of gainful employment; or have graduated from a secondary education institution or have at least seven years of experience as an insurance executive at an insurance company or a business association engaged in insurance mediation activities, and

- c) be engaged in mediating exclusively at the given insurance intermediary,
- d) not be employed by or perform work for any insurance company.

(7) The end of the period of professional experience specified under Paragraph b) of Subsection (6) shall be within ten years of the date of filing the application for registration.

Section 39.

(1) Independent insurance intermediaries must - at all times - have liability insurance coverage of a minimum of 250 million forints per claim and a minimum of 375 million forints of aggregate coverage per year for the entire territory of the European Union or 375 million forints of secured financial reserves. Before authorization, the applicant independent insurance intermediary shall provide the Commission with proof of having contracted the above liability insurance coverage or the existence of the secured financial reserves.

(2) The minimum content requirements for the liability insurance of independent insurance intermediaries shall be decreed by the Government.

Section 40.

(1) The Commission may withdraw the authorization and may simultaneously remove from the register the independent insurance intermediary

- a) that no longer satisfies either of the requirements prescribed in this Act for registration and operation,
- b) whose system of records or annual report contain false information,
- c) whose conduct seriously or repeatedly violates the interests of the policyholders,
- d) that has repeatedly or seriously violated the provisions of relevant legal regulations, as revealed by inspection,
- e) that fails to commence independent insurance mediation within one year from the date of authorization or suspends its independent insurance mediation without authorization for more than six months,
- f) if the measures imposed by the Commission during the suspension of the activities of the independent insurance intermediary did not eliminate the infringement for which they were issued.

(2) Above and beyond the reasons contained in Subsection (1), the Commission may withdraw the authorization for a branch office of a third-country independent insurance intermediary if the parent independent insurance intermediary is no longer authorized to engage in independent insurance mediation activities according to the laws of the country in which it is established.

Section 41.

(1) The independent insurance intermediary must ascertain as to whether the natural person engaged in mediating insurance on his behalf in employment or under contract, or the natural person engaged in mediation in the employment of or under contract with a business association engaged in mediation on his behalf is registered in the central register.

(2) All natural persons engaged in independent insurance mediation in the employ of a business association providing independent insurance mediation services or in the employ of another business association that is contracted with that business association shall have no prior criminal record and a college or university degree or professional qualifications as specified in Schedule No. 13 to this Act.

(3) Independent insurance intermediaries shall register all of the natural persons engaged in mediating insurance who are employed or commissioned by them or who operate in another work-related legal relation, or, if an independent insurance intermediary contracts an economic operator for the purpose of mediation, it shall register the economic operator and the natural persons engaged in mediation who are employed by the economic operator. The data and information these registers are to contain are indicated in Point 2 of Schedule No. 5. Independent insurance intermediaries must notify the Commission of any changes in the data specified under Point 2 of Schedule No. 5 - with the exception of Paragraphs *A) b), fb) and fc)* and Paragraph *B) b)* - within 30 days.

(4) The name of an insurance intermediary shall be entered in the central register on the basis of the report made by the insurance company or independent insurance intermediary for whom he mediates insurance. Any changes in the particulars of the insurance intermediary, recorded in accordance with Subsection (3), shall be reported to the Commission by the insurance company or the independent insurance intermediary in question.

(5) Insurance companies and independent insurance intermediaries shall notify their insurance intermediaries, including changes in their particulars, in the manner prescribed by the Commission.

(6) Natural persons engaged in insurance mediation activities, whether on their own behalf or on behalf of business associations, shall be required to supply proof of the conditions for registration to the insurance company or independent insurance intermediary in whose register he has been entered.

Section 42.

(1) Independent insurance intermediaries shall act at all times in observation of the rules of professional conduct. Independent insurance intermediaries shall be held liable for any failure to fulfill the above-specified obligation (independent insurance intermediary misconduct), particularly for wrong or misleading advice, irregular handling of premiums and any delay in forwarding declarations. This liability shall apply to all persons acting in the name of the independent insurance intermediary.

(2) Independent insurance intermediaries shall maintain separate client accounts for handling moneys paid in by the client on behalf of the insurance company or by the insurance company on behalf of the client. Money deposited in a client account may under no circumstances be used to satisfy other creditors, nor in the event of bankruptcy or liquidation proceedings.

(3) For the purposes of Subsection (2), any safe custody account used by an independent insurance intermediary solely for keeping deposits made by clients to the benefit of insurance companies or by insurance companies to the benefit of clients shall be treated as a client account.

Section 43.

The Commission's authorization is required for independent insurance intermediaries to establish another business association to engage in independent insurance mediation activities and for acquiring a qualifying holding in companies pursuing such activities.

Section 44.

(1) Independent insurance intermediaries shall maintain a records system with sufficient facilities to permit individual identification of concluded insurance transactions in due observation of the rules contained in Sections 153-165.

(2) An annual report containing material information from the above-specified records that is not suitable for individual identification shall be sent to the Commission by 31 May following the year to which it pertains.

(3) Rules for the reports to be filed by independent insurance intermediaries shall be decreed by the Minister of Finance.

Section 45.

An independent insurance intermediary shall provide services either

- a) according to the instructions of a client (broker), or
- b) as instructed under one or more contracts or empowered to act in the name and on behalf of one or more insurance companies offering their competitive products (multiple-insurance agent).

Insurance Brokers

Section 46.

(1) Insurance brokers are engaged in activities preparatory to the conclusion of contracts of insurance. Their activities may include concluding the contract on behalf of the client and participating in enforcing the client's claims. If so authorized by the insurer, the broker is entitled to act on the client's orders to accept payments of insurance premiums and, if agreed upon by the insurance company or instructed by the client, to participate in the assessment of risk and in the performance and fulfillment of the contract according to the rights and obligations stipulated therein.

(2) Economic operators engaged in insurance brokering may not engage in agency or multiple insurance agency.

(3) The activities of insurance brokers preparatory to the conclusion of insurance contracts shall include the analysis of other insurance contracts available on the market to the extent necessary.

(4) Prior to conclusion of the insurance contract, the insurance broker shall interview the client so as to ascertain the needs and requirements of the client, as well as the reasons underlying the advice given by the intermediary in connection with the insurance product in question.

Multiple-Insurance Agents

Section 47.

(1) Multiple-insurance agents are engaged in activities preparatory to the conclusion of contracts of insurance. Their activities may include - in addition to concluding the contract - accepting payments of insurance premium if so authorized by the insurance company and participating in the performance of contractual rights and obligations and in the administration of the contract.

(2) Multiple-insurance agents may not engage in insurance brokering.

Insurance Agents

Section 48.

(1) Insurance agents are engaged in activities preparatory to the conclusion of contracts of insurance. Their activities may include - in addition to concluding the contract - to accept payments of insurance premiums if so

authorized by the insurance company and to participate in the performance of the insurance company's contractual rights and obligations and in the administration of the contract. Insurance agents must have a thorough knowledge of the products they mediate.

(2) Any damage caused by an insurance agent or any other person in the employ of the insurance agent for mediating insurance by contract or otherwise while engaged in mediating insurance shall be the liability of the insurance company. If the insurance agent is involved with more than one insurance company, liability for damages caused by the agent while engaged in mediating insurance shall fall upon the insurance company on whose behalf the mediation took place.

(3) The natural persons engaged in insurance agency (including any economic operator engaged in insurance mediation and the persons engaged in insurance mediation on behalf of an economic operator that is engaged in insurance mediation in an agency or other legal relation) shall have no prior criminal record and a college or university degree or professional qualifications specified in Schedule No. 13 to this Act.

(4) The requirement of professional qualifications prescribed in specific other legislation shall be considered satisfied with respect to an insurance agent or a natural person employed by the insurance agent to direct insurance mediation operations if attendance in basic training provided by an insurance company approved to provide such training by virtue of the specific other legislation referred to in the above Subsection and having passed the ensuing examination are properly verified by the insurance company.

(5) The natural persons engaged in insurance mediation activities subject to registration by the Commission must be supplied with picture identification documents by the insurance company or the independent insurance intermediary. The document must indicate the natural person's name and address and the registration number he was issued by the Commission upon registration. If a natural person is engaged in insurance mediation activities on behalf of an economic operator, the document shall also indicate the name, address and registration number of the economic operator.

(6) Apart from the reason under Subsection (6) of Section 36, the Commission shall remove from the register the insurance agent

- a) that no longer satisfies either of the requirements prescribed in this Act for registration and operation,
- b) whose conduct seriously or repeatedly violates the interests of the policyholders.

(7) When removed from the register by the Commission, the insurance agent shall return his picture identification document to the issuing insurance company.

Section 49.

(1) An insurance company must ascertain whether the natural persons it commissions to mediate insurance or, if it commissions an economic operator to mediate insurance, the natural persons who mediate insurance at such economic operator are registered in the central register.

(2) Insurance companies shall register all of the natural persons whom they have employed or commissioned to mediate insurance or, if an economic operator has been commissioned to mediate insurance, the economic operator and the natural persons who mediate insurance at the economic operator. The detailed regulations for these registers are contained in Point 2 of Schedule No. 5. Insurance companies must notify the Commission of any changes in the data specified under Point 2 of Schedule No. 5 - with the exception of Paragraphs *A) b), fb) and fc)* and Paragraph *B) b)* - within 30 days.

(3) Insurance companies shall retain the documents attached to the register of natural persons engaged directly in insurance mediation (such as certificate of criminal history, copy of diploma in proof of education) with respect to each natural person under contract for mediating insurance for 5 years following the termination of such relationship.

Principal Agents

Section 50.

(1) A principal agent is an agent of the insurance company who is fully authorized to perform functions within the insurance company's system of business management, in particular such as contracting, issuing policies and

accepting payment of insurance premiums. A principal agent may be engaged in insurance mediation activities on behalf of one insurance company only.

(2) The insurance company shall notify the Commission prior to the employment of a principal agent.

(3) The principal agent and the director of principal agency activities shall

a) have no prior criminal record,

b) have a college or university degree and at least three years of experience as an insurance executive or insurance consultant at an insurance company, a business association engaged in insurance mediation activities, in the government sector in the field of finance, or at a trade organization, or shall have worked as an insurance intermediary for five years or have a total of at least five years experience in the field of insurance in the employment of the above-specified organizations whether under contract of employment, civil service relationship or any other form of gainful employment; or have graduated from a secondary education institution or have at least seven years of experience as an insurance executive at an insurance company or a business association engaged in insurance mediation activities.

(4) The end of the period of professional experience specified under Paragraph b) of Subsection (3) shall be within ten years of the date of filing the application for registration.

Insurance Consultants

Section 51.

(1) The insurance consultant (hereinafter referred to as "consultant") provides consulting services concerning insurance matters on the basis of a written agreement for professional services in return for a fee payable solely by the client and takes part in person in the implementation of the advice he has given. Insurance consultants may not intermediate insurance (reinsurance) contracts.

(2) Consulting services may be provided by natural persons or economic operators following registration by the Commission. The contents of the central register are indicated in Points 1. C) and 1. D) of Schedule No. 5 of this Act. The Commission shall publish on its official website the names of natural persons and the person who directs consulting operations at the economic operators that provide consulting services as well as the name and address of the economic operator, along with the information contained in Points 1. C) b)-d) and Points 1. D) b) and c) of Schedule No. 5.

(3) Insurance consultants - whether a natural person, a business association or the Hungarian branch office of a foreign consultant (hereinafter referred to as "consultant branch office") - must, at all times, have liability insurance coverage of a minimum of 50 million forints per claim and per year, or a minimum of 50 million forints of secured financial reserves. The minimum content requirements for the liability insurance of consultants shall be decreed by the Government. Before authorization, the applicant consultant shall provide the Commission with proof of having contracted the above liability insurance coverage or the existence of the secured financial reserves.

Section 52.

(1) In the case of business associations consulting services may be provided only if the business association has never been and is not adjudicated in bankruptcy or liquidation at the time when the application for registration is submitted.

(2) The consultant and the director of consulting activities at a business association engaged in insurance consulting or a consulting branch office shall

a) have no prior criminal record,

b) have a college or university degree and at least three years of experience as an insurance executive or as an insurance consultant at an insurance company, a business association engaged in insurance mediation activities, in the government sector in the field of finance, or at a trade organization or shall have worked as an insurance consultant or have a total of at least eight years experience in the field of insurance in the employment of the above-specified organizations whether under contract of employment, civil service relationship or any other form of gainful employment,

c) have the professional qualifications specified in Schedule No. 13 to this Act.

(3) The end of the period of professional experience specified under Paragraph b) of Subsection (2) shall be within ten years of the date of filing the application for registration.

(4) The Commission shall refuse to register any consultant who is unable to satisfy the requirements laid down in Section 51 and in this Section.

(5) The types of professional qualifications for insurance, the rules concerning the qualification requirements and the positions for which such qualifications are mandatory shall be decreed by the Minister of Finance.

Section 53.

The Commission shall remove from the register any consultant

a) who no longer satisfies either of the requirements prescribed in this Act for registration and operation, thus in particular lacking the liability insurance coverage or the financial security prescribed in this Act;

b) who is engaged in insurance underwriting or insurance intermediating activities;

c) whose conduct seriously or repeatedly violates the interests of the policyholders;

d) who has repeatedly or seriously violated the provisions of relevant legal regulations, as revealed by inspection;

e) if the measures imposed by the Commission during the suspension of the activities of the consultant did not eliminate the infringement for which they were issued.

Activities of an Independent Insurance Intermediary in other Member States through a Branch Office or in the Form of Cross-Border Services

Section 54.

(1) Any independent insurance intermediary planning to open a branch office in another Member State or to engage in insurance mediation activities in the form of cross-border services for the first time shall notify the Commission in advance.

(2) Within one month of receiving the notification referred to in Subsection (1), the Commission shall inform the competent supervisory authority of the other Member State of the independent insurance intermediary's planned activities and shall inform the affected independent insurance intermediary accordingly.

(3) The Commission shall convey to the applicant the information received from the supervisory authority of the other Member State concerning the regulations pertaining to insurance mediation in that Member State.

(4) The independent insurance intermediary may commence operations in the other Member State after the notification referred to in Subsection (2) has been received from the Commission or the one-month disclosure period has passed.

(5) Upon receipt of notice from the competent supervisory authority of another Member State of the European Union in regard to an independent insurance intermediary that is registered under its jurisdiction and is planning to engage in insurance mediation activities for the first time in the territory of the Republic of Hungary, the Commission shall communicate the Hungarian regulations pertaining to such activities to the independent insurance intermediary in question within one month.

Representation of Foreign Insurance Companies, Insurance Intermediaries and Consultants in Hungary

Section 55.

(1) Foreign insurance companies (independent insurance intermediaries and consultants) may establish permanent representative offices (hereinafter referred to as "representative office") in Hungary.

(2) Representative offices are established to act in the name of the insurance company (independent insurance intermediary, consultant) to represent and promote its activities.

(3) Representative offices are not authorized to provide insurance, insurance mediation and insurance consulting services.

(4) The name of the representative office shall denote the name of the insurance company (independent insurance intermediary, consultant) represented and the fact that it is a representation.

(5) A representative office shall be deemed permanent if

a) the period spent in Hungary by the representative assigned to manage the office or by the representatives, if there is a replacement without any lapse in time, exceeds 180 days in a calendar year, or

b) the representative performs his activity, irrespective of its duration, under permanent circumstances (e.g., by leasing an office in which to conduct business).

Section 56.

(1) When a new representative office is established, the Commission must be notified within 30 days. The notification shall contain:

a) proof of the director of the representative office having no prior criminal record,

b) name, organizational structure, head office, place and date of registration, scope of activities and the specifics relating to the assets and management of the insurance company (independent insurance intermediary, consultant) represented,

c) description of the activities to be pursued by the representative office and the particulars of the officer(s) to be employed,

d) address of the representative office,

e) planned duration of operations.

(2) The representative office shall notify the Commission within thirty days if

a) it is terminated,

b) there are any changes in the data of record indicated under Subsection (1).

PART THREE

AUTHORIZATION AND NOTIFICATION

Chapter I

ACTIVITIES REQUIRING AUTHORIZATION

Section 57.

(1) The Commission's authorization shall be required for

a) the foundation of insurance companies (Sections 58-62);

b) commencement and termination of insurance activities, and for the commencement of activities involved in or closely related to insurance activities (Section 63);

c) independent insurance intermediaries and principal insurance agents (Sections 38 and 50);

d) any changes in insurance activity (Section 92);

e) transferring the insurance portfolio (Sections 93-95);

f) transformation, merger and demerger of insurance companies;

g) investment of technical reserves of insurance companies in excess of the limits defined in this Act, and for any deviation from the categories of assets;

h) foundation of an insurance company or independent insurance intermediary in a third country by a resident insurance company as well as for the acquisition of any share in a third-country insurance company or a business association engaged in independent insurance mediation activities and for establishing a branch in a third country;

i) foundation of a business association to engage in independent insurance mediation activities in a third country by a resident independent insurance intermediary as well as for the acquisition of a qualifying holding in such company or in an insurance company and for establishing a branch office in a third country (Section 42);

j) acquisition of an interest specified in Subsection (1) of Section 111;

k) foundation of a business association to engage in independent insurance mediation activities by an independent insurance intermediary as well as for the acquisition of a qualifying holding in such company;

l) in respect of an insurance company licensed to provide life assurance and non-life insurance, replenishing any deficiency in the solvency margin of one branch of insurance from another in accordance with Subsection (5) of Section 124;

m) employment (appointment, election) of the persons specified in Paragraph j) of Subsection (2) of Section 70, Section 83 and Sections 86-90, whether a paid employee's or in a self-employed capacity;

n) amendment of the charter in terms of payments to be made from the shares of association members, if the association's solvency margin is calculated in consideration of these shares;

o) the inclusion of reinsurance to the extent specified in Subsection (5) of Section 126;

p) the suspension of the activities of an independent insurance intermediary upon request.

(2) The applicant shall supply a statement in which it declares that it has provided the Commission with all of the data and information required for the authorization(s) of activities under this Act.

(3) The Commission shall resolve all matters of authorization on the basis of the provisions of this Act and other legal regulation on insurance and with due consideration to the interests of the policyholders and the fulfillment of the commitments of insurance companies.

(4) In the cases referred to in Paragraph f) of Subsection (1), the Commission shall examine all the conditions that are also required for the authorization of the commencement of activities.

(5) The Commission's authorization of the operations defined in Paragraphs h) and i) and - if the insurance portfolio is received from an insurance company that is registered in a third country or in a Member State - Paragraph e) of Subsection (1) shall not exempt the applicant from the obligation of obtaining the other authorizations required by the regulations of the country where the activity is pursued.

(6) The services referred to in Paragraph c) of Subsection (6) of Section 5 may be performed for an insurance association with which the insurance company has ties in the field of insurance activities. Authorization shall be granted subject to the applicant being able to satisfy the requirements laid down in the CMA regarding portfolio management activities. In the course of carrying out the activities, the regulations prescribed in the CMA for portfolio management shall apply.

Authorization of the Foundation of Insurance Companies

Section 58.

The application for a foundation permit of an insurance company shall include:

a) the deed of foundation (charter), which clearly defines the type and sphere of activities of the insurance company to be established;

b) estimates of the costs of setting up the administrative services and the organization for securing business; proof of the financial resources intended to meet those costs deposited in a credit institution;

c) description of the drafts for the organizational structure, system of management, decision making and control mechanisms as well as the bylaws, if such are not contained in detail in the deed of foundation;

d) in the case of applicants domiciled abroad, a statement concerning the applicant's agent for service of process;

e) the applicant's statement in which it declares that it has provided the Commission with all of the data and information required for the authorization(s) of activities under this Act;

f) in the case of joint-stock insurance companies, information concerning the shareholders, whether they are natural or legal persons, on persons with a qualifying holding and the extent of the qualifying holding;

g) in the case of insurance cooperatives, information on the members, whether they are natural or legal persons, and on the face value of the members' share certificates.

h) in the case of insurance companies that are subject to supervision on a consolidated basis or supplementary supervision, a description of the apparatus for the conveyance of information related to supervision on a consolidated basis or supplementary supervision and a statement from the persons with a close link to the insurance company guaranteeing to provide the Commission with the data, facts and information that are necessary for supervising the insurance company on a consolidated basis or for supplementary supervision;

i) a statement from each natural person closely affiliated with the insurance company containing his consent to have the personal data he has disclosed to the insurance company processed and released for the purposes of supervision on a consolidated basis or supplementary supervision in accordance with this Act.

Section 59.

With the exceptions laid down in Subsections (3) and (4) of Section 64, an insurance company - other than reinsurance companies - shall not be authorized to provide life assurance and non-life insurance concurrently.

Section 60.

If there is a person among the founders of an insurance company limited by shares who wishes to acquire a qualifying holding in the insurance company under foundation, the following must be attached to the application for authorization in addition to what is contained in Section 58:

- a) proof of the requirements contained in Paragraphs b) and f)-h) of Subsection (3) of Section 111,
- b) proof of the requirements contained in Subsections (4) and (5) of Section 111.

Section 60/A.

The Commission shall request the opinion of the competent supervisory authorities of other Member States of the European Union concerned prior to issuing a foundation permit to an insurance company if the insurance company requesting the permit:

- a) is a subsidiary of an investment firm, credit institution or insurance company established in another Member State of the European Union;
- b) is a subsidiary of the parent company of an investment firm, credit institution or insurance company established in another Member State of the European Union;
- c) has an owner, whether a natural or legal person, with a dominant influence in an investment firm, credit institution or insurance company that is established in another Member State of the European Union.

Section 61.

In possession of the foundation permit, the insurance company may begin to make preparations for its insurance activity and activities involved in or closely related to insurance.

Section 62.

The Commission shall refuse to grant authorization for foundation if

- a) any information provided by the applicant is false or misleading,
- b) the application fails to satisfy the requirements laid down in Section 58,
- c) the organizational structure of the proposed insurance company is not in compliance with the requirements set out in this Act.

Authorization for the Commencement of Insurance Operations

Section 63.

(1) Upon receipt of the Commission's authorization for foundation, the insurance company shall submit an application within 90 days for authorization for the commencement of insurance operations. The Commission shall revoke the foundation permit from any insurance company that fails to submit the above-specified application in due time. The Commission shall have powers to conduct inspections to check compliance with the requirements for operations.

- (2) The application for authorization for the commencement of insurance operations shall include:
- a) proof of possession of the minimum security capital;
 - b) the scheme of operations;
 - c) proof of compliance with personnel and material requirements;
 - d) a statement to indicate the proposed date for the commencement of operations;
 - e) a statement declaring the presence of sufficient facilities to comply with the data disclosure obligations prescribed in or on the basis of legal regulations, as well as the results of tests of the computer programs used for such disclosure of data;
 - f) the scheme of accounting policy and a detailed accounting system;
 - g) the procedure to be applied in the event of an emergency situation seriously jeopardizing the liquidity or solvency of the insurance company;
 - h) the applicant's statement in which it declares that it has provided the Commission with all of the data and information required for the authorization(s) of activities under this Act;
 - i) if the application pertains to covering risks under motor vehicle liability, proof of appointment of claims representatives in all Member States where such risks are covered;
 - j) money laundering regulations as governed under Act XV of 2003 on the Prevention of Money Laundering.
- (3) The Commission shall not authorize the commencement of operations if
- a) the applicant does not have the minimum security capital contained in Section 126 or the minimum solvency margin to engage in the operations described in the scheme of operations;
 - b) the scheme of operations fails to satisfy the requirements set out in Section 67, if it appears to be unrealistic, or the guarantees in offers are insufficient from the standpoint of the policyholders as far as the fulfillment of commitments are concerned;
 - c)
- (4) The Commission shall also reject the application for authorization if it learns about any facts, information or circumstance based on which it is liable to be prevented from effectively exercising its supervisory functions, in particular if
- a) the activities of any direct or indirect owner of the insurance company or his influence on the insurance company endangers its prudent management for effective, reliable and independent operations;
 - b) the character of business activities and relations of any direct or indirect owner of the insurance company or his direct or indirect ownership in other companies is structured in a manner that obstructs supervisory activities;
 - c) the regulations of a third country in which any direct or indirect owner of the insurance company is domiciled is likely to prevent the effective exercise of supervisory functions.

Conditions for the Commencement of Insurance Activities

Section 64.

- (1) The Commission shall authorize the commencement of operations separately for each branch of insurance requested and each class of insurance for which the insurance company in question is eligible. Authorization pertains to an entire class, unless the insurance company has indicated in its business plan that it only covers selected risks (risk groups) within a class. Authorization for the commencement of operations may also be granted according to the classification of risks under Part B) of Schedule No. 1.
- (2) With the exceptions laid down in Subsections (3) and (4), an insurance company - other than reinsurance companies - shall not be authorized to provide life assurance and non-life insurance concurrently.
- (3) The Commission may authorize an insurance company licensed to engage in the business of life assurance to engage in the classes set out under Points 1 and 2 of Part A) of Schedule No. 1 with an indication that the insurance company shall not be authorized to engage in other classes in the non-life insurance branch.
- (4) The Commission may authorize an insurance company licensed to engage exclusively in the classes set out under Points 1 and 2 of Part A) of Schedule No. 1 to engage in the classes of insurance set out in Schedule No. 2.
- (5) In the cases referred to in Subsections (3) and (4), the regulations pertaining to accountancy and liquidation in the life assurance branch shall apply to all activities of the insurance company.
- (6) Authorization for non-life insurance services may include combining services in various classes of insurance in the manner defined in Part C) of Schedule No. 1.

(7) In terms of territory, the authorization shall apply to all Member States, including where services are provided by way of a branch office or in the form of cross-border services.

Section 65.

The following requirements shall be satisfied for authorization for the commencement and pursuit of insurance operations:

- a) ownership title or the right to use or lease of premises that are appropriate for providing the customer service and claim administration for the insurance operations defined in the scheme of operations and
- b) sufficient facilities for keeping records, data processing and data disclosure, an information and control system for reducing operating risks, and a plan for handling extraordinary situations,
- c) a filing system (manual or automated) with sufficient facilities for data protection.

Section 66.

(1) Upon commencement of insurance activities, the subscribed capital of joint-stock insurance companies, the share capital of cooperatives, the initial capital of associations and the endowment capital of the branch offices of third-country insurance companies must be sufficient to cover

- a) the personnel and material conditions required for the commencement of operations and
- b) the commitments undertaken upon the commencement of operations (minimum security capital).

(2) The minimum amount of the funds referred to in Paragraph b) of Section 58 is

- a) one hundred million forints for joint-stock insurance companies and for branch offices of third-country insurance companies ,
- b) fifty million forints for insurance cooperatives,
- c) one million forints for insurance associations.

(3) Until receipt of authorization for the commencement of operations, the funds of an insurance company referred to in Subsection (2) may only be used to satisfy the conditions of operations as prescribed in this Act.

(4) The amount of minimum security capital shall be determined separately for insurance branches and organizational types in accordance with the provisions of Sections 125-128.

(5) Any insurance company that is engaged in asset management operations under Paragraphs b) and c) of Subsection (6) of Section 5 shall maintain a solvency margin as the minimum solvency margin referred to in Subsection (3) of Section 121 plus 100 million forints.

(6) If the value of the assets of private pension funds and voluntary mutual insurance funds managed by the insurance company reaches or exceeds two billion forints, the amount of its solvency margin must be at least two hundred and fifty million forints plus one per cent of the sum that is in excess of the managed two billion forints of private pension fund and voluntary mutual insurance fund assets. If the own funds of the insurance company are at least one billion forints, any increment in the assets of private pension funds and voluntary mutual insurance funds it manages need not be compensated by increasing its own funds.

Scheme of Operations

Section 67.

(1) The scheme of operations shall specify the scope of the insurance activities and the important facts and information from the perspective of performing the commitments undertaken in the insurance contract, particularly:

- a) descriptions of the branch and class of insurance and the risk categories in the various classes;
- b) definition of the field of operation;
- c) amount and composition of the capital required for commencing the activities;
- d) plans for setting up administration, sales and claim adjustment networks; the estimated costs involved and the resources that will finance them; if the insurance company plans to provide assistance services, a description of the financial resources and other assets at the insurance company's disposal for performing such assistance services.

(2) In addition to what is contained in Subsection (1), the scheme of operations shall contain estimated figures for the first three years of operation for

- a) operating costs, particularly the costs of acquisitions, administration and claim adjustment;
- b) the number of policies and the proceeds from premium payments for each product;
- c) the ratio between revenue and settlements for each product;
- d) the estimated liquidity position;
- e) financial resources required to cover underwriting obligations, the minimum solvency margin and the minimum security capital;
- f) a forecast balance sheet.

(3) In addition to what is contained in Subsection (2), the scheme of operations shall specify any plans pertaining to reinsurance, showing separately the estimated proceeds and expenses regarding reinsurance.

Conditions for Mortgage Loan Operations

Section 68.

(1) The Commission's authorization is required for an insurance company to commence mortgage loan operations. The application for authorization shall contain:

- a) the charter,
- b) the scheme of operations,
- c) proof of having the personnel and material conditions for commencing the activities,
- d) adequate proof of having the requisite minimum solvency margin following commencement of the activities.

(2) The Commission shall not grant authorization if it deems it possible that the insurance company will not be able honor those of its commitments arising from insurance contracts following the commencement of mortgage loan operations.

(3) The amount of principal in a mortgage loan must not exceed sixty per cent of the value of the real property being used as security, which provides the basis for determining the amount of the loan (hereinafter referred to as "credit insurance value"). In order to secure the loan, a clause shall be added to ban the alienation and encumbrance of the mortgaged property.

(4) The amount of the mortgage loan may not exceed the amount of coverage of the underlying life assurance policy.

(5) The methodological principles for establishing credit insurance value are laid down in specific other legislation. Based on these provisions, insurance companies shall prepare credit insurance value calculation regulations, which shall be submitted to the Commission for approval.

Section 69.

(1) Insurance companies shall rate and evaluate the individual risks, outstanding receivables and securities in connection with mortgage loan operations in the manner specified in Subsection (3).

(2) The aggregate amount of all mortgage loans placed by an insurance company shall not exceed five per cent of its life assurance premium reserve.

(3) The Minister of Finance shall decree the regulations on exposures, on the determination, analysis, evaluation and definition of exposures relating to mortgage loan operations, on the management and reduction of exposures and on the control of risks.

(4) The personnel and material requirements for the commencement and pursuit of mortgage loan operations shall be decreed by the Government.

Authorization for the Foundation of Branch Offices by Third-County Insurance Companies, Insurance Intermediaries and Insurance Consultants

Section 70.

(1) In addition to the requirements laid down in Sections 38, 50, 63 and 66, applications for authorization for the commencement of activities by branch offices of third-country insurance companies and independent insurance intermediaries shall contain:

a) the memorandum of association of the third-country insurance company, a copy of its authorization and its audited balance sheet for the previous three years;

b) a statement from the supervisory authority of the country of registration in which it states that foundation of a branch office in the territory of the Republic of Hungary is not against the laws of that country and that it does not jeopardize the operation of the applicant insurance company, insurance intermediary or insurance consultant in question.

(2) Apart from the conditions laid down in Subsection (1), the Commission shall authorize the commencement of operations of branch offices of third-country insurance companies and independent insurance intermediaries if

a) there is a cooperation agreement in force between the Commission and the supervisory authorities of the country in which the applicant insurance company, insurance intermediary or insurance consultant is established and if such agreement is based on the mutual recognition of supervisory authorities and addresses issues pertaining to branch offices;

b) the country in which the applicant insurance company or insurance intermediary is established has legal regulations on money laundering that conform to the requirements prescribed by Hungarian law;

c) the country in which the applicant insurance company or insurance intermediary is established has legal regulations on data protection that conform to the requirements prescribed by Hungarian law;

d) the country in which the applicant insurance company or insurance intermediary is established has legal regulations on data processing that conform to the requirements prescribed by Hungarian law;

e) the applicant insurance company or insurance intermediary states that it guarantees the liabilities incurred by its branch office;

f) the applicant insurance company or insurance intermediary declares its commitment to open an account in a Hungarian credit institution to handle all transactions involved in its activities in the territory of the Republic of Hungary;

g) the applicant insurance company or insurance intermediary declares its commitment to keep the records and registers relating to its Hungarian operations in the territory of the Republic of Hungary;

h) the applicant insurance company is in possession of liquid assets sufficient to cover the amount of the minimum security capital referred to in Subsection (6) of Section 126, and having deposited one-quarter of these assets as security;

i) the applicant insurance company submits the standard contract conditions it wishes to employ;

j) any variations in the register referred to in Subsection (2) of Section 49 regarding the data specified in Point 2 of Schedule No. 5 - with the exception of Paragraphs *A) b), fb) and fc)* and Paragraph *B) b)*;

k) the seat and the main office of the applicant insurance company or insurance intermediary is in the same country.

(3) The general representative of the branch office of a third-country insurance company or insurance intermediary shall

a) have no prior criminal record,

b) have the appropriate professional qualifications and a good business reputation,

c) have at least five years of experience in the field of insurance or as an insurance executive in the government sector in the field of finance,

d) have a college or university degree.

(4) Branch offices of third-country insurance companies shall be required to keep the liquid assets covering the minimum security capital in the territory of the Republic of Hungary and may keep the assets covering the remainder of the minimum solvency margin in any Member State. The supervisory authority of the country selected under Subsection (5) shall have powers to monitor the branch offices' compliance with the solvency margin requirements in all of the Member States affected.

(5) If a third-country insurance company applied for or received authorization for the foundation of a branch office in more than one Member State, it may request authorization to keep the deposit referred to in Paragraph h) of Subsection (2) in only one of the Member States affected. Such authorization shall be subject to

a) adequate proof of deposit,

b) consent of all supervisory authorities of the Member States concerned,

c) indication of the competent supervisory authority selected, including an explanation.

(6) The Commission shall publish a bulletin on the conclusion of the agreements referred to in Paragraph a) of Subsection (2) in the Financial Gazette.

(7) The Commission may, periodically, request information from the branch offices of third-country insurance companies concerning the contract conditions for the insurance policies they provide with the related documents in order to verify their compliance with legal regulations.

Chapter II

ACTIVITIES REQUIRING NOTIFICATION

Notification Requirements of Insurance Companies, Insurance Intermediaries and Insurance Consultants

Section 71.

- (1) The insurance company shall notify the Commission within two working days
- a) if it is unable to meet its payment obligations due to insufficient funding;
 - b) if its technical reserves are below the requirement and the cover for the technical reserves is inadequate;
 - c) if its solvency margin is below the minimum solvency margin or the prescribed amount of security capital;
 - d) if it acquires a share in the capital of another company in excess of ten per cent of its own subscribed capital;
 - e) of the election and employment of executive employees and other directors and of any changes in such executive employees and other directors;
 - f) if it has relocated its headquarters;
 - g) if it has terminated its auditor;
 - h) if its credit liabilities have exceeded 5 per cent of its subscribed capital.
- (2) The insurance company shall notify the Commission within thirty days concerning
- a) any increase or reduction of its subscribed capital;
 - b) the acquisition of a 5 per cent or higher share in an insurance company that is not subject to authorization according to Subsection (1) of Section 111;
 - c) conclusion of an agreement concerning the internal controller referred to in Subsection (1) of Section 89;
 - d) large exposures in the extent specified in specific other legislation;
 - e) large risks;
 - f) the opening, relocation or closing of a permanent representation abroad or the replacement of the delegated representatives or changes in their particulars;
 - g) the amendment of its charter (deed of foundation);
 - h) its claims representatives appointed to operate in Member States, their particulars relating to their duties and any changes in such data and information;
 - i) cancellation of liability insurance contracts with insurance brokers and consultants;
 - j) any variations in the register referred to in Subsection (2) of Section 49 regarding the data specified in Paragraphs a) and b) of Point 2 of Schedule No. 5;
 - k) any share acquired in the capital of another insurance company, a credit institution, financial enterprise, investment company or investment fund manager that is below the minimum required for a qualifying holding;
 - l) the appointment of an auditor.
- (3) The Minister of Finance shall decree the limits for large exposures and large risks.

Section 72.

- (1) Joint-stock insurance companies shall notify the Commission concerning any changes in their ownership structure within 15 working days of gaining knowledge of such changes.

(2) The insurance companies offering unit-linked life assurance policies shall notify the Commission of the managed funds it offers with such life assurance policies within fifteen working days from the day they were introduced. The notification shall indicate the name of the managed fund and the underlying investment policy.

(3) The insurance company shall notify the Commission within fifteen working days from the date of termination of a managed fund. The notification shall indicate the name of the managed fund, the reason for which it was terminated, the procedure for the transfer of assets to other funds and the information sent to the clients.

Section 73.

(1) The insurance company and the independent insurance intermediary shall notify the Commission within fifteen working days if a natural person engaged in insurance mediation on its behalf did not provide proof of compliance with the professional qualifications prescribed in Subsection (2) of Section 41 and Subsection (4) of Section 48 within the time limit specified in Subsection (5) of Section 36 and Subsection (1) of Section 229.

(2) The insurance company must immediately report to the Commission if the performance of the outsourced activity violates the law or the outsourcing contract, thus jeopardizing the interests of policyholders.

(3) The chairman of the supervisory board of the insurance company shall, within ten working days of a board meeting, convey to the Commission the minutes, motions and reports that pertain to the agenda of the supervisory board and concern a serious violation of the insurance company's internal regulations or a serious offense or irregularity in management.

Section 74.

(1) Independent insurance intermediaries shall convey to the Commission the data referred to in Point 2 of Schedule No. 5 - with the exception of Paragraphs *A) b), fb)* and *fc)* and Paragraph *B) b)* - and shall report any changes in such data and information within thirty days.

(2) Independent insurance intermediaries and consultants shall notify the Commission within two working days

- a) if the person directing the activities of the independent insurance intermediary or the chief consultant is replaced and if the liability insurance contract is terminated;
- b) if its headquarters or place of business is relocated.

(3) In addition to the requirements laid down in Subsection (1), the independent insurance intermediary shall notify the Commission within thirty days of any increase or reduction of its nominal capital (registered capital).

(4) Foreign insurance companies shall report to the Commission within thirty days with regard to the opening, relocation or termination of their permanent representative offices in Hungary and any variation in the particulars or in the persons delegated to operate such representative offices.

Section 75.

(1) Any independent insurance intermediary planning to open a branch office in another Member State or to engage in insurance mediation activities in the form of cross-border services for the first time shall notify the Commission in advance.

(2) The insurance company shall notify the Commission if it wishes to establish a branch office in another Member State and shall also notify the Commission and the competent supervisory authority of the Member State affected one month in advance of any changes in the data referred to in Paragraphs *b)-f)* of Subsection (2) of Section 79 that may occur subsequent to the commencement of operations.

(3) Any insurance company planning to engage for the first time in insurance activities in another Member State in the form of cross-border services shall notify the Commission in advance and specify in accordance with Paragraphs *a)-c)* of Subsection (2) of Section 81 the activities it wishes to conduct in that Member State.

(4) The insurance company shall notify the Commission of any changes in the data referred to in Paragraphs *a)* and *b)* of Subsection (2) of Section 81 while it is engaged in cross-border services.

Regulations for Outsourcing

Section 76.

(1) With due observation of the provisions on data protection, insurance companies may outsource any part of their administration processes except the ones listed under Point I of Schedule No. 6. The restriction contained in Point I of Schedule No. 6 shall not apply to the expert services necessary for the performance of tasks that cannot be outsourced. Sales of products by others shall not be treated as outsourcing.

(2) Outsourcing can take place on condition that the insurance company retains direction and control of the outsourced activities.

(3) Insurance companies shall be required to notify the Commission when outsourcing any of the activities listed under Point II of Schedule No. 6 in their quarterly reports. The notification shall contain a notice that the contract has been executed, the name and address of the outsourcing service provider and the duration of outsourcing.

Section 77.

(1) The Commission shall have powers to check the activities performed by an outsourcing service provider in the same manner and with the same means as if they were performed by the insurance company.

(2) The insurance company shall be held liable for any and all damages caused to third parties by the outsourced activities.

(3) The insurance company is responsible to ensure that the outsourcing service provider is performing the activity in compliance with the legal regulations and with due care and attention. If it comes to the insurance company's attention that performance of the outsourced activity violates the law or the underlying contract, it shall forthwith advise the outsourcing service provider to perform the activities in compliance with the law and with the contract. If, in spite of the warning, the outsourcing service provider continues to perform the activities in violation of the law or in repeated and serious breach of the contract, the insurance company must cancel the contract effective immediately.

(4) The Commission may prohibit the outsourcing of an activity if it comes to its attention that the insurance company has failed to discharge its obligation under Subsection (3).

(5) Any outsourcing service provider that performs activities for several insurance companies at one time must separately handle the facts, data and information of which it thereby gains knowledge in due observation of the provisions on data protection.

(6) An insurance company shall not be allowed to outsource any activities to a service provider

a) in which an executive officer of the insurance company or a close relative of such executive officer has an ownership interest, or

b) in which an executive officer of the insurance company or a close relative of such executive officer holds an executive office.

(7) The restriction contained in Subsection (6) shall not apply if the insurance company and the outsourcing service provider are owned by the same person, if the outsourcing service provider owns the insurance company, if the outsourcing service provider is owned by the insurance company or if they belong to the same ownership group.

Section 78.

(1) The outsourcing contract shall contain the following:

a) the obligations and responsibilities on the part of the outsourcing service provider concerning any and all confidential insurance information it obtains during its activities and the measures to be taken in order to protect such secrets;

b) the outsourcing contractor's consent for the control of the outsourced activities by the insurance company's internal control and its auditor, and by the Commission;

c) the outsourcing service provider's responsibility for performing the activity at an appropriate level;

d) the detailed requirements for the quality of performance of the activities that is expected of the outsourcing service provider;

e) the prospect of immediate cancellation of the contract by the insurance company in the event of the outsourcing service provider's repeated or serious violation of the contract.

(2) The insurance company must insert a clause in the outsourcing contract to instruct its contractual partner to cooperate fully with officers conducting any form of regulatory inspection and to release any data, documents and information related to the outsourced activity. If outsourcing involves the insurance company conveying the personal data of its clients to the outsourcing service provider, the underlying contract shall contain provisions laying down the order of data processing and the rules of data protection.

(3) If outsourcing involves the insurance company conveying the personal data of its clients to the outsourcing service provider, data processing performed by the outsourcing service provider shall be treated as carried out on behalf of the insurance company.

Rules for Establishing Insurance Branch Offices in Other Member States

Section 79.

(1) Insurance companies shall notify the Commission if they wish to open a branch office in another Member State.

(2) The notification referred to in Subsection (1) shall contain:

- a) an indication of the Member State in which the insurance Company wishes to open the branch office;
- b) documents pertaining to the branch office's organizational structure, management, and control procedures;
- c) description of the activities it would like to pursue;
- d) the business plan;
- e) the name(s) of the person(s) responsible for managing the branch office and of the authorized representatives;
- f) the branch office's name and address;
- g)

(3) If, according to the information provided to the Commission, the management structure of the reporting insurance company and its financial situation are in accord with the relevant statutory provision, the Commission shall inform, in writing, the competent supervisory authority of the Member State concerned within three months of the day on which it receives the notification and shall inform the affected insurance company accordingly.

(4) In the information specified in Subsection (3), the Commission shall verify that the insurance company creating the branch office has the necessary solvency margin.

Section 80.

(1) The Commission shall refuse to provide the information under Subsection (3) of Section 79 if the insurance company fails to disclose the data referred to in Subsection (2) of Section 79 or if the management structure of the reporting insurance company and its financial situation are not in accord with the relevant statutory provisions. If the Commission refuses to communicate the information specified in Subsection (2), it shall issue a resolution informing the insurance company concerned within three months. The grounds for this decision must be presented.

(2) Within two months of receiving the information mentioned in Subsection (3) of Section 79, the competent supervisory authority of the other Member State shall inform the Commission, in writing, regarding the conditions attached to performing the activities the branch office would like to pursue. The Commission shall forward this information to the insurance company concerned.

(3) The branch office may be established and commence operations after the information specified in Subsection (2) has been received or the two-month disclosure period has passed.

(4) If in the course of operations there is any change in the information specified in Paragraphs *b)-f)* of Subsection (2) of Section 79, the insurance company must inform, in writing, the Commission and the competent Commission of the other Member State of such change at least one month in advance so as to enable the supervisory authorities to properly exercise the supervisory functions defined in Subsection (3) of Section 79.

Rules Governing Cross-Border Activities

Section 81.

(1) When an insurance company wishes to engage for the first time in the insurance business in another member state as a cross-border activity, it shall notify the Commission in advance of the types of risks it wishes to cover in the other Member State.

(2) Within one month of receiving the notification referred to in Subsection (1), the Commission shall inform the competent supervisory authority of the other Member State

- a) concerning the branches for which the insurance company is authorized,
- b) concerning the branches it wishes to engage in in the other Member State,
- c) as to whether the insurance company has the necessary solvency margin.

The Commission shall communicate the same information to the reporting insurance company as well.

(3) The Commission shall refuse to provide the information under Subsection (2) if the insurance company fails to disclose the data referred to in Subsection (1) or if the management structure of the reporting insurance company and its financial situation are not in accord with the relevant statutory provisions. If the Commission refuses to communicate the information specified in Subsection (2), it shall issue a resolution informing the insurance company concerned within one month.

(4) The insurance company may commence operations in the other Member State on the day following the date of receipt of the information from the Commission.

(5) The insurance company shall notify the Commission in accordance with Subsection (1) of any changes in the data referred to in Paragraphs a) and b) of Subsection (2) while engaged in cross-border services within fifteen days, upon which the Commission shall proceed according to Subsections (2) and (3).

Section 82.

(1) Upon receipt of notice from the competent supervisory authority of another Member State in regard to the fact that an insurance company that is registered under its jurisdiction is planning to engage in insurance activities for the first time in the form of cross-border services, the Commission shall inform the insurance company of the Hungarian regulations pertaining to such activities.

(2) The Commission may, periodically, request information from the insurance company concerning the contract conditions for the insurance policies they provide with the related documents in order to verify their compliance with legal regulations.

Chapter III

PROVISIONS CONCERNING THE EXECUTIVE EMPLOYEES AND OTHER DIRECTORS OF INSURANCE COMPANIES

Executive Employees

Section 83.

(1) Prior to the election or appointment of an executive employee of an insurance company, the candidate must be reported to the Commission 30 days before the proposed date of election or appointment, and the person may be appointed in possession of the Commission's authorization. The Commission must adopt its decision in connection with the appointment of an executive employee within thirty days from the date when the application was submitted or when re-submitted so as to supplement any missing information.

(2) Authorization shall be construed granted if, within thirty days, the Commission does not reject it, suspend the procedure of receipt of the application or request additional information to supplement the application.

(3) The executive employee of an insurance company shall

- a) have no prior criminal record;
- b) have the appropriate professional qualifications and a good business reputation;

c) have at least five years of experience in the field of insurance, business management, or as an insurance executive in the government sector in the field of finance (the end of the prescribed period of professional experience shall be within ten years of the date of filing the application for registration);

d) have a degree in higher education;

e) not be in the employ of an insurance company in the capacity of auditor.

(4) As for the supervisory board members of an insurance company, the provisions of Paragraphs c) and d) of Subsection (3) shall only apply to the chairman of the supervisory board.

(5) No person who has been indicted by the public prosecutor for any of the criminal acts specified in Titles VII and VIII of Chapter XV and Chapters XVII and XVIII of Act IV of 1978 on the Criminal Code or who has been indicted abroad for a property or economic crime that is punishable under Hungarian law may be employed as an executive officer until the conclusion of the criminal procedure, and such persons shall be suspended from the performance of such duties and responsibilities.

(6) In justified cases, the Commission may move for the discharge of an executive employee in consideration of the gravity of the violation of duty.

(7) Any person elected an executive employee to effectively direct the business of an insurance holding company or a mixed financial holding company must satisfy the conditions set out in Subsections (1)-(6).

The Managing Director

Section 84.

(1) Any person to be appointed or elected as the managing director of an insurance company shall meet the general requirements set out in Section 83 pertaining to persons in executive positions and shall be a paid employee of the insurance company except in the case contained in Subsection (2).

(2) Insurance associations with less than three hundred million forints in annual premium revenue may procure the services of the managing director by way of contract.

(3) Authorization to sign on behalf of the company, including disposal of bank accounts, and to undertake any commitment related to insurance on behalf of the insurance company shall be conferred jointly upon two members of the board of directors or two managing directors in the case of insurance companies operating as companies limited by shares or as cooperatives as well as in respect of the branch offices of third-country insurance companies and insurance associations with three hundred million forints or more in annual premium revenues.

(4) The authorization to sign on behalf of any insurance association to which Subsection (3) does not apply, including disposal of bank accounts, and to undertake any commitment related to insurance on behalf of the insurance company conferred upon members of the board of directors or the managing directors may be joint or single.

(5) The joint right to sign as specified in Subsections (3) and (4) may be transferred as a joint or independent authority to sign in accordance with Subsections (3) and (4) and with the order of procedure defined in the internal rules and regulations approved by the insurance company's board of directors. The internal rules and regulations that stipulate the authority to sign of the persons undertaking commitments on behalf of the insurance company must be presented when requested by any of the insurance company's customers.

(6) The chief executive officer of an insurance company must be designated from among the company's managing directors.

Other Executives

Section 85.

(1) With the exception set out in Subsection (6), insurance companies shall employ the following executives in order to carry out insurance activities:

a) senior insurance mathematician (actuary),

b) senior legal counsel,

c) chief accounting officer,

d) director of internal control (internal auditor),
e) chief medical officer if the risks covered under non-life insurance classes 1 and 2 and 18 of Part A) of Schedule No. 1 include sickness and accident or if engaged in the business of life assurance under Schedule No. 2 (hereinafter referred to as "executive managers").

(2) Prior to the appointment of an executive manager the candidate must be reported to the Commission 30 days before the proposed date of appointment, and the person may be appointed in possession of the Commission's authorization. The Commission must adopt its decision in connection with the appointment of an executive manager within thirty days from the date when the application was submitted or when re-submitted so as to supplement any missing information.

(3) Authorization shall be construed granted if, within thirty days, the Commission does not reject it, suspend the procedure of receipt of the application or request additional information to supplement the application.

(4) Executive managers shall be entitled to fill such positions in a maximum of two companies.

(5) The executive staff of insurance associations conforming to the conditions set forth in Paragraph b) of Subsection (4) of Section 126 shall include a managing director.

(6) Insurance associations with less than three hundred million forints in annual premium revenue may procure the services of the executive managers defined in Paragraphs a)-c) of Subsection (1) by way of contract or may hire an independent organization to render the same services, provided the organization employs persons who satisfy the requirements specified in Paragraphs a)-d) of Subsection (1) of Section 86, Paragraphs a)-e) of Subsection (1) of Section 87, and Paragraphs a)-e) of Subsection (1) of Section 88; furthermore, such associations shall not be required to employ an internal auditor. In the case of such associations, the executive managers of an insurance company providing reinsurance to the association shall also be acceptable in the stead of the executive managers referred to in Paragraphs a)-c) of Subsection (1).

(7) The end of the period of professional experience specified under Paragraph b) of Subsection (1) of Section 86, Paragraph c) of Subsection (1) of Section 87, Paragraph c) of Subsection (1) of Section 88 and Paragraph b) of Subsection (2) of Section 89 shall be within ten years of the date of filing the application for registration.

(8) In justified cases, the Commission may move for the discharge of an executive manager in consideration of the gravity of the violation of duty.

(9) When terminating the employment of an executive manager referred to in Paragraphs a)-c) of Subsection (1), the supervisory board shall be notified in advance.

(10) The executive managers referred to in Paragraphs a)-d) of Subsection (1) must be invited to the insurance company's general meeting in an advisory capacity in matters that affect their respective areas of responsibility.

(11) In respect of the Claims Security capital, the organization where such claims are administered shall have the executive managers specified in Paragraphs a)-c) of Subsection (1) placed in charge of the fund.

Senior Insurance Mathematician (Actuary)

Section 86.

(1) Senior mathematicians (actuaries) of insurance companies must satisfy the following conditions:

a) they shall have the appropriate university degree and training as an insurance mathematician (actuary) as defined in specific other legislation;

b) they shall have at least five years professional experience at an insurance company, the Commission, the trade organization of insurance mathematicians (actuaries) or insurance intermediaries, a business association engaged in insurance mediation or at the auditor of an insurance company as an insurance consultant;

c) they shall have no prior criminal record;

d) they shall have the appropriate professional qualifications and a good business reputation;

e) they shall be paid employees of the insurance company.

(2) The signature of the insurance company's senior mathematician (actuary) shall be required to verify

a) accuracy of the reserves contained in the annual report in terms of creation and size,

b) accuracy of the calculation of the solvency margin requirement,

c) distribution of the return on investment in the life assurance branch,

d) correctness of premium calculations,

e) authenticity of the reserves and the data pertaining to Paragraphs a)-d).

(3) Above and beyond the provisions of Subsection (2), the senior mathematician of the insurance company shall verify that the data available are sufficient, complete and consistent and that the methods applied conform to the nature of the risks.

(4) The senior mathematician of the insurance company shall attach an actuary's report to the annual report filed with the Commission.

(5) The content requirements for the actuary's report shall be decreed by the Minister of Finance.

Senior Legal Counsel

Section 87.

(1) Senior legal counsels of insurance companies must satisfy the following conditions:

- a) they shall have a university degree in political science and law;
- b) they shall have passed the bar examination and the insurance law examination;
- c) they shall have at least five years of experience in the field of insurance, or as an insurance executive in the government sector in the field of finance, the trade organization of insurance companies or insurance intermediaries, a business association engaged in insurance mediation or at the auditor of an insurance company as an insurance consultant;
- d) they have no prior criminal record;
- e) they have the appropriate professional qualifications and a good business reputation;
- f) they shall be paid employees of the insurance company.

(2) The senior legal counsel of the insurance company shall check and verify (with his signature) that the documents submitted to the Commission for licensing or as a reporting requirement are in compliance with legal regulations.

Chief Accounting Officer

Section 88.

(1) Chief accounting officers of insurance companies must satisfy the following conditions:

- a) they shall have the appropriate university or college degree;
- b) they shall have a degree as a certified public accountant;
- c) they shall have at least five of years experience in the field of accountancy in the government sector in the field of finance, the trade organization of insurance companies or insurance intermediaries, a business association engaged in insurance mediation or at the auditor of an insurance company as an insurance consultant;
- d) they shall have no prior criminal record;
- e) they have the appropriate professional qualifications and a good business reputation;
- f) they shall be paid employees of the insurance company.

(2) The chief accounting officer of the insurance company shall check and verify (with his signature) - in conjunction with the insurance company's chief executive officer - that the assets record referred to in Section 143, the annual account specified under Sections 146 and 172, the annual report and the quarterly flash report submitted to the Commission are true and correct.

Director of Internal Control (Internal Auditor)

Section 89.

(1) Insurance companies limited by shares, insurance cooperatives and insurance associations whose annual premium revenue is three hundred million forints or more shall employ an internal auditor subordinated to the supervisory board. Such insurance companies, if they employ the same person as internal auditor, shall agree in

writing that they will raise no objection against the mutual employment of the internal auditor. This agreement shall be conveyed to the Commission within thirty days.

(2) Directors of internal control (internal auditors) of insurance companies must satisfy the following conditions:

- a) they shall have the appropriate university or college degree,
- b) they shall have at least five of years professional experience in the government sector in the field of finance, the trade organization of insurance companies or insurance intermediaries, a business association engaged in insurance mediation or at the auditor of an insurance company as an insurance consultant,
- c) they shall have no prior criminal record,
- d) they have the appropriate professional qualifications and a good business reputation,
- e) they shall be paid employees of the insurance company.

(3) The responsibilities of the director of internal control (internal auditor) of insurance companies shall be limited to monitoring

- a) the insurance company's operation in accordance with internal regulations, and
- b) insurance activities in respect of legality, security, transparency and expediency.

(4) The director of internal control shall, in addition to what is contained in Subsection (3), check, at least quarterly, the accuracy and completeness of the contents of the submitted reports as well as the data disclosed by the insurance company to the Commission.

(5) The director of internal control (internal auditor) shall send his reports to both the supervisory board and the board of directors. The director of internal control (internal auditor) shall prepare his reports in Hungarian and provide them to the officers of the Commission when carrying out regulatory inspections.

(6) The supervisory board shall, in particular, have the following responsibilities in connection with overseeing the operations of the insurance company:

- a) ascertaining that the insurance company has a comprehensive control system affording suitable facilities for effective operation;
 - b) directing the internal control body, including
 1. approving the internal control body's annual plan of inspections,
 2. analyzing the reports prepared by internal control at least once every six months, and overseeing the implementation of the necessary measures,
 3. appointing, if necessary, outside experts to assist in the work of the internal control unit,
 4. making proposals regarding personnel changes in the internal control unit;
 - c) filing recommendations and proposals based on the findings of internal control procedures.
- (7) The chief executive officer shall directly exercise employer's rights over internal controllers.

Chief Medical Officer

Section 90.

(1) Chief medical officers of insurance companies must satisfy the following conditions:

- a) they shall have a medical degree;
- b) they shall have basic medical qualifications;
- c) they shall have at least five of years of previous experience in the insurance industry;
- d) they shall have no prior criminal record;
- e) they shall be in the employ of the insurance company whether as a paid employee or in a self-employed capacity.

(2) It is the chief medical officer's responsibility to oversee

- a) the medical aspects of insurance products and regulations,
- b) the professional standards of the insurance company's risk and loss assessment experts.

Professional Qualifications and Good Business Reputation

Section 91.

- (1) The burden of proof for professional qualifications and good business reputation shall lie with the applicant.
- (2) The applicant may provide proof of professional qualifications and good business reputation in any manner he desires, but the Commission may prescribe that other specific credentials (documents) be provided.
- (3) If the Commission refuses to accept the proof provided to substantiate professional qualifications and good business reputation, it shall be stated in a written decision.
- (4) Professional qualifications and good business reputation shall not apply to any person
 - a) that has (had) a qualifying holding or is (has been) an executive employee or executive manager of an insurance company, insurance intermediary or a financial institution,
 - aa) whose insolvency could have been avoided only as a result of intervention by its supervisory body and whose personal responsibility for this situation was established by court ruling or regulatory decision, or
 - ab) that had to be liquidated and whose responsibility for this situation was established by a final court ruling or regulatory decision; or
 - b) that has seriously or repeatedly violated the provisions of this Act or another legal regulation pertaining to insurance activities and has received the maximum fine for such offense by a final court or regulatory decision within five years to date or whose responsibility was established by final court ruling within five years to date.
- (5) The Commission shall be entitled to contact the competent foreign authority as part of its procedure to resolve a person's professional qualifications and good business reputation.

Chapter IV

AMENDMENT OF INSURANCE ACTIVITIES

Authorization of the Revision of Insurance Activities

Section 92.

- (1) Any expansion of operations above and beyond the class(es) of insurance and risk group(s) for which the insurance company is already licensed shall be subject to the authorization of the Commission. The application for such authorization shall contain
 - a) the amended charter,
 - b) the revised scheme of operations, with the exception of the contents of Paragraph c) of Subsection (1) of Section 67,
 - c) proof of having the conditions for the activities after the revision,
 - d) adequate proof of having the requisite minimum solvency margin after the activities are revised.
- (2) The Commission shall not grant authorization for the revision of activities if it considers it possible that the insurance company will not be able to honor those of its commitments arising from insurance contracts following the revision of activities.

Portfolio Transfer

Section 93.

- (1) An insurance portfolio may be transferred in part or in full by agreement between the transferor and the receiving insurance company, if the transfer is authorized by the Commission and if the receiving insurance company is a company registered in the Republic of Hungary or in another Member State, its branch offices, or the branch office of a third-country insurance company in a Member State. The terms and conditions of the insurance contracts thus transferred shall remain unchanged. The consent of the policyholders affected and the contracting parties is not required for the transfer. Once the transfer has been concluded, the recipient insurance company will become a counterparty to the contracts involved, and also the data processor in terms of the personal data and business secrets of clients, effective as of the date of the Commission's authorization.

(2) The insurance portfolio of the Hungarian branch of an insurance company established in another Member State may be transferred in part or in full by authorization of the supervisory authority of the other Member State.

Section 94.

- (1) Applications for authorization of a portfolio transfer shall contain
- a) a precise description of the portfolio to be transferred and the contractual conditions of the portfolio;
 - b) letters of intent from the transferor and the transferee;
 - c) a description of the technical reserves connected to the portfolio to be transferred and the coverage for these reserves;
 - d) date of transfer of the portfolio and the consideration paid for the portfolio;
 - e) proof from the receiving insurance company - if the receiving insurance company is established in the Republic of Hungary - that its solvency margin is sufficient for the received portfolio in addition to the minimum solvency margin required for its own portfolio.
- (2) The supervisory authority authorizing the transfer shall contact the supervisory authority of the receiving insurance company seeking its verification that the receiving insurance company's solvency margin will continue to satisfy the minimum requirement after taking over the portfolio.
- (3) If the supervisory authority of the receiving insurance company fails to supply the verification referred to in Subsection (2) within three months from the date of request, it shall be considered granted.
- (4) The Commission shall not authorize the transfer of a portfolio if
- a) the requirements laid down in Subsection (1) are not satisfied, or
 - b) it appears due to other reasons that the transfer is likely to injure the interests of the policyholders.
- (5) The Commission shall authorize the transfer of a portfolio in possession of the consent of the competent authorities of the Member State of the commitment.
- (6) Where the portfolio is transferred to an insurance company that is established in a Member State, the Commission of the country where the receiving insurance company is established shall provide the verification referred to in Paragraph *e*) of Subsection (1).
- (7) If the authority contacted by the Commission fails to respond within three months from the date of receipt of the request, it shall be treated as its consent for the transfer of the portfolio.
- (8) Upon receiving a request from a Member State, the Commission shall inform the supervisory authority of that Member State within three months as to whether it will consent to the portfolio transfer and whether the receiving insurance company will have the prescribed solvency margin after taking over the portfolio.

Section 95.

- (1) The Commission shall publish its decision on the authorization of a portfolio transfer in two national daily newspapers.
- (2) The receiving insurance company shall notify - in the language of the contract - all contracting parties concerned of the transfer within thirty days of receiving authorization or, in the event of a merger of insurance companies, from the date of registration in the records of the court of registry or of the county (Budapest) court. The contracting parties shall then have the option to terminate their contracts in a written notice addressed to the receiving insurance company within thirty days of the date of receiving notification.
- (3) In respect of the merger, fusion and demerger of insurance companies, the provisions on transferring portfolios shall apply in terms of the notification requirement and the right of termination by notice.

Chapter V

INSURANCE PRODUCTS

Minimum Content Requirements for Insurance Contracts

Section 96.

- (1) All insurance contracts must contain the following:
 - a) the definition of the insured peril and any exclusions;
 - b) the procedure and deadline for reporting losses;
 - c) the rules pertaining to premium payment, the contractual rights and obligations of the insured party, the contracting party and the beneficiary, the manner and time of performance, and the consequences for failure to perform such rights and obligations;
 - d) a description of the services provided by the insurance company; the manner, time and special conditions of performance; and the conditions under which the insurance company is exempt from liability or its services are limited;
 - e) the rules for inflation escalation, where applicable;
 - f) a description of the rights of the insured, the contracting party, and the beneficiary and the obligations of the insurance company that apply when the contract is terminated, including information on the provisions contained in Subsections (2)-(5) concerning the termination of a contract;
 - g) rules for the capitalization of regular payments of benefits in connection with health, accident and liability insurance, if applicable;
 - h) the term of limitation on claims;
 - i) the detailed rules for the provision of residual rights, and/or a life assurance policy loan, if it is available in the case of life assurance policies;
 - j) method of daily access to information concerning the placement and value of unit-linked life assurance policies;
 - k) theoretical and practical information on the handling of personal data if the contracting party or the policyholder is a natural person or a group entity consisting of natural persons,
 - l) address of the insurance company or branch;
 - m) procedure for crediting the surplus yield, if any, that is due to the policyholder.
- (2) A natural person entering into the life assurance contract in a capacity other than self-employment or business activities shall be entitled to cancel the life assurance contract in writing - without having to show cause - within thirty days from the date of receipt of the notification referred to in Section 167.
- (3) Within thirty days following receipt of the client's written cancellation, the insurance company shall account for any and all payments made by the client in connection with the insurance contract in question.
- (4) No waiver of the cancellation right of policyholders shall be considered valid.
- (5) Unless otherwise prescribed by law, the right of cancellation referred to in Subsection (2) shall not apply to life assurance contracts concluded in security for a loan or for a term of less than six months.

Marketing of Insurance Products

Section 97.

- (1) No special license is required for marketing insurance products.
- (2) With regard to a compulsory motor vehicle liability insurance product, different provisions may be established by legal regulation.
- (3) If an insurance product is marketed with the participation of intermediaries and the insurance company detects any infringement in the methods of mediation, including the illegal conduct of an independent insurance intermediary who is involved in the marketing of an insurance product, the insurance company shall take immediate action to have the infringement terminated.

Product Plan

Section 98.

- (1) The marketing of each product of an insurance company shall be accompanied by a product plan drafted according to Schedule No. 4.

(2) The product plan shall be signed by the chief executive officer, the senior legal counsel, the senior insurance mathematician (actuary) and the director of the branch of insurance concerned.

Section 99.

(1) The Minister of Finance shall decree the highest permissible technical interest rate that can be used to calculate the premiums on life assurance, accident and health (medical) insurance products as well as reserves and benefit payments.

(2) The highest permissible technical interest rate for the products referred to in Subsection (1), when offered by an insurance company established in a Member State by way of its branch office or in the form of cross-border services, shall be governed by the regulations of the home Member State.

Section 100.

(1) At least eighty per cent of the surplus yield from the investment of actuarial reserves of the life assurance branch shall be distributed among the policyholders. The amount of such earnings shall not be below the rate indicated in the insurance contract.

(2) In the actuary's report, the insurance company shall inform the Commission concerning the amount of surplus yield and the manner in which it is distributed.

Suspending and Prohibiting the Marketing of an Insurance Product

Section 101.

(1) In respect of a product that is already being marketed, if the Commission concludes that

a) the product or the way it is marketed is illegal or violates the interests of the policyholders (contracting parties, beneficiaries etc.), or

b) premium calculation fails to comply with the principles of insurance mathematics, or

c) the insurance company did not submit a product plan or the product plan submitted does not comply with the provisions of Schedule No. 4;

the Commission shall instruct the insurance company to remedy the situation and eliminate the infringement, injury to one's interests, error or discrepancy before the prescribed deadline. In justified cases, the Commission may suspend marketing of the product.

(2) The Commission shall publish its decision ordering suspension of the marketing of an insurance product in two national daily newspapers within ten days from the date of the decision.

Section 102.

(1) The Commission shall prohibit the marketing of an insurance product if the insurance company fails to comply with the request specified in Subsection (1) of Section 101.

(2) The Commission shall publish its decision on prohibiting the marketing of an insurance product in two national daily newspapers within ten days from the date of the decision.

Chapter VI

Law applicable to Insurance contracts

Common Provisions

Section 102/A.

- (1) This Chapter shall apply to insurance contracts covering risks situated in the Member States.
- (2) The matters not regulated in this Chapter shall be governed under Law-Decree No. 13 of 1979 on International Private Law.

Section 102/B.

(1) Insurance contracts are subject to specific provisions of the national laws of the Member State in which the court is situated that require absolute compliance regardless of the law otherwise applicable to the contract in question.

(2) Where the insurance contract covers risks situated in more than one Member State, the contract is considered for the purposes of applying Subsection (1) as constituting several contracts each relating to only one Member State.

Non-Life Insurance Contracts

Section 102/C.

(1) The law applicable to non-life insurance contracts shall be determined in accordance with Subsections (2)-(6) with the exceptions set out in Sections 102/D-102/G.

(2) Where a policyholder has his habitual residence or central administration within the territory of the Member State in which the risk is situated, the law applicable to the insurance contract shall be the law of that Member State. However, where the law of that Member State so allows, the parties may choose the law of another country.

(3) Where a policyholder does not have his habitual residence or central administration in the Member State in which the risk is situated, the parties to the contract of insurance may choose to apply either the law of the Member State in which the risk is situated or the law of the country in which the policyholder has his habitual residence or central administration.

(4) Where a policyholder pursues a commercial or industrial activity or a liberal profession and where the contract covers two or more risks relating to these activities and situated in different Member States, the freedom of choice of the law applicable to the contract shall extend to the laws of those Member States and of the country in which the policyholder has his habitual residence or central administration.

(5) Notwithstanding Subsection (2) and (3), where the Member States referred to in those Subsections grant greater freedom of choice of the law applicable to the contract, the parties may take advantage of this freedom.

(6) When the risks covered by the contract of insurance referred to in Subsections (2)-(4) are limited to events occurring in one Member State other than the Member State where the risk is situated, the parties may always choose the law of the former State with regard to such insurance contracts.

Section 102/D.

The law applicable to insurance contracts covering large risks shall be the law of the Member State selected by the parties at the time of contracting or subsequently.

Section 102/E.

Where the parties have chosen a law as referred to in Subsection (2) of Section 102/C and Section 102/D, if the insurance contract at the time of the choice is connected with one Member State only, the rules from which the law of that Member State allows no derogation by means of a contract shall also be applied.

Section 102/F.

(1) The choice of applicable law must be expressed or demonstrated with reasonable certainty by the terms of the insurance contract. If this is not so, or if no choice has been made, the contract shall be governed by the law of the country, from amongst those considered in Sections 102/C-102/E, with which it is most closely connected.

(2) Subsection (1) notwithstanding, if a severable part of the insurance contract which has a closer connection with another country, from amongst those considered in Sections 102/C-102/E, may by way of exception be governed by the law of that other country.

(3) The insurance contract shall be rebuttably presumed to be most closely connected with the Member State in which the risk is situated.

Section 102/G.

When, in the case of compulsory insurance, the law of the Member State in which the risk is situated and the law of the Member State imposing the obligation to take out insurance contradict each other, the law of the Member State imposing the obligation shall prevail.

Life Assurance Contracts

Section 102/H.

(1) Life assurance contracts are subject to law of the Member State where the risk is situated. If permitted by the laws of that country, the parties to the contract may choose to apply the law of another country.

(2) Where a policyholder is a natural person and his habitual residence is in a Member State other than the one of his nationality, the parties to the contract may choose to apply the law of the Member State in which the policyholder is a citizen.

PART FOUR

SPECIAL RULES FOR CERTAIN TYPES OF INSURANCE

Special Rules for Legal Expenses Insurance

Section 103.

(1) If an insurance company intends to introduce legal expenses insurance, its application for authorization for the commencement of operations [Subsection (2) of Section 63] or authorization to revise its insurance activities [Subsection (1) of Section 92] shall contain a statement in which it provides guarantees that

a) its employees engaged in the management of legal expenses claims and the employees providing legal advice are not performing the same or similar services in any of the insurance company's other divisions or for any other insurance company in connection with any class of insurance defined in Part A) of Schedule No. 1 and that any executive manager of the insurance company installed as a superior officer for these employees shall not be installed in a similar position in connection with the management of claims in other branches of insurance; or

b) the insurance company entrusts another organization, whose name and address is indicated in the legal expenses insurance contract, for the management of legal expenses claims and for providing legal advice in respect thereof; or

c) the insurance contract states that the insured party is entitled to appoint a legal representative of his choice to represent his interests upon the occurrence of an insurance event.

(2) If selecting the solution under Paragraph b) of Subsection (1), management of claims shall be entrusted to a joint-stock company, a limited liability company, or the branch office of a foreign-registered company specializing in the management of legal expenses claims, provided it does not have financial, commercial or administrative links with the insurance company and it is not in any direct or indirect relationship that may have any effect on impartiality in the management of claims and whose other activities shall not obstruct its objectivity in terms of the management of claims.

(3) If the organization referred to in Subsection (2) that is considered a separate legal entity has any financial, commercial or administrative links with another insurance company, its executive officers and the employees engaged in the settlement of claims in the legal expenses division and the employees providing legal counsel may

not perform the same or similar services for any other insurance company in connection with any class of insurance defined in Part A) of Schedule No. 1. The management of legal expenses claims and the provision of legal advice in respect thereof may not be entrusted to another insurance company that is engaged in other classes apart from legal expenses insurance. Information between the legal expenses insurance company and the company entrusted with the management of claims shall take place under adequate facilities to prevent the legal expenses insurance company from using such data in connection with the settlement of claims arising from other classes of insurance contracts.

(4) When the solution contained under Paragraph b) of Subsection (1) is selected, the insurance company may propose a legal representative upon the express written request of the policyholder if the policyholder did not wish to exercise his/her right of free choice of a legal representative. In this case, the insurance company shall offer at least three legal representatives for the policyholder to choose from. Information between the legal expenses insurance company and the legal representative shall take place under adequate facilities to prevent the legal expenses insurance company from using such data in connection with the settlement of claims arising from other classes of insurance contracts.

(5) The insurance company shall be entitled to adopt two or three of the solutions contained under Paragraphs a)-c) of Subsection (1); however, only one solution may be adopted in the case of an insurance relation.

(6) The provisions laid down in Subsections (1)-(5) shall only apply to insurance companies that are engaged in other non-life insurance activities in addition to legal expenses insurance.

(7) The terms and conditions of a contract for legal expenses insurance shall contain the following in addition to what is contained in Section 96:

a) confirmation of the insured person's right to name a legal representative of his choice prior to the commencement of a court or administrative proceeding, or a proceeding aimed at reaching a settlement without such proceedings, if it is necessary for the protection of his interest and for proper representation;

b) the designation of an unbiased arbitration procedure in which the parties are required to participate in case of any disagreement between the insurance company and the insured person in connection with the insurance company's services. If the finding of the arbitration procedure is for the policyholder, the costs of the procedure shall be borne by the insurance company; otherwise, the policyholder and the insurance company shall cover their own expenses. Unless otherwise stipulated in the insurance contract, the policyholder shall have the right to hire a lawyer of his choice in the event of any disagreement. If the lawyer adopts the position of the policyholder, the insurance company shall be required to proceed accordingly;

c) a clause stipulating that the insured person has the right to name a legal representative of his choice in order to assert his contractual rights if the procedure referred to in Paragraph b) fails;

d) advice for the insured person in writing or in some other verifiable manner of his/her rights defined in Paragraphs b) and c) in case of any conflict with the insurance company;

e) the rules of the procedure to be followed by the parties if two or more adverse parties have legal expenses or liability insurance coverage with the same insurance company in connection with an event that serves as the basis of the insurance company's obligation to provide services;

f) information concerning the requirements defined under Paragraphs a)-c) of Subsection (1) that prevails in connection with legal expenses insurance policies.

(8) If there is a dispute between the insurance company and the insured party in connection with the insurance company's services, the insurance company shall be required to inform the insured party in writing concerning the provisions of Paragraphs a)-c) of Subsection (7).

(9) The provisions of Subsections (1)-(8) shall not apply

a) to legal expenses coverage for lawsuits or risks in connection with the operations of sea vessels;

b) to activities of an insurance company engaged in liability insurance that are performed in connection with the defense or representation of the insured person under the liability insurance policy, if the insurance company performs the same activities simultaneously in its own interest;

c) to legal expenses insurance provided by an insurance company engaged in assistance operations, if the activities are performed in a country other than the insured person's country of domicile or residence and if it is part of a contract that offers assistance to the insured person only in a country other than the country of such person's domicile or residence. In this case, it shall be indicated in the contract that legal expenses coverage is restricted to the above-specified locations and it is provided in conjunction with assistance services.

(10) Under special authorization, the members of the insurance company's staff engaged in the management of legal expenses claims and in providing legal advice in respect thereof or the persons authorized to represent the company entrusted by the insurance company with the management of legal expenses claims and provision of legal

advice in respect thereof shall be entitled, unless otherwise prescribed by law, to represent the insurance company in any court or administrative proceeding.

Section 104.

If legal expenses coverage is provided as part of an insurance contract covering other risks as well, the legal expenses section of the insurance contract shall be clearly separated so that it may be easily identified by the clients. The insurance company shall be required to emphasize the existence of legal expenses coverage on all of the documents that are supplied to the client; furthermore, the premium payable for legal expenses insurance shall be shown separately from all other premiums in the currency in which the policyholder is required to pay the insurance premium.

Compulsory Insurance

Section 105.

(1) The obligation to contract insurance can be prescribed in the cases defined under Schedule No. 7 and in other acts.

(2) Insurance companies shall dissociate the accounting records for the costs and technical provisions connected to compulsory motor vehicle liability insurance policies from all of the other insurance products.

(3) The Central Data Processing, Recording and Election Office of the Ministry of Internal Affairs (hereinafter referred to as "Office") shall keep records of all compulsory motor vehicle liability insurance policies purchased for registered motor vehicles, and on the preliminary certificates of coverage issued by insurance companies (central policy records).

(4) The central policy records shall contain the following data of insured motorists, the vehicle and the contract:

a) name (corporate name), date of birth, mother's name and address (business address) of the contracting (insured) party;

b) registration plate and chassis number of the vehicle;

c) if the registration plate is replaced, the date when replaced and the number of the previous plate;

d) name of the insurance company and policy particulars (number);

e) starting date of coverage, date and reason of termination of coverage where applicable;

f)

(5) The Office shall have authority to process the data referred to in Paragraphs a)-e) of Subsection (4) for seven years following termination of the insurance contract.

(6)

Section 106.

(1) The following shall be entitled to request data from the central policy records:

a) any insurance company covering risks under motor vehicle liability with a view to Paragraphs b), c) and e) of Subsection (4) of Section 105;

b) the contracting (insured) party concerning the particulars of his contract with a view to Paragraphs a)-e) of Subsection (4) of Section 105;

c) with respect to all data of record, the manager of the Claims Security capital, the National Agency, the Green Card Correspondent, the Information Center and the police, to the extent required in their official capacity;

d) the National Health Insurance Fund and the National Pension Insurance Administration with respect to the data for the enforcement of settlement claims for the Health Insurance Fund.

(2) Insurance companies shall be allowed access to all data they have originally conveyed to the central policy records.

(3) Any aggrieved party shall have the right to request the name (corporate name) and address (place of business) of the contracting (insured) party to enforce his right or legitimate claim.

Section 107.

(1) Insurance companies and the Office shall monitor the compliance of motorists with compulsory coverage of motor vehicle liability insurance by having access to the databank created by the Office by linking motor vehicle registration files and the central records of compulsory motor vehicle liability insurance policies. The databank created by the link cannot be used for any other purpose and must be destroyed within 180 days after the inspection is completed.

(2) Insurance companies shall forthwith notify the Office through electronic channels of any new insurance contract concluded and their issue of preliminary certificates of coverage, and they shall provide the Office with the data indicated in Paragraphs a)-e) of Subsection (4) of Section 105.

(3) Insurance companies shall forthwith notify the Office through electronic channels of the termination of preliminary certificates of coverage and existing compulsory motor vehicle liability insurance policies. Insurance companies shall notify operators whose insurance contracts are terminated on the grounds of non-payment of insurance premium within 15 days of the effective date of termination.

(4) The original owner (operator) of a vehicle shall be required to produce documents in proof of the vehicle's removal from registration or the deed of sale within fifteen days to the insurance company. Whenever a policy is cancelled by the insured party, the insurance company shall notify the Office through electronic channels immediately upon receipt of the relevant documents.

(5)-(6)

Section 108.

With respect to the personal data included in the records, the Office shall be treated as the data processor.

Section 108/A.

The Association of Hungarian Insurance Companies shall discharge the duties of the Information Center, the National Agency, the Claims Security Account and the Claims Organization. The Information Center, the National Agency, the Claims Security Account and the Claims Organization may exchange personal data and confidential insurance data to the extent necessary to settle a claim or to satisfy any other liabilities arising from insurance contracts.

Section 109.

(1) Insurance companies covering risks in connection with compulsory motor vehicle liability insurance shall set up and operate an Information Center. The Information Center shall immediately provide the injured party with the following information:

- a) the name and address of the insurance company carrying the policy of the vehicle at fault,
- b) description of the insurance policy (policy number),
- c) the name and address of the insurance company's claims representative in the injured party's state of residence.
- d) the name and address of the owner and/or operator of the vehicle at fault, where the injured party may have a legitimate interest in being informed about the identity of the owner and/or the operator.

(2) The Information Center shall cooperate with the information centers of other Member States in order to ensure that the injured party is entitled for a period of seven years after the accident to obtain without delay the information referred to in Subsection (1)

- a) from the information center of the Member State where he resides,
- b) from the information center of the Member State where the vehicle is normally based, or
- c) from the information center of the Member State where the accident occurred.

(3) Within the meaning of this Act, the Information Center shall be authorized to convey data to Member States and to other countries where national legislation contains provisions for data protection that are equal or better than that which is provided under Hungarian law.

(4) The information referred to in Paragraphs a) and c) of Subsection (1) may also be published on the Internet.

Section 109/A.

- (1) Upon the occurrence of an event involving compulsory motor vehicle liability insurance
- a) the policyholder shall notify his insurance carrier within eight days, supplying the information necessary for settlement and an exhaustive description of the event, and present the authority's resolution relating the loss or injury concerning the policyholder to the insurer within eight days of receipt. Uninsured motorists shall report events within eight days to the operator of the Claims Security account;
 - b) the parties involved in the accident shall exchange insurance information at the scene, including their personal identification data and the vehicles' particulars, the liability policy or preliminary certificate of coverage and an exhaustive description of the accident. These data may only be disclosed to the competent authorities, the insurance carrier, the National Agency, the Claims Security Account and the Claims Organization, the Green Card Correspondent, the claims representative or the National Health Insurance Fund and the National Pension Insurance Administration, and may be processed for the purposes specified in Sections 153-165.
- (2) If the operator of the motor vehicle is unable to present a certificate - as specified in specific other legislation - when taking out a compulsory motor vehicle liability policy, the insurance company shall be authorized to request information concerning the operator's insurance history from the records of the previous carrier. Insurance records shall include the number of accidents caused during the life of the policy, the dates of these accidents, a description of any loss or injury not yet settled, or a statement that there is no record of any accidents.

Section 110.

The rules for the accounting records of the compulsory motor vehicle liability insurance branch of insurance companies and the rules for the disclosure of data shall be decreed by the Minister of Finance.

PART FIVE

***RULES PERTAINING TO THE OWNERS, DIRECTORS AND EMPLOYEES
OF INSURANCE COMPANIES***

Chapter I

ACQUISITION OF PARTICIPATION

Authorization of the Acquisition of Participation

Section 111.

- (1) The prior permission of the Commission must be obtained for the acquisition of an interest in a joint-stock insurance company that will provide a qualifying holding or alter an existing qualifying holding whereby the ownership interest or voting right will reach or exceed the twenty, thirty-three, fifty or seventy-five per cent limit. An agreement relating to ownership rights, voting rights or to secure advantages in excess of such rights may only be concluded in possession of the Commission's permission.
- (2) The application for the above-specified authorization shall contain the name of the insurance company, the percentage of the interest to be acquired - taking into account the provisions of Points 5 and 40 of Subsection (1) of Section 3 - and the data necessary to enforce the provisions of Subsection (3).
- (3) Authorization for acquisition shall be granted on condition that the investor
- a) has sufficient capital to pay up the subscribed capital or the value of the share certificates;
 - b) has the appropriate professional qualifications and good business reputation;
 - c) has been successful in business during the three-year period before the application is submitted;

d) deposits the cash part of the capital necessary for the direct acquisition of the interest in a credit institution registered in Hungary;

e) has an agent for service of process, if the applicant is established in another country;

f) files a properly documented statement to the effect that the money to be used to purchase the ownership interest is from his legal income;

g) files a statement in which he declares his current and future liabilities (as defined in the Accounting Act); and

h) files a private document with full probative force that gives the Commission permission to investigate the authenticity of the information provided in the application and attached documents and to contact the competent bodies and agencies.

(4) In addition to what is contained in Subsection (2), an application for the authorization of acquisition shall also contain:

a) the contract proposal made for the acquisition of ownership or for an agreement to secure substantial advantages attached to voting rights;

b) the applicant's deed of foundation;

c) the applicant's certificate of incorporation issued within the previous thirty days, the original certificate of incorporation for foreign companies and the authentic Hungarian translation of such or proof of the company having been registered;

d) an official document in proof of having no criminal record for natural persons issued within three months to date by the authority of competent jurisdiction for the place where the applicant's permanent residence is located;

e) official document issued within thirty days to date by the authority of competent jurisdiction for the place where the applicant's permanent residence or main office is located in evidence that the persons participating in the foundation have no debts toward the tax authorities, customs authorities or social security administration;

f) the identification data (Point 3 of Subsection (1) of Section 3) of the natural person having a qualifying holding in the applicant company as well as evidence - issued within thirty days to date - of having no criminal record;

g) the statements prescribed in Paragraphs *h*) and *i*) of Section 58.

g) a detailed description of the applicant's ownership structure.

(5) Where either of the applicants is a foreign insurance company, credit institution or investment company, the application for foundation permit shall have attached - in addition to what is contained in Subsections (3) and (4) - a statement from the supervisory authority of the country where the applicant is established verifying that the company operates in due observation of the relevant regulations.

If the applicant is a credit institution, investment firm or insurance company that has a registered office in another Member State of the European Union, or a natural or legal person with dominant influence over such a credit institution, investment firm or insurance company, and if the application for the authorization specified in Subsection (1) of Section 111 is for the acquisition of a share or influence as a consequence of which the applicant has the capacity to exercise dominant influence over the investment firm, the Commission shall request the opinion of the competent supervisory authority of the other Member State concerned.

Section 112.

(1) The Commission shall refuse to grant authorization for the conclusion of a contract for the acquisition of the ownership interest specified in Subsection (1) of Section 111 within three months from the date of submission of the application for authorization if

a) the applicant has been previously convicted (if a natural person);

b) the applicant's legal status is uncertain;

c) the applicant's ownership status is uncertain or cannot be established;

d) the applicant's financial and business status is not sufficiently stable;

e) the applicant has seriously and repeatedly violated the provisions of this Act or any other legal regulation pertaining to insurance companies;

f) the applicant does not have the appropriate professional qualifications and a good business reputation;

g) the applicant's financial and economic position is deemed inadequate for the size of the ownership interest he intends to acquire;

h) the applicant is unable to prove the legitimacy of the funds to be used for purchasing the ownership interest or the authenticity and veracity of the data pertaining to the person named as the owner of such funds.

(2) The Commission shall be entitled to contact the competent authority for the place where the acquiring person's registered address or domicile is located in order to verify or investigate the conditions specified in Subsection (3) of Section 111.

(3) In the case of failure to apply for authorization, rejection of the application, failure to comply with the obligation of notification as prescribed or refusal to provide information, the Commission may prohibit the exercising of voting rights deriving from an agreement for the acquisition of ownership share or for securing advantages until the requirements stipulated by law are fulfilled.

(4) The rights deriving from the advantages secured by the agreement - for which the authorization is applied - connected with the acquisition of ownership or voting rights may be exercised after three months following the Commission's receipt of the application for authorization unless the Commission exercises its rights defined in Subsection (3).

Section 113.

(1) The person holding an ownership interest or voting right in the measure defined in Subsection (1) of Section 111 in a joint-stock insurance company shall notify the Commission fifteen working days before contracting

- a) if he would like to terminate his qualifying holding, or
- b) if he would like to alter or amend his ownership interest, voting rights or contract securing an advantage so that his ownership interest or voting right is reduced below the twenty, thirty-three, fifty or seventy-five per cent limit.

(2) The notification under Paragraph b) of Subsection (1) shall contain an indication of the ownership interest or voting right remaining or if the contract securing a substantial advantage is amended.

Section 114.

(1) The following shall be reported to the Commission within thirty days of the contract date:

- a) acquisition of a qualifying holding in a joint-stock insurance company;
- b) altering a qualifying holding in a joint-stock insurance company whereby
 - the ownership interest or voting right reaches twenty, thirty-three, fifty or seventy-five per cent or
 - the ownership interest or voting right drops below twenty, thirty-three, fifty or seventy-five per cent; or
- c) conclusion of a contract securing substantial advantages in connection with an ownership interest or voting right, or the amendment of such contract.

(2) A joint-stock insurance company shall notify the Commission, in writing, within fifteen working days if it receives any information concerning the acquisition, alienation or modification of an ownership interest or voting right of the percentage specified in Section 111.

(3) A joint-stock insurance company shall send to the Commission from its internal database the names of shareholders with ownership interests in the percentages defined in Section 111 and the size of the interest held by each such shareholder.

Chapter II

RULES APPLICABLE TO THE ACTIVITIES OF MEMBERS OF THE MANAGEMENT BODY AND THE EMPLOYEES

Section 115.

The executive officers of insurance companies, other members of the management body and their employees shall keep all insurance secrets confidential during and after their employment (term in office). The data and information obtained by such persons in their official capacity pertaining to the operation of the insurance company and to its clients can only be used when acting in such official capacity and in connection with and for the purpose of the insurance contracts to which they pertain. Said data and information obtained by the above-specified persons in their

official capacity must not be used to obtain any direct or indirect advantage for themselves or for any other person and/or to the detriment of the insurance company or the policyholder.

Section 116.

(1) The executive officers of insurance companies and other members of the management body (Sections 83 and 85), and their employees involved in the decision-making process shall notify the insurance company if they or one of their close relatives (Paragraph b) of Section 685 of the Civil Code) has a qualifying holding in the party that is about to enter into a contractual relationship with the insurance company, if they have any other interest in the contract to be concluded or if they are on the board of directors or supervisory board of the party that is about to enter into a contractual relationship with the insurance company. In such cases, the abovementioned persons must not take part in any phase of the decision-making process (conflict of interests).

(2) The executive officers of insurance companies and other members of the management body and their employees involved in the decision-making process shall file a written statement with the insurance company at the time they are appointed (elected) in which they declare any direct or indirect share they or their close relatives own in the insurance company, in another insurance company, in a business association engaged in the activity of mediating in insurance or a business association engaged in insurance consulting, including the extent and the par value of such shares and any other securities issued by said organizations.

(3) The persons referred to in Subsection (2) shall notify the insurance company in writing within two working days regarding the occurrence of any of the situations specified in Subsection (2) or any changes therein.

(4) The insurance company shall keep records of the reports and statements filed in accordance with Subsections (1)-(3).

PART SIX

THE INSURANCE COMPANY'S OPERATING CONDITIONS

Chapter I

**RULES PERTAINING TO TECHNICAL PROVISIONS, SOLVENCY MARGIN
AND SECURITY CAPITAL**

Technical Provisions

Section 117.

(1) In order to provide adequate guarantees for safe operations, insurance companies shall create technical provisions to cover their underwriting obligations in effect on the balance sheet date, future liabilities, any fluctuation in claims, and any losses from insurance operations.

(2) Technical provisions shall comprise the following components:

a) unearned premium reserves;

b) mathematical provisions, including:

1) life assurance premium reserve,

2) health insurance premium reserve,

3) reserve for benefit payments under accident insurance policies,

4) reserve for benefit payments under liability insurance policies;

c) reserve for pending claims, including:

1) reserve for claims incurred and reported (itemized reserve for pending claims),

2) reserve for claims incurred but not reported (IBNR);

d) reserve for premium rebate dependent on profit;

- e) reserve for premium rebate independent of profit;
- f) claim fluctuation reserve;
- g) reserve for large claims;
- h) policy cancellation reserve;
- i) reserve for unit-linked life assurance policies;
- j) other technical provisions.

Creation of Technical Provisions

Section 118.

(1) Insurance companies shall create technical provisions sufficient for covering their underwriting obligations - which are not covered by reinsurance - on a continuous and regular basis as estimated under reasonable pretenses based on previous trends in the insurance business. In the case of life assurance, with the exception of net risk life assurance policies and the risk part of insurance policies also covering the risk of death, technical provisions shall be created for risks that are covered by reinsurance as well.

(2) In respect of non-life insurance services, the insurance company shall set aside two per cent of the gross technical provisions, irrespective of the percentage of risks covered by reinsurance.

(3) Insurance companies offering credit and suretyship insurance coverage shall create special provisions consistent with the risk involved in the manner stipulated in Subsection (3) of Section 119.

(4) In the case of coinsurance, technical provisions shall be created by the parties to the coinsurance contract as consistent with their respective share of underwriting obligations.

Section 119.

(1) Technical provisions shall be created for each class of insurance starting on the balance sheet date.

(2) The resources for mathematical provisions estimated for the end of the year shall be set aside on a regular basis, but at least quarterly as consistent with the insurance companies foreseeable liabilities, and they shall be maintained so as to secure sufficient financial resources in due compliance with investment regulations by the end of the year in an amount equivalent to the required provisions.

(3) The Minister of Finance shall decree the composition of technical provisions and the manner in which such provisions shall be created and used.

(4) Insurance companies shall disclose - upon request - the principles and guidelines used for the creation of technical provisions to holders of life assurance policies.

Section 120.

The premiums of life assurance contracts concluded after the date of this Act entering into force must be sufficient, on reasonable actuarial assumptions, for insurance companies to be able to meet all their commitments in connection with such contracts and for creating appropriate technical provisions.

Solvency Margin

Section 121.

(1) The solvency margin represents the insurance company's own funds adjusted in accordance with Sections 123-124, the purpose of which is to enable the insurance company to meet its commitments even if the income from premiums and the technical provisions are insufficient to cover such liabilities.

(2) In order to be able to meet their commitments arising from insurance contracts at any given time, insurance companies shall maintain a minimum solvency margin for each class of insurance equivalent to the minimum solvency margin requirement consistent with the size of the insurance company's business operations.

(3) The formula for calculating the minimum solvency margin of insurance companies is contained in Schedule No. 8.

Section 122.

(1) A third-country insurance company that has applied for or received authorization for the foundation of a branch office in more than one Member State may request authorization

a) to determine the solvency margin for its branch offices and its minimum solvency margin on the aggregate for all its activities performed in the territory of the European Union;

b) to keep the deposit referred to in Paragraph h) of Subsection (2) of Section 70 in only one of the Member States affected;

c) to keep the assets representing the security capital in any one of the Member States in which it carries out business.

(2) The advantages contained under Paragraphs a)-c) of Subsection (1) may only be granted concurrently. An application for authorization shall be submitted to the supervisory authorities of all of the Member States affected. The application for authorization shall contain an indication of the Member State whose competent supervisory authority designated to carry out financial supervision of the insurance company concerning its operations in the European Union if authorization is granted. The reasons for the selection of the competent supervisory authority shall also be indicated in the application.

(3) Authorization for the advantages contained under Paragraphs a)-c) of Subsection (1) shall take effect when the designated supervisory authority notifies the supervisory authorities of the Member State affected of the commencement of financial supervision.

(4) The Commission shall convey the information necessary for the financial supervision of the Hungarian branch office of a third-country insurance company to the designated supervisory authority.

(5) The advantages contained under Paragraphs a)-c) of Subsection (1) may be granted only if approved by the supervisory authorities of all of the Member States concerned and shall be withdrawn upon the initiative of a supervisory authority of any of the Member States affected.

Components of the Solvency Margin

Section 123.

(1) The solvency margin requirement shall be specified separately for life assurance and non-life insurance companies in accordance with Subsections (2) and (3).

(2) The available solvency margin shall consist of the following assets:

a) the paid-up share capital or, in the case of mutual assurance company or cooperative companies, the effective initial fund subject to the following conditions:

aa) the charter of the mutual association or cooperative must stipulate that payments may be made from these accounts to members only in so far as this does not cause the available solvency margin to fall below the required level or, after the dissolution of the insurance company, if all of the insurance company's other debts have been settled,

ab) the charter of the mutual association or cooperative must stipulate, with respect to any payments made from any member's accounts for reasons other than the individual termination of mutual assurance or cooperative membership, that the Commission must be notified at least one month in advance and can prohibit the payment within that period,

ac) the charter of the mutual association or cooperative must stipulate that the provisions under Paragraphs aa) and ab) may be amended only after the Commission has declared that it has no objection to the amendment;

b) capital reserve;

c) tied-up reserve;

d) 20 per cent of the evaluation reserve;

e) the profit or loss brought forward;

f) profit reserves appearing in the balance sheet;

- g) subordinated loan capital.
 - h) dividend preference shares subscribed and paid up, also the paying of dividends unpaid from previous year(s) in the year in which there is profit.
- (3) The available solvency margin may also consist of subordinated loan capital and the dividend preference shares referred to in Paragraph *h*) of Subsection (2) of this Section up to 50 per cent of the lesser of the available solvency margin and the required solvency margin.
- (4) No more than 25 per cent of the subordinated loan capital included in the solvency margin under Paragraph *g*) of Subsection (2) shall consist of subordinated loans with a fixed maturity. The subordinated loan capital installed as a component of the available solvency margin shall be gradually reduced in equal proportions during at least the last five years before the repayment date. The following requirements must also be satisfied:
- a) the claim of the lender ranks after the claims of all other creditors;
 - b) the subordinated loan contract must contain a clause to permit use of the loan amount to settle the liabilities of the insurance company;
 - c) only fully paid-up funds may be taken into account;
 - d) for loans with a fixed maturity, the original maturity must be at least five years;
 - e) loans whose maturity is not fixed must be repayable only subject to five years' notice;
 - f) the loan agreement must not include any clause providing that in specified circumstances, other than the winding-up of the assurance undertaking, the debt will become repayable before the agreed repayment dates; the Commission shall authorize repayment upon request only if the insurance company's available solvency margin does not fall below the required level;
 - g) the loan agreement may be amended only with the Commission's consent;
 - h) the loan may not be terminated before the five-year maturity fixed in the contract unless it is authorized by the Commission.

Section 124.

- (1) The Commission shall have the power to revalue downwards all of the elements eligible for the available solvency margin, in particular, where there has been a significant change in the market value of these elements since the end of the previous financial year.
- (2) The available solvency margin shall consist of the assets referred to in Subsections (2) and (3) of Section 123, less
- a) the book value of intangible assets,
 - b) the value of own stocks repurchased in the case of joint-stock companies,
 - c) for non-life insurance companies, if they apply the pending claims reserve of the non-life branch at a discount by taking into account the anticipated yield on future assets, the difference of the amount of pending claims reserve before and after discounting, in all non-life classes exclusive of the classes set out under Points 1 and 2 of Part A) of Schedule No. 1 and the benefit payments included in the pending claims reserve.
 - d) the value of dividend preference shares [Paragraph *h*) of Subsection (2) of Section 123] and subordinated loan capital [Paragraph *g*) of Subsection (2) of Section 123] the insurance company holds in another insurance company, third-country insurance company, reinsurance company or insurance holding company in which it has a participating share or dominant influence;
 - e) the value of dividend preference shares specified in Schedule No. 5 of the CIFE, and subordinated loan capital the insurance company holds in a credit institution, financial institution or investment firm in which it has a participating share or dominant influence.
- (3) The preliminary calculation of the solvency margin requirement prescribed in Schedule No. 8 and a description of the components shall be prepared and sent to the Commission together with the annual report. Insurance companies shall supply information to the Commission quarterly concerning their prevailing prognosis of the solvency margin requirement and the available solvency margin.
- (4) If the insurance company's solvency margin does not reach the minimum solvency margin requirement, the shortfall shall be rectified prior to satisfying the claims of shareholders and members, other than insurance settlement claims.
- (5) The Commission may authorize an insurance company authorized to provide life assurance and non-life insurance to replenish any shortfall in the solvency margin of one branch of insurance from those of another.

Security capital

Section 125.

One third of the required solvency margin shall constitute the insurance company's security capital if it is greater than the security capital referred to in Section 126. In all other instances, the minimum security capital of an insurance company shall be as defined in Section 126.

Section 126.

(1) The minimum security capital for joint-stock companies, cooperatives and branch offices of third-country insurance companies shall be:

a) in the life assurance branch (Schedule No. 2) seven hundred and fifty million forints multiplied by the inflation index specified in specific other legislation,

b) in the non-life insurance branch (Schedule No. 1) five hundred million forints multiplied by the inflation index specified in specific other legislation, or seven hundred and fifty million forints multiplied by the inflation index specified in specific other legislation of classes 10, 11, 12, 13, 14 or 15.

(2) The minimum security capital for mutual associations shall be seventy-five per cent of the values specified in Subsection (1), subject to the exceptions set out in Subsections (3) and (4).

(3) In place of Subsection (2), Subsection (4) shall apply to the mutual association whose charter contains instructions on ordering any additional contributions and/or on the possibility of any cutback in services, and

a) if the annual premium revenue and other revenues combined are below one billion two hundred and fifty million forints in each of the three preceding years,

b) if engaged in non-life insurance services with the exception of liability insurance and at least half of the annual contribution income comes from persons who are members of the mutual association.

(4) Instead of the amount specified in Subsection (2)

a) for the mutual associations under Subsection (3), with the exception of those mentioned in Paragraph b), if the total amount of the association's annual premium income and members' contributions has, during the previous three financial years,

aa) reached one billion forints at least once, the minimum security capital shall be 60 per cent of the amount referred to in Subsection (2),

ab) reached seven hundred and fifty million forints at least once and never reached one billion forints, the minimum security capital shall be 40 per cent of the amount referred to in Subsection (2),

ac) reached five hundred million forints at least once and never reached seven hundred and fifty million forints, the minimum security capital shall be 20 per cent of the amount referred to in Subsection (2),

ad) reached two hundred and fifty million forints at least once and never reached five hundred million forints, the minimum security capital shall be 10 per cent of the amount referred to in Subsection (2),

ae) reached one hundred and twenty-five million forints at least once and never reached two hundred and fifty million forints, the minimum security capital shall be 5 per cent of the amount referred to in Subsection (2),

af) never reached one hundred and twenty-five million forints, the minimum security capital shall be 2.5 per cent of the amount referred to in Subsection (2);

b) for the mutual associations engaged exclusively in classes 8, 9 and 18 under Part A) of Schedule No. 1:

ba) reached one billion forints at least once, the minimum security capital shall be seventy-five million forints,

bb) reached seven hundred and fifty million forints at least once and never reached one billion forints, the minimum security capital shall be fifty million forints,

bc) reached five hundred million forints at least once and never reached seven hundred and fifty million forints, the minimum security capital shall be twenty-five million forints,

bd) reached two hundred and fifty million forints at least once and never reached five hundred million forints, the minimum security capital shall be twelve million five hundred thousand forints,

be) reached one hundred and twenty-five million forints at least once and never reached two hundred and fifty million forints, the minimum security capital shall be six million two hundred and fifty thousand forints,

bf) never reached one hundred and twenty-five million forints, the minimum security capital shall be three million one hundred and twenty-five thousand forints.

(5) For the mutual associations referred to in Paragraph b) of Subsection (4), the Commission may authorize that 80 per cent of the security capital be offset by reinsurance.

Section 127.

The minimum guarantee funds prescribed for each class of insurance shall be reckoned on the aggregate for the insurance companies authorized to engage in both life assurance and non-life insurance services.

Section 128.

In order to maintain the value of the security capital, the Minister of Finance shall decree an inflation index for security capital.

Chapter II

FINANCIAL, RESTORATION AND FINANCIAL RECOVERY PLAN

Financial Plan

Section 129.

- (1) The Commission shall instruct the insurance company to prepare a financial plan if
 - a) the insurance company's solvency margin is below the security capital requirement;
 - b) the technical provisions of the insurance company are below the amount required or if the cover for technical provisions is insufficient; or
 - c) if the insurance company's liabilities from bond issue, credit and other non-insurance-related transactions - not including loan capital - on the aggregate exceed 25 per cent of the insurance company's own funds.
- (2) The financial plan shall be drafted so as to remedy the situations defined under Subsection (1) within a period of six months. The insurance company shall submit its financial plan to the Commission for approval within thirty days of receiving the Commission's decision.
- (3) The Commission shall, within thirty days of the day on which a financial plan is submitted, determine whether the plan is able to remedy the situations defined under Subsection (1). This deadline may be extended once by thirty days.
- (4) If the financial plan is rejected or not carried out, the Commission shall be empowered to take the measures defined in Section 195.

Restoration Plan

Section 130.

- (1) If the available solvency margin of an insurance company has fallen below the minimum required under Schedule No. 8 and if the general meeting does not adopt a resolution to replenish it within a period of one year, the Commission shall instruct such insurance company to prepare a restoration plan for achieving the minimum solvency margin requirement.
- (2) The restoration plan shall cover a maximum period of one year, and it shall specify the manner and the timetable for restoring the minimum requirement. The insurance company shall submit its restoration plan to the Commission for approval within ninety days of receiving the Commission's decision. This deadline may be extended by thirty days in particularly justified cases.

(3) The Commission shall, within sixty days of the day on which a restoration plan is submitted, determine whether the plan is able to restore the insurance company's sound financial situation.

(4) If the restoration plan is rejected or not carried out, the Commission shall be empowered to take the measures defined in Section 195.

Financial Recovery Plan

Section 131.

(1) If an insurance company is engaged in operations prejudicial to the interests of the policyholders, the Commission shall instruct the company to prepare a three-year financial recovery plan.

(2) The financial recovery plan shall set out the following:

- a) estimates of management expenses;
- b) a plan setting out detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions;
- c) a forecast balance sheet;
- d) estimates of the financial resources intended to cover underwriting liabilities and the required solvency margin;
- e) the overall reinsurance policy.

(3) The insurance company shall submit its financial recovery plan to the Commission for approval within ninety days of receiving the Commission's decision. This deadline may be extended by thirty days in particularly justified cases.

(4) The Commission shall, within sixty days of the day on which a financial recovery plan is submitted, determine whether the plan is able to restore the insurance company's sound financial situation.

(5) If the policyholders' rights are threatened because the financial position of the insurance company is deteriorating, the Commission - based on the financial recovery plan - shall have powers to oblige the insurance company to have a solvency margin higher than what is required under Schedule No. 8 in order to ensure that the insurance company is able to fulfill the solvency requirements in the near future.

(6) The Commission shall have powers to decrease the reduction, based on reinsurance, to the solvency margin as determined in accordance with Schedule No. 8 if

- a) the nature or quality of reinsurance contracts has changed significantly since the previous financial year, or
- b) there is no or an insignificant risk transfer under the insurance company's reinsurance contracts.

(7) If the financial recovery plan is rejected or not carried out, the Commission shall be empowered to take the measures defined in Section 195.

Chapter III

Investment Regulations

Section 132.

(1) The assets of an insurance company covering technical provisions shall be invested with a view to the class of insurance in which it is engaged and the maturity of liabilities in such a manner as to guarantee liquidity at all times while providing the highest yield under the safest conditions attainable.

(2) In order to achieve the highest degree of safety, the insurance company shall diversify its investments and strive to reduce risk factors within a specific form of investment by spreading investment-related risks.

(3) With regard to the investment of technical provisions, insurance companies must observe the provisions laid down in Schedule No. 9, except for the provisions referred to in Paragraph i) of Subsection (2) of Section 117.

(4) For managing the assets included in the portfolio covering the provisions specified in Paragraph i) of Subsection (2) of Section 117, the provisions laid down in the CMA that pertain to portfolio management shall apply, with the exception of Subsection (2) of Section 126, Section 127, Section 128, Subsections (3) and (4) of Section 130, and Subsection (2) of Section 133 and with the following differences:

- a) any reference made in the CMA to a client shall be understood as the policyholder in the case of unit-linked life assurance policies;
- b) any reference made in the CMA to portfolio shall be understood as individually managed funds created from the provisions of unit-linked life assurance policies;
- c) any reference made in the CMA to subcontracting any part of portfolio management activities shall be understood as outsourcing a significant part or all of the management and investment operations of the funds covering the reserves of unit-linked life assurance policies;
- d) for outsourcing a significant part or all of the management and investment operations of the funds covering the reserves of unit-linked life assurance policies, and for the involvement of a contractor, a written consent from the policyholder is not required;
- e)

Section 133.

- (1) When an insurance company acquires a share in the capital of another company in excess of ten per cent of its own capital, it shall report it to the Commission within two working days.
- (2) The share held by an insurance company in another joint-stock company cannot reach seventy-five per cent of the subscribed capital of that joint-stock company unless it is another insurance company, a credit institution, financial enterprise, investment firm or investment fund manager.
- (3) With regard to the investment of technical provisions, the share held by the insurance company in another company cannot exceed twenty-five per cent of the subscribed capital of that company.
- (4) Insurance companies may not invest their assets used to cover mathematical provisions in a company of an owner with a qualifying holding that is not engaged in the insurance business unless its activities are directly connected to the activities of the insurance company to a substantial degree.
- (5) The investment restrictions prescribed in Subsections (1)-(3) shall not apply to a company under contract with the insurance company for outsourcing or for insurance operations if at least seventy-five per cent of the annual revenue originates from services provided to the insurance company in question.
- (6) For the investment of funds from the technical provisions, other than mathematical provisions and the reserve for unit-linked life assurance policies, liquidity shall be the single most important criterion.

Section 134.

The technical provisions of an insurance company may be held in the following instruments:

- A) investments
 - a) debt securities, bonds and other money and capital market instruments,
 - b) loans,
 - c) shares and other variable yield securities and participations,
 - d) units in companies for collective investment in transferable securities and other investment funds,
 - e) land, buildings and incorporeal rights in property;
- B) Debts and claims
 - f) debts owed by reinsurers, including the reinsurers' shares of technical provisions created on risks covered by reinsurance,
 - g) deposits with and debts owed by ceding companies,
 - h) debts owed by policyholders and intermediaries arising out of direct and reinsurance operations in so far as they have been outstanding for not more than three months,
 - i) life assurance policy loans,
 - j) tax recoveries,
 - k) claims against security capitals;
- C) Others
 - l) tangible fixed assets, other than land and buildings, valued on the basis of prudent amortization,
 - m) cash at bank and in hand, deposits with credit institutions and any other bodies authorized to receive deposits,
 - n) accrued interest and rent,
 - o) deferred acquisition costs.

Section 135.

(1) In connection with the investment of assets covering technical provisions, the following principles shall be complied with:

a) assets covering technical provisions shall be valued net of all debts arising out of or in connection with the purchase or acquisition of such assets;

b) loans - whether to economic organizations, to state authorities or international organizations, to local or regional authorities or to natural persons - may be accepted as cover for technical provisions only if the borrower is able to produce sufficient guarantees as to their security, whether these are based on the status of the borrower, mortgages, bank guarantees or guarantees granted by insurance companies or other forms of security, with the exception of the loans referred to in Paragraph f) of Subsection (2) of Section 136;

c) debts owed by and claims against a third party may be accepted as cover for technical provisions only after the deduction of all of the amounts owed to the same third party.

(2) Any asset that is mortgaged or whose disposition is restricted shall not be included in the cover for technical provisions of an insurance company.

(3) Investment units issued by an investment fund investing in derivative instruments under Section 278 of the CMA shall not be included in the cover for technical provisions of an insurance company.

Section 136.

(1) Assets constituting cover for technical provisions shall be kept in the territory of Member States or shall be placed in instruments issued by:

a) an OECD or EEA Member State;

b) local or regional authorities of OECD or EEA Member States;

c) economic operators established in an OECD or EEA Member State;

d) an international organization of which one or more Member States are members.

(2) With the exception of funds covering the reserves of unit-linked life assurance policies, the following restrictions shall apply with respect to assets constituting cover for technical provisions:

a) of the instruments contained under Paragraph a) of Section 134, the ones without a state guarantee or other form of security shall not account for more than 25 per cent of the assets covering technical provisions;

b) the instruments contained under Paragraph c) of Section 134 shall not account for more than 35 per cent of the assets covering technical provisions;

c) the instruments contained under Paragraph d) of Section 134 shall not account for more than 35 per cent of the assets covering technical provisions if falling within the scope of Directive 85/611/EEC or 30 per cent otherwise;

d) the value of any one piece of real estate (land, building) of the insurance company shall not account for more than 10 per cent of the assets covering technical provisions. This rule applies to a number of pieces of land or buildings close enough to each other to be considered effectively as one investment;

e) the insurance company shall not invest more than 5 per cent of its total gross technical provisions in shares and other negotiable securities treated as shares, bonds, debt securities and other money and capital market instruments from the same company, or in loans granted to the same borrower, taken together, the loans being loans other than those granted to a state, regional or local authority or to an international organization of which one or more Member States are members. This limit may be raised to 10 per cent of the insurance company's gross technical provisions if it does not invest more than 40 per cent of its gross technical provisions in the said loans or securities;

f) the insurance company shall not invest more than 5 per cent of its total gross technical provisions in unsecured loans, including 1% for any single unsecured loan, other than loans granted to credit institutions, insurance companies and investment companies established in a Member State;

g) the insurance company shall not invest more than 3 per cent of its total gross technical provisions in the form of cash in hand;

h) the insurance company shall not invest more than 10 per cent of its total gross technical provisions in shares, participations and bonds that are not traded on a regulated market;

i) the insurance company shall not invest more than 10 per cent of its total gross technical provisions in investment units of a single investment fund or collective investment instruments issued by a single collective investment trust.

(3) The assets listed under Paragraph h) of Section 134 shall not account for more than 5 per cent of the assets covering the total gross technical provisions on the aggregate.

(4) The combined market value of derivative instruments that were not offset by netting, calculated in accordance with the asset valuation regulations or with Subsection (5) of Section 272 of the CMA, may not exceed fifteen per cent of the market value of securities covering the total gross technical provisions of the insurance company.

(5) The restrictions set out in Subsection (2) shall not apply to international financial institutions of which one or more Member States are members.

Section 137.

(1) The combined total value of investment units of close-ended real estate funds and close-ended collective investment instruments placed in real estate and investment units of open-ended real estate funds and open-ended collective investment instruments placed in real estate and real properties shall not account for more than twenty per cent of the liquid assets covering mathematical provisions.

(2) Investment units of securities investment trusts shall not account for more than thirty per cent of the liquid assets covering mathematical provisions. As regards the investment units of an investment fund falling under Directive 85/611/EEC, the limit pertaining to investment funds investing in securities shall increase with the amount invested to a maximum of thirty-five per cent.

(3) The combined total value of bonds unaccompanied by a bank guarantee, a guarantee issued by an insurance company, a mortgage or any other form of security, any other debt security or loan, securities and bonds that are not traded on a regulated market shall not account for more than fifteen per cent of the liquid assets covering mathematical provisions.

(4) Deposits with credit institutions and any other body authorized to receive deposits shall not account for more than twenty-five per cent of the liquid assets covering mathematical provisions.

(5) The combined market value of derivative instruments that were not offset by netting, calculated in accordance with the asset valuation regulations or with Subsection (5) of Section 272 of the CMA, may not exceed five per cent of the market value of instruments covering mathematical provisions.

(6) The limit set out in Subsection (5) and Subsection (4) of Section 136 shall not include

- a) derivative transactions for the reduction of exchange and interest risks;
- b) repo operations with a credit institution for government securities.

Section 138.

(1) Derivative instruments must be valued on a prudent basis and may be taken into account in the valuation of the underlying assets.

(2) Derivative transactions shall be governed by the provisions of Subsections (4)-(8) of Section 272 and Section 273 of the CMA with the exception that investment fund manager, investment fund and fund operating regulations shall be construed, respectively, as the insurance company, assets covering technical provisions and the rules of asset valuation of the insurance company.

(3) An insurance company may not conduct any transaction that would result in a short net position if it uses the netting rules specified in Section 273 of the CMA, other than the short net positions committed under Subsection (6) of Section 273 of the CMA to cover specific risks of securities.

(4) Insurance companies shall, at all times, have liquid assets of sufficient offset value to cover the entire balance between all contract prices of derivative long positions and existing variable deposits in addition to the liquid assets required for regular business operations. The offset value shall be the same as the sum held in a bank deposit, whether payable on demand or tied up for no more than thirty days, or eighty-five per cent of the market value of other liquid assets.

Section 139.

(1) All debts and claims must be valued on a prudent basis, allowing for the risk of any amounts not being realizable. In particular, tangible fixed assets other than land and buildings may be accepted as cover for technical provisions only if they are valued on the basis of prudent amortization.

(2) The value of assets accepted as cover for technical provisions must be calculated on a prudent basis with due allowance for the risk of any amounts not being realizable. In particular, debts owed by policy-holders and intermediaries may be accepted only in so far as they have been outstanding for not more than three months.

(3) Deferred acquisition costs may only be accepted as cover for technical provisions if they are consistent with the calculation of the technical provision for unearned premiums.

Section 140.

(1) With respect to the assets for which Subsections (2) and (3) of Section 136 and Subsections (1)-(6) of Section 137 contain no limits, the following principles shall apply:

a) in accordance with what is contained in Subsection (2) of Section 132, the investment portfolio is to be diversified and spread in such a way as to ensure that there is no excessive reliance on the part of the insurance company on any particular category of asset, investment market or investment;

b) investment in particular types of assets that show high levels of risk, whether because of the nature of the asset or the quality of the issuer, must be restricted to prudent levels;

c) with respect to Paragraph f) of Section 134, determining the value of claims from a reinsurer must take account of the treatment of reinsurance;

d) where the assets held include an investment in a subsidiary company that manages all or part of the insurance company's investments on its behalf, the provisions laid down in this Section shall apply to the valuation of assets held by the subsidiary company. These rules shall also apply to the valuation of participations in other subsidiaries;

e) the percentage of non-liquid investments must be kept to a prudent level;

f) loans to or debt securities issued by certain credit institutions may be accepted as cover for the investment of technical provisions. This treatment may be applied only where the credit institution has its head office in a Member State, is entirely owned by that Member State and/or that state's local authorities and its business consists of extending loans to or guaranteed by the state or local authorities or loans to bodies closely linked to the state or local authorities.

(2) The forty per cent limit laid down in Paragraph e) of Subsection (2) of Section 136 may be raised by the Commission's authorization in the case of mortgage bonds and certain securities when these are issued by a credit institution that has its head office in a Member State and is subject by law to special official supervision designed to protect the holders of those securities. The sums deriving from the issue of such securities must be invested in accordance with the law in assets that, during the whole period of validity of the securities, are capable of covering claims attaching to the securities and that would be used on a priority basis for the reimbursement of the principal and payment of the accrued interest.

(3) Insurance companies shall be free to choose from investment instruments under Section 134 in due observation of the investment restrictions.

(4) In exceptional circumstances and at an insurance company's request, the Commission may, temporarily and under a properly reasoned decision, allow exceptions to the rules laid down in Section 134 concerning investment categories and in Sections 135 and 136 concerning restrictions.

(5) Any dispute as to which lawful investment category a particular type of investment belongs shall be resolved by the Commission.

Section 141.

(1) The provisions of Subsections (2)-(4) of Section 136, Subsections (1)-(6) of Section 137, and Paragraphs a), b), d), e) and f) of Subsection (1) of Section 140 and Subsections (2) and (3) of Section 140 shall not apply to the investment of unit-linked life assurance provisions. Insurance companies shall invest their unit-linked life assurance provisions in a structure consistent with their current liabilities.

(2) If unit-linked life assurance policies feature capital or yield guarantees, the provisions of Subsections (2) and (3) of Section 136, Subsections (1)-(6) of Section 137, Paragraphs a), b), d), e), f) of Subsection (1) of Section 140

and Subsections (2) and (3) of Section 140 shall be observed with respect to additional provisions created for covering such guarantees.

Section 142.

(1) If the value of an insurance company's liabilities from a credit relationship is in excess of five per cent of its subscribed capital, the insurance company shall immediately report the key characteristics of such relationship to the Commission.

(2) Insurance companies shall be required to report to the Commission quarterly on the amount of their mathematical provisions, the reserve for pending claims and unit-linked life assurance provisions as well as the manner in which such provisions are invested by the 15th working day of the month following the quarter to which it pertains and, for the last quarter, by 31 January following the subject year.

Chapter IV

REGULATIONS GOVERNING THE REGISTERS OF ASSETS, THE ACCOUNTING SYSTEM AND ANNUAL REPORTS OF INSURANCE COMPANIES

Records of Assets

Section 143.

(1) Insurance companies shall keep separate records of the assets they use to cover the mathematical provisions and unit-linked life assurance provisions broken down according to the categories contained in Section 134.

(2) The value of the insurance company's assets of record shall equal the prescribed amount of the mathematical provisions and unit-linked life assurance provisions at all times.

(3) The director of accounting shall immediately notify the insurance company's chief executive officer and supervisory board if the value of the insurance company's assets of record falls below the mathematical provisions fund requirement.

(4) In the case specified in Subsection (3), the chief executive officer of the insurance company shall notify the Commission without delay.

(5) The insurance company shall keep records on its real properties that are used for insurance operations and on ownership interests in business associations.

Section 144.

(1) Insurance companies shall keep separate records of each managed fund attached to unit-linked life assurance policies, apart from the funds covering other provisions and from the assets used for the insurance company's own investments.

(2) If the insurance company transfers assets from one managed fund to another, the provisions relating to records of transactions with third persons shall apply.

(3) The individual records referred to in Subsection (1) shall include subaccounts designated for each and every managed fund for the purpose of analysis of the performance of the managed funds.

Accounting System of Insurance Companies

Section 145.

(1) Insurance companies shall keep their business records in a manner - in the Hungarian language in due compliance with the provisions of the legal regulations on accounting - that permits inspection at any given time.

(2) The business records and the control system shall be deemed appropriate if - above and beyond the provisions of the Accounting Act and other relevant legal regulations - they are designed to assist in managing the company in a prudent and circumspect manner, permit oversight of management by internal control and the Commission, and assist the insurance company so that it will meet its legal obligations.

Annual Report of Insurance Companies

Section 146.

The special aspects of the annual reporting and accounting obligation of insurance companies shall be decreed by the Government.

Section 147.

(1) Insurance companies shall, within 150 days of the balance sheet date, send to the Commission and the National Bank of Hungary (hereinafter referred to as "NBH") a copy of their annual report - as approved by the general meeting and endorsed by the auditor and deposited with the court of registry - as well as their business report, the minutes of the general meeting and the resolutions adopted.

(2) The insurance companies required to file a consolidated annual report shall send such report to the Commission and the NBH, together with the documents referred to in Subsection (1), within 180 days of the balance sheet date.

(3) The authenticity of the documents specified in Subsections (1) and (2) shall be endorsed with the signature of the insurance company's

- a) chief executive officer,
- b) senior mathematician (actuary),
- c) director of accounting.

(4) Insurance companies shall be required to file financial reports on the reinsurance contracts they conclude with foreign insurance companies, including their results, and shall send such reports to the Commission together with the annual report.

Section 148.

The insurance companies engaged in emergency assistance operations shall disclose in their annual report and the quarterly report the financial and other resources from which they finance the assistance services they provide.

Auditors of Insurance Companies

Section 149.

(1) All insurance companies, except insurance associations with less than three hundred million forints per annum in premium revenues, must employ an auditor.

(2) Insurance companies may only choose certified auditors who

a) have expertise in the field of insurance and are trained and experienced actuaries in compliance with the conditions set forth in Paragraphs a) and b) of Subsection (1) of Section 86; if the auditor is lacking experience, the insurance company shall employ an actuary who does satisfy this requirement;

b) are not employed by a person with a qualifying holding in the insurance company or, in the case of auditing firms, are not owned by such person with a qualifying holding;

c) have no direct or indirect share in the insurance company;

d) must be registered by the Commission in its register of auditors certified for insurance companies.

(3) The term of the auditor of an insurance company, if a natural person, may be for a maximum period of five years and it may not be renewed. An auditor employed or contracted by an auditing firm may audit the books of the same insurance company for a maximum period of five years.

(4) The same auditor may be appointed once again after two years following the end of the previous term. The same auditor in the employment of an auditing firm, whether as a paid employee or in a self-employed capacity, may be appointed once again to the same insurance company after two years following the end of the previous term.

(5) The auditor of an insurance company, if a natural person, shall be permitted to audit the books of a maximum of six insurance companies at any given time, and his income (revenue) from the insurance company may not account for more than thirty per cent of his annual income. The income (revenue) of the auditor from credit institutions, financial enterprises, investment enterprises, investment fund managers controlled by the same group or holding company, or from an investment fund managed by an investment fund manager controlled by the same group or holding company cannot exceed sixty per cent of his annual income (revenue).

(6) Any auditor in the employ of the auditing firm of an insurance company shall be permitted to audit the books of a maximum of six insurance companies at any given time and the income (revenue) of the auditing firm from the insurance company may not account for more than thirty per cent of its annual net revenue. The income (revenue) of an auditing firm from credit institutions, financial enterprises, investment firms, investment fund managers controlled by the same group or holding company, or from an investment fund managed by an investment fund manager controlled by the same group or holding company may not account for more than fifty per cent of its annual net revenue.

Section 150.

(1) The Commission shall enter an auditor in the register of auditors certified to audit insurance companies if

a) the auditor has worked for at least three years in accounting and control at an insurance company, in a supervisory and auditing position in the Ministry of Finance or at the Commission, and has at least two years of experience as an auditor in accordance with Subsection (2) of Section 26 of Act LV of 1997 on the Hungarian Association of Auditors and Auditing Activities, or

b) has worked in auditing for at least three years and has at least two years of experience working under an auditor certified to audit insurance companies.

(2) The Commission shall pass a resolution to remove an auditor from the register of auditors certified to audit insurance companies if

a) the auditor no longer complies with the requirements for registration;

b) the auditor fails to fulfill the obligations specified in legal regulations.

(3) The Commission shall notify the Hungarian Association of Auditors upon the registration of an auditor certified to audit insurance companies and also when such auditor is removed from the register, in which case the Commission shall send a copy of its decision to the Hungarian Association of Auditors.

(4) The Hungarian Association of Auditors shall send a copy of its decision adopted in conclusion of an ethics proceeding against an auditor certified to audit insurance companies to the Commission.

Section 151.

(1) The auditor shall immediately inform the insurance company's chief executive officer if he detects any violation of the provisions of this Act or other legal regulations pertaining to insurance operations; for example, if the amount or cover of technical provisions is insufficient.

(2) The auditor shall inform the Commission in writing, simultaneously with the audited insurance company, of the outcome of the audit if he ascertains any fact on the basis of which

a) the books cannot be endorsed, endorsement can only be granted subject to certain conditions, or he is compelled to refuse endorsement altogether;

b) the auditor notices circumstances that imply a criminal act, a serious violation of the insurance company's internal regulations, or the distinct possibility of these;

c) the auditor notices circumstances that imply infringement of the statutory provisions governing the authorization of insurance activities or the operations of insurance companies;

d) it is deemed that the insurance company is unable to meet its liabilities and commitments or safeguard the assets entrusted to it;

e) a serious deficiency or discrepancy in the insurance company's internal control system can be determined;

f) a significant difference of opinion between the auditor and the insurance company's managing director might occur on issues concerning the insurance company's solvency, income, data disclosure or bookkeeping mechanism that have a substantial impact on its operations.

(3) The managing director must notify the Commission concerning that which has been stipulated in Subsection (1).

(4) In addition to what is contained in Subsections (1) and (2),

a) the auditor must provide information at the request of the Commission,

b) the Commission must hold a consultation at the auditor's request.

(5) When auditing the annual report of an insurance company, the auditor shall also examine the following:

a) compliance with the provisions on solvency margin and capital adequacy, and the correctness of calculations of the solvency margin;

b) compliance with the legal provisions on prudential management for effective, reliable and independent operations as well as the resolutions of the Commission;

c) conformity of the continuous filing, data processing and data supply systems prescribed under Paragraph b) of Section 65;

d) the adequate operation of controlling systems.

(6) Upon conclusion of the audit, the auditor must record his findings on the issues specified in Subsections (5), (7) and (8) in a separate supplementary report and send it to the board of directors, the managing director, the chairman of the supervisory board and the Commission upon conclusion of the audit in the following year or within fifteen days following the general meeting.

(7) In the supplementary report referred to in Subsection (6), the auditor of the insurance company shall indicate as to whether the technical provisions are sufficient and whether the value of the insurance company's assets covering such provisions are in compliance with this Act.

(8) In the supplementary report referred to in Subsection (6), the auditor of the insurance company must evaluate in writing the technical provisions of the insurance company broken down by type of provision and branch of insurance.

(9) The insurance company shall notify the Commission within two working days concerning the resignation of its auditor or the termination of his contract, and it shall elect a new auditor within two months. The Commission shall be notified of the expiration of the term of an auditor two months in advance.

(10) When an auditor fails to comply with his obligations prescribed by legal regulation, the Commission shall be authorized to order the insurance company concerned to dismiss the auditor and appoint another one who satisfies the requirements laid down in Subsection (2) of Section 149. When the Commission initiates under Paragraph f) of Subsection (1) of Section 195 the discharge of the auditor of an insurance company, the auditor in question may also be removed from the register of auditors certified to audit insurance companies.

Section 152.

(1) Insurance companies must send to the Commission the contract concluded with the auditor - for auditing the annual report - and all of the reports prepared by the auditor in connection with the annual report.

(2) The Commission is entitled, on the basis of the auditor's report, to instruct the insurance company to re-examine an annual report that contains incorrect or inaccurate data, implement the necessary corrections and have the corrected data verified by an auditor.

(3) If, after the annual report has been approved, the Commission discovers that the annual report contains any substantial error, the Commission may compel the board of directors of the insurance company to have the figures revised and verified by an auditor. The insurance company must present the revised data verified by an auditor to the Commission before submitting it to the general meeting and re-publish the annual report once it has been approved by the general meeting.

PART SEVEN

ADMINISTRATION RULES CONCERNING CLIENTS

Insurance Secrets

Section 153.

Insurance secrets shall comprise all of the data - other than state secrets - in the possession of insurance companies, insurance intermediaries and insurance consultants that pertain to the particulars and financial situations (or business affairs) of their clients (including claimants) and the insurance contracts to which such clients are parties.

Section 154.

According to Act XLVII of 1997 on the Protection of Personal Data in the Field of Medicine, insurance companies shall be authorized to process any data pertaining to clients' health only for the reasons set out in Subsection (1) of Section 155 and only in possession of the express written consent of the data subject.

Section 155.

(1) Insurance companies, insurance intermediaries and insurance consultants shall be allowed to process the insurance secrets of clients only to the extent that they relate to the insurance contract, with its creation and registration, and to the service. Processing of such data shall take place only to the extent necessary for the conclusion, amendment and maintenance of the insurance contract and for the evaluation of claims arising from the contract or for any other purpose specified in this Act.

(2) Insurance companies, insurance intermediaries and insurance consultants must obtain the data subject's prior consent for processing data for purposes other than what is contained in Subsection (1). The client shall not suffer any disadvantage if the consent is not granted, nor shall any advantage shall be given if it is granted.

(3) Unless otherwise provided by law, the owners, directors and employees of insurance companies, insurance intermediaries and insurance consultants and all other persons having access to insurance secrets in any way or form during their activities in insurance-related matters shall be required to maintain professional confidentiality with no time limit whatsoever.

Section 156.

Insurance secrets may only be disclosed to third parties

- a) under the express prior consent of the client to whom they pertain or his legal representative, and this consent shall precisely specify the insurance secrets that may be disclosed,
- b) if there is no legal confidentiality obligation.

Section 157.

- (1) The obligation to keep insurance secrets shall not apply to
- a) the Commission when acting in an official capacity;
 - b) investigating authorities and the public prosecutor's office, acting in a pending criminal procedure;
 - c) a court of law in connection with criminal or civil cases as well as bankruptcy and liquidation proceedings, and the independent court bailiff acting in a case of judicial enforcement;
 - d) notaries public in connection with probate cases;
 - e) the tax authority in the cases referred to in Subsection (2);
 - f) the national security service when acting in an official capacity;

g) the Office of Economic Competition when acting within its authority to monitor competition in the insurance industry including insurance companies, insurance intermediaries and consultants, Hungarian representation offices of independent insurance intermediaries and consultants and the trade organizations of these;

h) guardian agencies acting in an official capacity;

i) the health care authority defined in Subsection (2) of Section 108 of Act CLIV of 1997 on Health Care;

j) the agencies authorized to use secret service means and to conduct covert investigations if the conditions prescribed in specific other legislation are provided for;

k) providers of reinsurance and co-insurance;

l) the Office maintaining the central policy records with respect to data disclosed as governed in this Act;

m) the receiving insurance company with respect to insurance contracts conveyed under a portfolio transfer;

n) the body operating the Claims Security Account, the Information Center, the Claims Organization and the claims representative with respect to the information required for settlement and for the enforcement of compensation claims;

o) the outsourcing service provider with respect to data supplied under outsourcing contracts;

p) third-country insurance companies, insurance intermediaries and consultants in respect of their branch offices, if they are able to satisfy the requirements prescribed by Hungarian law in connection with the management of each datum and the country in which the third-country insurance company is established has legal regulations on data protection that conform to the requirements prescribed by Hungarian law

upon receipt of a written request from an agency or person referred to in Paragraphs a)-j) and n) indicating the name of the client or the description of the insurance contract, the type of data requested and the purpose and grounds for requesting data. The bodies or persons referred to in Paragraphs k), l), m) and p) are required to indicate only the type of data requested and the purpose and grounds for requesting it. An indication of the statutory provision under national law or Community legislation granting authorization for requesting data shall be treated as verification of the purpose and legal grounds.

(2) Pursuant to Paragraph e) of Subsection (1), there shall be no confidentiality obligation in connection with tax matters where the insurance company is required by law to disclose specific information to the tax authority upon request and/or to disclose data concerning any payment made under an insurance contract that is subject to tax liability.

(3) Insurance companies, insurance intermediaries and insurance consultants shall be authorized to disclose the personal data of clients in the cases and to the agencies indicated in Subsections (1) and (5) of this Section and in Sections 156, 158 and 159.

(4) The confidentiality requirement shall apply to the employees of the agencies specified in Subsection (1) beyond the framework of their official capacity.

(5) Insurance companies, insurance intermediaries and insurance consultants shall be required to supply information forthwith to investigative authorities and to the national security service if there is any suspicion that an insurance transaction is associated with

a) drug trafficking,

b) terrorism,

c) illegal arms trafficking, or

d) money laundering.

(6) Insurance companies, insurance intermediaries and insurance consultants shall supply information concerning insurance secrets on record to investigative authorities on the basis of an official request made in connection with a specific case and marked "urgent" even if there is no public prosecutor's endorsement attached.

(7) The obligation to keep insurance secrets shall not apply where an insurance company, insurance intermediary or an insurance consultant informs the Ministry of Finance of the restrictive measures it has taken on the basis of:

a) regulations adopted under Article 60 of the Treaty establishing the European Community on the restrictive measures to be applied relating to liquid assets, other financial interests and economic resources, or on the basis of regulations or decisions adopted under authorization by these regulations;

b) common positions adopted under Article 15 of the Treaty establishing the European Union, on the restrictive measures to be applied relating to liquid assets, other financial interests and economic resources, with a view to discharge the obligation contained therein.

(8) With respect to the information obtained under Subsection (7), the Ministry of Finance shall have powers:

a) to disclose them to Member States of the European Union and their institutions;

b) to retain them for five years for the purpose of cross referencing; and

c) to use them for statistical purposes if the person to whom it pertains cannot be identified.

Section 158.

(1) It shall not constitute a violation of professional secrets when an insurance company supplies information to a third-country insurance company or a third-country data processing agency (third-country data manager) if the client to whom such information pertains (data subject) has given his prior written consent, the third-country data manager satisfies the requirements prescribed by Hungarian law in connection with the management of each datum, and the country where the third-country data manager is established has legal regulations on data protection that conform to the requirements prescribed by Hungarian law.

(2) The provisions governing data disclosure within the domestic territory shall be observed when sending data that is treated as an insurance secret to another Member State.

Section 159.

(1) The following shall not be deemed a violation of insurance secrets:

a) disclosure of summarized information from which the clients and/or the specifics of their business cannot be identified;

b) in respect of branch offices, transfer of data to the supervisory authority of the country where the registered address (main office) of the foreign-registered enterprise is located, if such transfer is in compliance with the agreement between the Hungarian and the foreign supervisory authorities;

c) disclosure of information, other than personal data, to the Ministry of Finance for legislative purposes and in connection with the completion of feasibility studies.

d) the disclosure of data in order to comply with the provisions contained in Chapters III and III/A of Part Eight of this Act, in Chapter XIX/B of the CMA, and in Chapter XIV/A of the CIFE.

(2) Insurance companies may not refuse to disclose the data specified in Subsection (1) in reference to the protection of insurance secrets.

Section 160.

(1) The personal data indicated in the data transfer records and the data that fall under the scope of Section 154 and are treated as special data under the Data Protection Act shall be deleted, respectively, after five years and twenty years following the date of disclosure.

(2) The insurance company shall not be authorized to notify the data subject when data is disclosed pursuant to Paragraphs b), f) and j) of Subsection (1) of Section 157 or Subsection (5) of Section 157.

(3) Insurance companies, insurance intermediaries and insurance consultants shall be entitled to process personal data during the life of the insurance or contractual relation and as long as any claim can be asserted in connection with the insurance or contractual relation.

Section 161.

(1) Insurance companies shall be entitled to process personal data relating to any frustrated insurance contract as long as any claim can be asserted in connection with the frustration of the contract.

(2) Insurance companies, insurance intermediaries and insurance consultants shall be required to delete all personal data relating to their current or former clients or to any frustrated contract in connection with which the data in question is no longer required, if the data subject has not given consent, or if it is lacking the legal grounds for processing such data.

(3) Within the meaning of this Act, the processing of data related to deceased persons shall be governed by the statutory provision on the processing of personal data.

(4) The rights of a deceased person in terms of data processing may be exercised by the heir or by the person named as the beneficiary in the insurance contract.

Business Secrets of Insurance Companies, Insurance Intermediaries and Consultants

Section 162.

Insurance companies, insurance intermediaries and consultants and their owners, any person planning to acquire an interest in the insurance company, insurance intermediary or consultant as well as their executive officers and their employees shall keep any business secrets made known to them in connection with the operation of the insurance company, insurance intermediary or consultant confidential without any time limitation.

Section 163.

- (1) The obligation of confidentiality described in Section 162 shall not apply in respect of
 - a) the Commission,
 - b) the NBH,
 - c) the national security service,
 - d) the State Audit Office,
 - e) the Economic Competition Office,
 - f) the Government Control Office, which controls the legality and propriety of the use of central budget funds,
 - g) property supervisors,
 - h) the Information Centeracting within the scope of their official capacity.
- (2) The obligation of confidentiality described in Section 162 shall not apply, concerning the grounds for procedure, in respect of
 - a) investigating authorities and the public prosecutor acting within the scope of criminal procedures in progress and investigating charges,
 - b) the courts acting in criminal cases and civil cases or in bankruptcy and liquidation proceedings as well as local self-government debt-settlement proceedingsacting within the scope of their official capacity.
- (3) Upon the investigating authority's "urgent matter" request, insurance companies, insurance intermediaries and consultants shall disclose data, whether or not deemed a business secret, from those of their files that are connected to the case in question even without the public prosecutor's approval as prescribed in specific other legislation.
- (4) The disclosure of information by the Commission to the Ministry of Finance on insurance companies, insurance intermediaries and consultants, in a manner permitting individual identification, for legislative purposes and in connection with the completion of feasibility studies shall not be construed as violation of business secrets.
- (5) The disclosure of information by the Information Center in an official capacity shall not be construed a violation of business secrets.

Section 164.

- (1) Persons acquiring any business secrets must keep them confidential without any time limitation.
- (2) By virtue of the obligation of secrecy, no facts, information, know-how or data within the sphere of business may be disclosed to third parties beyond the scope defined in this Act without the consent of the client or the insurance company, insurance intermediary or consultant concerned, or used beyond the scope of official responsibilities.
- (3) The person acquiring any business secrets may not utilize such for his own benefit or for the benefit of a third person, whether directly or indirectly, or to cause any disadvantage to the insurance company, insurance intermediary or consultant or its clients.

Common Provisions Relating to Insurance Secrets and the Business Secrets of Insurance Companies, Insurance Intermediaries and Consultants

Section 165.

(1) In the event of termination of an insurance company, insurance intermediary or consultant without a successor, the business documents managed by the insurance company, insurance intermediary or consultant and the documents containing business secrets may be used for archival research in sixty years after the date of their origin.

(2) Any information that is declared by specific other legislation to be information of public interest or public information and as such is rendered subject to disclosure may not be withheld on the grounds of being treated as a business secret.

(3) Other issues relating to insurance secrets and business secrets shall be governed under Section 81 of the Civil Code.

Information for Policyholders

Section 166.

(1) Before a life assurance contract is concluded - with the exception of net risk life assurance policies that contain no savings elements, which are offered by the financial institution in connection with financial services it provides, or where the sum insured is less than one million forints - the insurance company and the insurance intermediary shall assess customer demand or shall interview the client in order to ascertain the needs and requirements of the client.

(2) Unless otherwise provided by law, before a life assurance contract is concluded, insurance companies and insurance intermediaries must furnish the policyholder with easily intelligible, clearly written and detailed information that is verifiable and documented - written in an official language of the Member State of the commitment - about the insurance company or the insurance intermediary (name of the company and its legal form, address of its head office, name of the Member State in which the head office is located and the competent Commission there, and, where appropriate, the address of the branch office concluding the contract) and the particulars of the assurance contract. This information may also be provided in a language specified in the agreement concluded with the client. The insurance company's obligation to supply information to policyholders shall apply during the term of the contract with respect to any changes in the above-specified information apart from the particulars of dependent insurance intermediaries and the data contained in Point 17 of Part A) of Schedule No. 10. Unless otherwise prescribed by law, the insurance intermediary referred to in Section 35 is only required to communicate information about the insurance company and the terms and conditions of the insurance contract. The type of information to be provided in connection with insurance contracts is contained in Part A) of Schedule No. 10.

(3) Insurance companies and insurance intermediaries are required to supply - in connection with life assurance policies where the customer survey referred to in Subsection (1) is required - information, supported by sufficient evidence, in addition to that listed in Subsection (2) in the form of a product information guide - Part B) of Schedule No. 10 - containing the results of the customer survey referred to in Subsection (1) before the life assurance policy is issued.

(4) The insurance company shall not be under the obligation referred to in Subsection (2) in connection with any insurance contract concluded by way of an independent insurance intermediary representing the client or in connection with reinsurance or for insurance contracts covering large exposures.

(5) Where insurance services are provided through electronic commerce, insurance companies and insurance intermediaries shall be required to provide unlimited easy access for the client information through electronic channels. If the insurance company's declaration of acceptance is endorsed by a qualified certificate defined in Act XXXV of 2001 on Electronic Signatures, the insurance company shall be required to provide unlimited easy access for the client to the information specified in Subsection (2) through electronic channels.

(6) The information provided in accordance with Subsection (2) shall be sufficient to focus attention on the conditions under which the insurance company is released from liability or entitled to limit its services, the exclusions stipulated in the insurance contract, and all other terms and conditions that differ substantially from common contractual practice, contracting regulations or any contract clause previously accepted by the parties, thus, for example, if some law other than Hungarian is stipulated as authoritative or if Hungarian courts are not vested with exclusive jurisdiction.

(7) Unless otherwise prescribed by law, before concluding a contract, the insurance company shall obtain a statement from the client, supported by sufficient evidence, to the effect that he has received the information specified in Subsections (2) and (3). In the statement, the client shall also state any other information received in connection with the insurance policy in question prior to concluding the contract.

(8) If the insurance company's declaration of acceptance is endorsed by a stamp, certification note or a seal, the insurance company shall post the information sheet containing the information specified in Subsection (2) at the place of contracting.

(9) Once a life assurance contract has been concluded - other than net risk life assurance policies with no residual rights attached, supplementary insurance against disability resulting from an accident or sickness covered under the life assurance branch - the insurance company shall provide written information to the policyholder at least once a year on the service value of the life assurance policy, its current cash surrender value and the amount of any surplus yield to be refunded.

(10) In connection with an inflation escalation clause in an insurance contract, the client is to be clearly informed concerning the components to which the inflation escalation clause pertains. The insurance company shall be required to emphasize the existence of inflation escalation clauses, including the rights of the client relative to such clauses.

(11) As regards unit-linked life assurance policies, the insurance company must provide the contracting party with access to information on the placement of investments, to wit, the cross rate of the various investment forms used to cover the contracting party's investment, the types of each form of investment and the current value of the contracting party's investments. The form and content requirements regarding the information to be supplied to clients in connection with unit-linked life assurance policies shall be decreed by the Minister of Finance.

(12) If a medical examination of the prospective policyholder is required for the conclusion of an insurance contract - life assurance and non-life insurance alike - the insurance company must inform the client of his/her right to obtain the results of such tests and examination pursuant to Act CLIV of 1997 on Health Care.

Section 167.

(1) Following conclusion of the life assurance contract, the insurance company shall notify - and provide sufficient evidence - the policyholder within thirty days of the operative date of the contract - in an official language of the Member State of the commitment or in another language if the policyholder so requests and if there is an agreement to that effect - that the contract has entered into existence.

(2) In the notification referred to in Subsection (1), the insurance company shall inform the client - if the client is a natural person entering into the life assurance contract in a capacity other than self-employment or business activities - of the provisions contained in Subsections (2)-(5) of Section 96.

(3)-(5)

PART EIGHT

OVERSIGHT OF THE INSURANCE INDUSTRY

Chapter I

LEGAL STATUS, OPERATION AND ACTIVITIES OF THE COMMISSION

Legal Status of the Commission

Section 168.

The scope of authority and the legal status of the Commission are defined in Act CXXIV of 1999 on Government Control of Financial Institutions (hereinafter referred to as "GCFI").

Responsibilities of the Commission

Section 169.

- (1) The Commission is vested with powers within the framework of this Act to
- a) safeguard the interests of policyholders;
 - b) oversee and evaluate compliance with the provisions of this Act, other legal regulation enacted under authorization of this Act as well as other related legal regulation;
 - c) process applications for authorizations;
 - d) keep records of data and information associated with insurance activities and the activities of insurance intermediaries and consultants;
 - e) fulfill its obligation of evaluation and supply information in connection with the establishment of branch offices and cross-border services;
 - f) fulfill its obligation to supply information to the European Commission.
- (2) The Commission shall - according to this Act - monitor and evaluate
- a) the financial standing of insurance companies, compliance with the solvency margin requirement and the minimum security capital requirement, and the solvency of insurance companies;
 - b) the creation and use of technical provisions;
 - c) observance of the rules for investing the technical provisions, and the availability of sufficient cover;
 - d) compliance with the regulations on changes in personnel;
 - e) whether the material conditions required for the business policy outlined by the insurance company are satisfied;
 - f) implementation of product plans, compliance of premium calculations with professional standards, the legality of the terms and conditions of insurance contracts and their enforcement;
 - g) compliance with the requirement of providing accurate, clear and understandable information to policyholders in a timely fashion;
 - h) the operations of the agency handling the Claims Security capital.
- (3) The Commission shall summon the persons engaged in insurance activities, independent insurance mediation or principal agency without authorization, and unregistered dependant insurance intermediaries and insurance consultants and request that they present the necessary contracts, documents, reports, statements, and auditor's reports for clarifying the situation. The Commission may, furthermore, order the inspection of any places in which, based on the available information, these activities have been or are being performed.
- (4)
- (5) The Commission shall be responsible for carrying out the financial supervision of the activities of the insurance companies, independent insurance intermediaries and consultants established in the territory of the Republic of Hungary that are performed through branch offices or in the form of cross-border services.

Data Processing by the Commission

Section 169/A.

- (1) The Commission shall have powers - in the course of market surveillance proceedings (Section 11/Q of the GCFI) - to obtain and process to the extent necessary to discharge its duties the personal data of clients (surname and forename, birth name, place and date of birth, mother's birth name, nationality, residence address, place of abode) relating to:
- a) securities account, client account and bank account transactions, the number of the account to be debited and credited, the holder of such account, the purpose of crediting and debiting, and the code for the identification of the financial transaction; and
 - b) the telephone number or other identifier of the subscriber terminal specified in the Act on Electronic Communications, calling and called subscriber numbers, and the date of call or other services provided.
- (2) When requesting the data referred to in Subsection (1) the Commission shall provide sufficient evidence to prove that the data requested is essential for clearing up the facts to the fullest extent.

(3) The data specified in Paragraph *b*) of Subsection (1) shall be made available subject to the district attorney's prior consent. The district attorney shall refuse to consent if the Commission is unable to provide sufficient evidence as required in Subsection (2), or if other legal requirements for data processing are not satisfied.

Chapter II

SUPERVISORY SYSTEM OF THE COMMISSION

Supervisory Control

Section 170.

Section 171.

(1) Insurance companies, independent insurance intermediaries and insurance consultants shall supply the Commission with data and information on a regular basis and in special cases by virtue of law or a Commission resolution.

(2) The order and contents of the internal data disclosure of insurance companies shall be decreed by the Minister of Finance.

Section 172.

Insurance companies shall provide to the Commission

- a) an internal report once a year, in addition to the annual report, that assesses their underwriting activities; the internal report shall not be made public;
- b) once a year the insurance company's actuarial report;
- c) a quarterly report concerning the key characteristics of their operations, including large exposures and large losses, and the estimated figures for the solvency margin, equity capital and technical provisions.

Section 173.

Independent insurance intermediaries shall send a duplicate of their annual report, which is deposited with the court of registry, to the Commission within one hundred and fifty days of the accounting date.

Sections 174-176.

Section 177.

(1) The Commission may contract the services of an expert, in accordance with its tendering regulations, to carry out inspections. The expert must be registered in the Commission's register of experts.

(2) Any person may be entered into the register of experts who

- a) is listed in the register of auditors and satisfies the requirements laid down in Subsection (2) of Section 149, or
- b) satisfies the requirements laid down in Paragraphs a)-d) of Subsection (1) of Section 86 or Paragraphs a)-e) of Subsection (1) of Section 87.

(3) The Commission's decision to refuse to enter a person in the register may not be appealed.

(4) The provisions of Subsections (2)-(6) and (8)-(11) of Section 10 and the provisions of Section 11 of the GCFI shall apply to experts *mutatis mutandis*. The Commission shall conduct an inquiry in connection with the appointment of an auditor or an expert concerning any involvement with the employer in the form of membership or an executive position during the previous three years.

(5) Experts must have sufficient facilities for the safekeeping of documents (duplicates). Following the conclusion of an on-site inspection, neither the auditor nor the expert may retain in his possession any document or data related to the audit.

(6) Any person holding credentials from the Commission shall be considered as an official while he is proceeding.

Chapter III

Supervision on a Consolidated Basis

Scope of Supervision on a Consolidated Basis

Section 178.

(1) Every insurance company

a) that is the parent company of another insurance company, reinsurance company or third-country insurance company or that holds a participation in at least one insurance company, reinsurance company or third-country insurance company;

b) whose parent company is an insurance holding company, a reinsurance company or a third-country insurance company;

c) whose parent company is a mixed-activity insurance holding company shall be subject to supervision on a consolidated basis.

(2) In addition to Subsection (1), supervision on a consolidated basis shall apply to

a) the parent company of the insurance company or any other company holding a participation,

b) the insurance company's subsidiary or any other company in which it has a participation,

c) other subsidiary companies of the insurance company's parent company or any company that holds a participation in the insurance company, or any other company in which they have a participation.

(3) Supervision on a consolidated basis shall not apply to any third-country insurance company that is established in a country where there are legal impediments to the transfer of the necessary information.

(4) The Commission may decide - by weighing each case separately - that a company need not be included in the consolidation if it is of negligible interest as far as the objectives of consolidated supervision are concerned or if it would be inappropriate or misleading (in particular if its participation is likely to be held for less than one year).

Section 179.

(1) The Commission shall maintain a register of insurance companies that are subject to supervision on a consolidated basis.

(2) The Commission shall have competence to exercise supervision on a consolidated basis of any Hungarian-registered insurance company that is the parent company of another insurance company, reinsurance company or third-country insurance company or that has a participation in at least one insurance company, reinsurance company or third-country insurance company, or that is the subsidiary of an insurance holding company, reinsurance company, third-country insurance company or a mixed-activity insurance holding company.

(3) Hungarian-registered insurance companies that are subject to supervision on a consolidated basis shall be required to notify the Commission within two working days when entering into a parent company-subsidiary relationship or when acquiring any participation referred to in Subsection (2), including all changes therein.

(4) Insurance companies that are subject to supervision on a consolidated basis under Subsection (1) of Section 178 shall convey to the Commission a description of the apparatus for the conveyance of information related to supervision on a consolidated basis when falling under the scope of Subsection (2) of Section 178 for the first time.

(5) When the parent company or the subsidiary of an insurance company, a company in which the insurance company has a participation, or a company that has a participation in the insurance company falls under the scope of Subsection (2) of Section 178 for the first time, the company shall provide a statement guaranteeing that it will

provide the Commission with the data, facts and information that are necessary for supervising the insurance company on a consolidated basis.

(6) If the Commission detects any unreported parent company, subsidiary relationship or any unreported participation, the insurance company affected shall be officially advised to handle the relationship in accordance with the provisions laid down in this Act.

Data Disclosure Obligations

Section 180.

(1) The Commission - in exercising supervision on a consolidated basis - may request reports, data or information from insurance companies that are subject to supervision on a consolidated basis regularly or periodically, and the insurance companies requested must comply with such requests.

(2) The procedure for the regular disclosure of data for supervision on a consolidated basis shall be decreed by the Minister of Finance.

(3) Insurance companies that are subject to supervision on a consolidated basis shall have sufficient information systems for providing the data and information required for exercising supervision on a consolidated basis and internal control systems that ensure the reliability of the disclosed data and information.

(4) An insurance company indicated in Subsection (2) of Section 178 shall - unless otherwise prescribed by legal regulation - be required to supply to the insurance company that is subject to supervision on a consolidated basis all of the data and information necessary for consolidated supervision.

(5) If the company referred to in Subsection (2) of Section 178 fails to supply the insurance company that is subject to supervision on a consolidated basis with all of the data and information necessary for the calculation of the adjusted solvency margin, the insurance company that is subject to supervision on a consolidated basis shall deduct from the solvency margin the book value of its participation held in the company referred to in Subsection (2) of Section 178 as well as the book value of the subordinated loan capital provided to such company.

(6) The Commission shall be authorized to request the data and information necessary for consolidated supervision directly from the company referred to in Subsection (2) of Section 178.

Inspection

Section 181.

The Commission shall be authorized to carry out inspections in accordance with Section 170 in connection with the consolidated supervision of companies that are subject to supervision on a consolidated basis.

The Commission's International Cooperation with the Supervisory Authorities of Other Countries Regarding Supervision on a Consolidated Basis

Section 182.

(1) If a Hungarian insurance company (companies) and an insurance company (companies) established in another Member State are subsidiaries of the same insurance holding company, reinsurance company, third-country insurance company or mixed-activity insurance company, supervision on a consolidated basis shall be exercised by the supervisory authority designated in the agreement between the Commission and supervisory authorities of the Member States concerned.

(2) The Commission shall cooperate with the supervisory authorities of other Member States in exercising supervision on a consolidated basis.

(3) The Commission may supply reports, data and information to the supervisory authorities of other Member States as they are necessary for the objectives of supervision on a consolidated basis.

(4) The Commission may supply reports, data and information that may be necessary for exercising supervision on a consolidated basis to a third-country supervisory authority having considered the availability of reciprocity or on the basis of a valid supervision cooperation agreement.

(5) The Commission may conduct the inspection specified in Section 181 at the request of the supervisory authority of another Member State of the European Union, and it may give its consent to the supervisory authority requesting consent or to an auditor or to another expert designated by it to conduct the inspections. The competent authority which made the request may, if it so wishes, participate in the inspections insofar as it does not carry out the inspections itself.

(7) The Commission may supply information to the supervisory authorities of other Member States that is necessary to determine whether the owners and executive employees of any company within the same group possess appropriate professional qualifications and business reliability.

Transactions Between Companies and/or Persons Subject to Supervision on a Consolidated Basis

Section 183.

- (1) The Commission shall have competence to supervise the transactions that take place between
- a) an insurance company and
 - 1) the insurance company's subsidiary or any other company in which it has a participation,
 - 2) the parent company of the insurance company or any other company holding a participation in the insurance company,
 - 3) other subsidiary companies of the company referred to in Point 2 or any other company in which it has a participation;
 - b) an insurance company and any natural person who has a participation or dominant influence
 - 1) in the insurance company or its subsidiary, or any other company in which the insurance company has a participation,
 - 2) in the parent company of the insurance company or any other company holding a participation in the insurance company,
 - 3) in other subsidiary companies of the company referred to in Point 2 or any other company in which it has a participation.
- (2) The transactions referred to in Subsection (1) shall include, in particular:
- a) transactions with debt securities and loan transactions,
 - b) provision of surety facilities and other forward commitments and contingent liabilities,
 - c) transactions involving any component of the available solvency margin,
 - d) investment-related transactions,
 - e) transactions in connection with reinsurance,
 - f) diversification of expenses.
- (3) The insurance company shall disclose to the Commission the transactions referred to in Subsection (1) involving over five per cent of its subscribed capital (share capital, initial capital) in the quarterly disclosure or the annual report in accordance with the decree of the Minister of Finance governing data disclosure for supervision on a consolidated basis.
- (4) Insurance companies shall have adequate risk management processes and internal control mechanisms, including accounting and reporting procedures, in order to identify, measure, monitor and control transactions as provided for above.

Adjusted Solvency Requirement

Section 184.

(1) The adjusted solvency of insurance companies subject to supervision on a consolidated basis shall be calculated to establish whether its available solvency margin satisfies the required level of solvency margin.

(2) If the insurance company is a subsidiary or a company has any participation in the insurance company, and such insurance parent company has any participation in another insurance company, the adjusted solvency requirement shall be calculated for each insurance company that is either a parent company or has any participation in another insurance company.

(3) If there are several insurance companies that are subsidiaries of the same insurance holding company, reinsurance company or third-country insurance company, the adjusted solvency requirement shall be calculated by the insurance holding company, reinsurance company or third-country insurance company and conveyed to the insurance company that is subject to supervision on a consolidated basis.

(4) Where an insurance holding company or reinsurance company is the subsidiary of an insurance holding company, reinsurance company or third-country insurance company, the Commission may authorize - on a case-by-case basis - that calculation of the adjusted solvency requirement is made only by the insurance holding company, reinsurance company or third-country insurance company that is on the highest level.

(5) The Commission may grant an exemption from the adjusted solvency requirement

a) to an insurance company that is the subsidiary of another Hungarian insurance company or in which another Hungarian insurance company has any participation, and the parent company or the company holding the participation calculates its adjusted solvency requirement consolidated with the insurance company in question;

b) to an insurance company that is a subsidiary of a Hungarian insurance holding company or a reinsurance company, and if the adjusted solvency requirement is calculated on the basis of the consolidated data of the subsidiary insurance company and the insurance holding company or reinsurance company;

c) to an insurance company whose parent company is an insurance company, insurance holding company or reinsurance company that is registered in another Member State or in which such company has a participation, and the Commission of the other Member State exercises supervision on a consolidated basis of the insurance company by virtue of an agreement referred to in Subsection (1) of Section 182;

d) to an insurance company that is a subsidiary of a third-country insurance company or in which a third-country insurance company has any participation, and if the adjusted solvency requirement is calculated on the basis of the consolidated data of the subsidiary and the parent company or the company holding a participation;

e) to an insurance company that is the subsidiary, together with other Hungarian insurance companies, of the same insurance holding company, reinsurance company or third-country insurance company and if the adjusted solvency requirement of the insurance holding company, reinsurance company or third-country insurance company is calculated consolidated with such subsidiary;

f) to an insurance company that is the subsidiary, together with other Member State insurance companies, of the same insurance holding company, reinsurance company or third-country insurance company and the Commission of the other Member State exercises supervision on a consolidated basis of the insurance company by virtue of an agreement referred to in Subsection (1) of Section 182.

(6) The Commission shall grant the exemption under Subsection (5) only if there exist facilities that are equal to or better than what is contained in this Act for the calculation of the adjusted solvency requirement and for its adequate apportionment between the companies according to Subsection (2) of Section 178.

(7) The Commission shall grant the exemption under Subsection (5) to a third-country insurance company only if there is a valid agreement between the supervisory authorities concerned.

Calculation of the Adjusted Solvency Requirement

Section 185.

(1) Calculation of the adjusted solvency requirement shall be carried out according to one of the methods described in Schedule No. 11.

(2) The insurance companies required to file a consolidated annual report according to the Accounting Act shall calculate their solvency requirement by the 'Accounting consolidation-based method' (Schedule No. 11, Point 3).

(3) The insurance companies that are not required to file a consolidated annual report according to the Accounting Act but are nevertheless subject to supervision on a consolidated basis shall calculate their solvency requirement by the 'Deduction and aggregation method' (Schedule No.11, Point 1).

(4) The Commission may authorize - on a case-by-case basis - for insurance companies that are not required to file a consolidated annual report according to the Accounting Act but are nevertheless subject to supervision on a consolidated basis to calculate their solvency requirement by the 'Requirement deduction method' (Schedule No.11, Point 2).

(5) When using methods 1 and 2 under Schedule No. 11, the solvency requirement of a parent company or a participating company shall be calculated based on a proportional basis taking into account their direct and indirect shares calculated by the formula contained in Schedule No. 3 of this Act or shall be calculated based on the percentage ratios contained in the consolidated annual report prepared according to the Accounting Act when using method 3.

(6) When a subsidiary company has a solvency deficit, the total solvency deficit of the subsidiary has to be taken into account. However, the Commission may give permission - on a case-by-case basis - for the solvency deficit of the subsidiary company to be taken into account on a proportional basis if the parent company owning a share of the capital is able to prove that its responsibility is limited strictly and unambiguously to that share of the capital.

(7) Where dominant influence is exercised without any capital involvement, the method of consolidation shall be determined by the Commission.

(8) With respect to records and the definition of data for the calculation of the adjusted solvency margin, and to methods of inclusion Subsection (4) of Section 10 of the Accounting Act shall be disregarded.

Section 186.

(1) The double use of elements eligible for the solvency margin among the different insurance companies under consolidated supervision taken into account in that calculation must be eliminated. For this purpose, when calculating the adjusted solvency the following amounts shall be eliminated:

- a) the value of any asset of that insurance company that represents the financing of elements eligible for the solvency margin of one of its subsidiary companies or other insurance companies in which it has a participation, and
- b) the value of any asset of a subsidiary of that insurance undertaking or a company in which it has a participation that represents the financing of elements eligible for the solvency margin of that insurance company, and
- c) the value of any asset of a subsidiary of that insurance undertaking or a company in which it has a participation that represents the financing of elements eligible for the solvency margin of any other subsidiary of that insurance company or any other company in which it has a participation.

(2) With respect to a life assurance company

- a) whose parent company is an insurance company or in which an insurance company holds a participation, its profit reserves and future profits, or
- b) that has a subsidiary or other company in which it participates, the subscribed but not paid-up capital of these companies

may only be included in the calculation of the solvency margin in so far as they are eligible for covering the solvency margin requirement of that subsidiary or the company in which it has a participation.

(3) Without prejudice to the provisions of Subsection (2),

- a) any subscribed but not paid-up capital of the subsidiary of the insurance company or any other company in which the insurance company has a participation that represents a potential obligation on the part of the insurance company to the related company, and

b) any subscribed but not paid-up capital of the insurance company that represents a potential obligation on the part of any subsidiary of the insurance company or any other company in which it has a participation, and

c) any subscribed but not paid-up capital of any subsidiary of the insurance company or any other company in which it has a participation that represents a potential obligation on the part of a subsidiary of the insurance company or any other company in which it has a participation

shall be excluded from the calculation.

(4) The Commission - on a case-by-case basis - may restrict the eligibility of elements of the solvency margin that are not effectively available to the insurance company and may prescribe that certain elements eligible for the solvency margin of a subsidiary insurance company or an insurance company in which a company has a participation may be included in the calculation of the adjusted solvency requirement only in so far as they are eligible for covering the solvency margin requirement of the subsidiary insurance company or the insurance company in which a company has a participation.

(5) The sum of the elements referred to in Subsections (2)-(4) may not exceed the solvency margin requirement of the subsidiary insurance company or the insurance company in which a company has a participation.

(6) When calculating adjusted solvency, no account shall be taken of any element eligible for the solvency margin arising out of reciprocal financing between the insurance company and

a) a subsidiary or other company in which it has a participation, or

b) the parent company of the insurance company or another company in which the insurance company has a participation, or

c) another subsidiary of any of the companies referred to in Paragraph b) or another company in which it has a participation.

(7) In particular, reciprocal financing exists when a subsidiary of an insurance company or any of the companies in which it has a participation is the parent company of another company, participates in another company, or makes loans to another company and the mid-level company, directly or indirectly, holds an element eligible for the solvency margin or the own funds of its subsidiary or another of its company in which another company participates.

(8) Furthermore, no account shall be taken of any element eligible for the solvency margin of a subsidiary company of the insurance company for which the adjusted solvency is calculated or another company in which it participates when the element in question arises out of reciprocal financing with any other subsidiary company of that insurance company or another company in which it participates.

(9) Where an insurance company has a participating share in a credit institution, investment firm or financial institution, the book value of this participating share and the book value of any subordinated loan provided to these companies shall be deducted when calculating its adjusted solvency margin.

Adjusted Solvency Requirement of Insurance Companies

Section 187.

(1) The adjusted solvency calculation of the insurance companies referred to in Paragraph a) of Subsection (1) of Section 178 shall be carried out by integrating each of their subsidiaries and other companies in which they have a participation.

(2) The Commission - on a case-by-case basis - may authorize that where the related insurance company (subsidiary or participating company) has its registered office in a Member State other than that of the insurance company for which the adjusted solvency calculation is carried out, the calculation shall take account, in respect of the related undertaking, of the solvency situation as assessed by the competent authorities of that other Member State.

(3) When calculating the adjusted solvency of an insurance company that is a subsidiary or a participating company in a reinsurance company, this related reinsurance company shall be treated, solely for the purposes of calculation, by analogy with a related insurance company, applying the general principles and methods described in this Act for capital requirements.

(4) When calculating the adjusted solvency of an insurance company that holds a participation in an insurance company, a related reinsurance undertaking, or a third-country insurance company through an insurance holding company, the situation of the intermediate insurance holding company is taken into account, and this insurance holding company shall be treated as if it were an insurance company subject to a zero solvency requirement and subject to the same conditions that are laid down in Subsection (3) in respect of elements eligible for the solvency margin.

(5) Where a third-country insurance company is subject to authorization and solvency requirements at least comparable to those laid down in this Act, taking into account the elements of coverage of that requirement, the Commission may approve, on a case-by-case basis under a valid supervisory agreement, that the calculation shall take into account, as regards that company, the solvency requirement and the elements eligible to satisfy that requirement as laid down by the third country in question.

(6) Where a third-country reinsurance company is subject to requirements at least comparable to that laid down in this Act, the Commission may approve, on a case-by-case basis under a valid supervisory agreement, that calculation of the adjusted solvency margin shall take account, as regards the insurance company that is a subsidiary of a third-country insurance company or a company in which the insurance company holds a participation, if a

reinsurance company, of the elements eligible to satisfy that requirement as laid down by the third country in question.

(7) If only the insurance companies of that third country in which the reinsurance company is established are subject to authorization and solvency requirements at least comparable to those laid down in this Act, the Commission may approve, on a case-by-case basis under a valid supervisory agreement, that the own-funds requirement on the related reinsurance company and the elements eligible to satisfy that solvency requirement may be calculated as if the company in question were a related insurance company of that third country.

(8) If the information necessary for calculating the adjusted solvency of an insurance company is not available to the insurance company and the Commission, the book value of that company in the participating insurance company shall be deducted from the elements eligible for the adjusted solvency margin. The same procedure applies in the cases referred to in Subsection (3) of Section 178.

Adjusted Solvency Requirement of the Subsidiary Companies of Insurance Holding Companies, Reinsurance Companies and Third-County Insurance Companies

Section 188.

(1) The adjusted solvency calculation of the insurance companies referred to in Paragraph b) of Subsection (1) of Section 178 shall be carried out by integrating each of their subsidiaries of insurance holding companies, reinsurance companies and third-county insurance companies and other companies in which they have a participation.

(2) When calculating the adjusted solvency of a parent insurance company, it shall be treated as if it were an insurance company. Insurance holding companies are subject to a zero solvency requirement, while third-county insurance companies and reinsurance companies shall fall within the scope of Subsections (2)-(7) of Section 187.

(3) If the information necessary for calculating the adjusted solvency of a parent insurance company or a participating company is not available to the insurance company and the Commission, the book value of that company in the subsidiary company and participating insurance company shall be deducted from the elements eligible for the adjusted solvency margin.

Evaluation of the Adjusted Solvency Requirement

Section 189.

(1) Insurance companies that are subject to supervision on a consolidated basis shall be required to calculate their adjusted solvency requirement on or before the last day of the year. The formula for the calculation of the adjusted solvency requirement and proof of coverage shall be disclosed to the Commission together with the annual report in accordance with the statutory provisions governing the disclosure of data to the Commission.

(2) The adjusted solvency margin of an insurance company shall be considered negative if the adjusted solvency available [Paragraph a) of any of the methods contained in Schedule No. 11] is less than the adjusted solvency requirement [Paragraph b) of any of the methods contained in Schedule No. 11].

(3) If the adjusted solvency of an insurance company referred to in Paragraphs a) and b) of Subsection (1) of Section 178 is negative, the provisions of Section 130 pertaining to restoration shall apply.

(4) If the restoration plan is rejected or not carried out, the Commission shall be empowered to take the measures defined in Section 195.

Chapter III/A

SUPPLEMENTARY SUPERVISION

Financial Conglomerates

Section 189/A.

(1) According to this Act, a financial conglomerate is a group [Point 81 of Subsection (1) of Section 3] that meets the following conditions:

a) at the head of the group:

1. is an insurance company; or
2. is a non-regulated entity, and the group's activities mainly occur in the financial sector within the meaning of Subsection (3); and

b) at least one of the entities in the group is within the insurance sector and at least one is within the banking or investment services sector; and

c) the consolidated and/or aggregated activities of the entities in the group within the insurance sector and the consolidated and/or aggregated activities of the entities within the banking and investment services sector are both significant within the meaning of Subsection (4) or (5).

(2) The entity at the head of the financial conglomerate:

a) is a parent company in which none of the entities in the same financial conglomerate exercises a dominant influence or holds a participating share;

b) is a parent company with the largest balance sheet total if the financial conglomerate contains several parent companies that meet the criteria set out in Paragraph *a)*;

c) is an entity with the largest balance sheet total of the entities in which none of the entities in the same financial conglomerate exercises a dominant influence or holds a participating share, and if none of the entities in the financial conglomerate qualifies as a parent company that meets the criteria set out in Paragraph *a)*;

d) is an entity with the largest balance sheet total if none of the entities in the financial conglomerate meets the requirements set out in Paragraphs *a)*-*c)*.

(3) The activities of a group in different financial sectors shall be deemed significant if the balance sheet total of the regulated and non-regulated financial sector entities in the group as a whole exceeds forty per cent of the combined balance sheet total of the group.

(4) Activities within a financial sector shall be deemed significant, if:

a) the average of the ratio of the balance sheet total of that financial sector to the balance sheet total of the financial sector entities in the group and

b) the average of the ratio of the solvency requirements of the same financial sector to the total solvency requirements of the financial sector entities in the group

exceeds ten per cent within the insurance sector and within the banking and investment services sector as well. For the purposes of these calculations the banking sector and the investment services sector shall be treated as a single sector.

(5) Cross-sectoral activities within the financial sector shall be deemed significant within the meaning of Subsection (4) if the balance sheet total of the smallest financial sector in the group exceeds one thousand six hundred billion forints.

(6) The Commission, in its capacity as the appointed coordinator, may - in agreement with the competent authorities concerned - regard a group as a financial conglomerate, and may apply the provisions contained in Sections 189/F-189/G, if:

a) the size of its smallest financial sector exceeds five per cent:

1. relative to the average ratio calculated under Subsection (4); or
2. relative to the ratio of the balance sheet total of that sector to the balance sheet total of the financial sector as a whole; or

3. relative to the ratio of solvency requirements of that sector to the total solvency requirements of the financial sector as a whole; or

b) the market share exceeds five per cent in Hungary, measured in terms of the balance sheet total in the banking or investment services sectors and in terms of gross premiums written in the insurance services sector.

(7) If the ratios referred to in Subsections (3)-(5) fall below the thresholds specified therein, however, the limit specified in Subsection (3) reaches thirty-five per cent, the limit specified in Subsection (4) reaches eight per cent, and the limit specified in Subsection (5) reaches one thousand three hundred billion forints, then the group shall remain to be regarded a financial conglomerate for three consecutive years.

(8) If the Commission functions as the coordinator, it may decide - with the agreement of the competent authorities concerned - to terminate the supplementary supervision anytime during the three-year period referred to in Subsection (7).

(9) The calculations regarding the balance sheet shall be made on the basis of the aggregated balance sheet total of the entities of the group. For the purposes of this calculation, the entities of the group in which a participating share is held by another entity of the group shall be taken into account as regards the amount of their balance sheet total corresponding to the aggregated proportional share held by the group. In the case of dominant influence the consolidated accounts shall be used.

(10) For the purposes of this Chapter:

a) capital requirements of a credit institution shall cover:

1. the solvency margin if the solvency ratio level is defined at eight per cent, or the amount sufficient to achieve the solvency ratio under Point 9 of Subsection (2) of Section 153 of the CIFE;

2. the amount by which the limits are exceeded as specified in Point 16 of Schedule No. 5 of the CIFE and the capital requirements for country risks;

3. the positions and exposures recorded in the trading book and the capital requirement for the exchange rate and commodities risk applied for the entirety of activities;

b) investment firms shall be subject to the capital requirement defined in Subsection (2) of Section 175 of the CMA;

c) the capital requirement of insurance companies shall be the minimum solvency margin referred to in Subsection (3) of Section 121 or the minimum guarantee fund referred to in Section 126, whichever is higher;

d) the capital requirements of third-country regulated entities shall cover the minimum subscribed capital prescribed for authorization according to the laws of their home country.

(11) Where a financial conglomerate is a subgroup of another financial conglomerate, the provisions of this Chapter shall not apply to the financial conglomerate that is a subgroup.

(12) By way of derogation from Point 10 of Subsection (1) of Section 3, insurance company shall also mean third-country insurance companies in application of this Chapter.

Supplementary Supervision

Section 189/B.

(1) The objective of supplementary supervision is to exercise prudential supervision of entities at the level of the financial conglomerate. Accordingly, the Commission, in exercising supplementary supervision, shall oversee the exposures, intra-group transactions, solvency position, internal control mechanisms and risk management processes of financial conglomerates at the group level.

(2) Supplementary supervision shall apply to every insurance company that is at the head of a financial conglomerate:

a) if it exercises dominant influence or holds a participating share in any of the regulated entities, at least one of which is a credit institution or an investment firm; or

b) the parent company of which is a mixed financial holding company which has its head office in the European Union; or

c) if it exercises dominant influence in an entity of the banking sector or the investment services sector.

(3) Supplementary supervision shall include:

a) every entity in the financial conglomerate;

b) every insurance company in the financial conglomerate, the parent company of which is a regulated entity that has its head office in a third country;

c) every insurance company in the financial conglomerate, the parent company of which is a mixed financial holding company that has its head office in a third country.

Section 189/C.

(1) If in accordance with this Chapter the Commission identifies an insurance company it has authorized as being an entity or member of a group which may be a financial conglomerate, supplementary supervision shall apply to this entity and group.

(2) In the interest of identifying a group as a financial conglomerate in accordance with Subsection (1), the Commission shall:

a) routinely examine the insurance companies it has authorized to establish whether they are a member of a group which may be a financial conglomerate;

b) cooperate closely with the supervisory authorities of the regulated entities in the group;

c) inform the competent authorities concerned, if it is of the opinion that a regulated entity that has a registered office in Hungary is a member of a group which may be a financial conglomerate.

Section 189/D.

(1) The Commission shall provide for the supplementary supervision of the insurance company referred to in Subsection (2) of Section 189/B and Paragraphs *b)* and *c)* of Subsection (3) of Section 189/B, that have a registered office in Hungary.

(2) The Commission is not required to play a supervisory role in relation to mixed financial holding companies, third-country regulated entities in a financial conglomerate or unregulated entities not belonging to the financial sector, on a stand-alone basis.

(3) Where the Commission discovers the existence of a close link, whether on its own accord or in cooperation with the competent authorities concerned on the basis of documents or inspections, it may subject an insurance company that is registered in Hungary to supplementary supervision, or may extend supplementary supervision to an entity.

(4) The Commission may, by common agreement with the competent authorities concerned:

a) exclude an entity - that has been exempted by the coordinator under Subsection (5) of Section 189/F - from the calculations specified under Subsections (3)-(5) of Section 189/A at the request of the coordinator;

b) take into account compliance with the thresholds envisaged in Subsections (3) and (4) of Section 189/A, at the request of the coordinator, for three consecutive years, and may disregard compliance with the thresholds if there are significant changes in the group's structure; or

c) for the application of Subsections (3) and (4) of Section 189/A, may, in exceptional cases, replace the criterion based on the balance sheet total with parameters based on the income structure or off-balance-sheet activities or add one or both of these parameters, if it is of the opinion that these parameters are of particular relevance for the purposes of supplementary supervision.

Prudential Operation of Insurance Companies Subject to Supplementary Supervision

Section 189/E.

(1) Insurance companies subject to supplementary supervision and mixed financial holding companies shall be responsible for ensuring the prudent operation of the entities they control, including compliance with the provisions on exposures and capital requirements.

(2) Insurance companies subject to supplementary supervision and mixed financial holding companies may instruct the entities in the financial sector in which they have a dominant influence to observe and enforce the regulations pertaining to supplementary supervision, and they must follow these instructions.

(3) The board of directors of an insurance company that is subject to supplementary supervision shall indicate the name of its member appointed to oversee the prudential operation of the entities in the financial sector in which it has a dominant influence.

Concentration of Exposures, Intra-Group Transactions and Capital Adequacy of Insurance Companies Subject to Supplementary Supervision at the Level of the Financial Conglomerate

Section 189/F.

(1) Insurance companies subject to supplementary supervision are required to ensure that own funds are available at the level of the financial conglomerate which are always at least equal to the capital adequacy requirements and to have adequate capital adequacy policies at the level of the financial conglomerate.

(2) The type of data and information required under Subsection (9) for risk concentration and intra-group transactions shall be defined and calculations for supplementary capital adequacy requirements shall be carried out at least once a year, either by the insurance company subject to supplementary supervision or by the mixed financial holding company. The results of the calculation and the relevant data for the calculation shall be submitted to the coordinator by the insurance company which is at the head of the financial conglomerate or by the mixed financial holding company.

(3) Where the financial conglomerate is not headed by a regulated entity, or by a mixed financial holding company, the results of the calculation and the relevant data for the calculation referred to in Subsection (2) shall be submitted to the coordinator by the insurance company in the financial conglomerate identified by the Commission, in its capacity as the appointed coordinator, after consultation with the other relevant competent authorities and with the financial conglomerate.

(4) The mixed financial holding company shall hand over the calculations to the insurance company subject to supplementary supervision. Any insurance company that is subject to supplementary supervision and is a subsidiary of a mixed financial holding company shall be required to process the data necessary for the calculations separately, and may not use them for any other purpose.

(5) The Commission, in its capacity as the appointed coordinator, may decide not to include a particular entity in the scope of its supervision when calculating the supplementary capital adequacy requirements in the following cases:

a) if the entity is situated in a third country where there are legal impediments to the transfer of the necessary information; or

b) if the inclusion of the entity would be misleading with respect to the objectives of supplementary supervision; or

c) if the entity is of negligible interest with respect to the objectives of the supplementary supervision.

(6) Prior to the decision of exclusion under Paragraph *b)* of Subsection (5) the Commission, in its capacity as the appointed coordinator, shall - with the exception of urgent cases - consult the competent authorities concerned.

(7) If several entities are to be excluded pursuant to Paragraph *c)* of Subsection (5), they must nevertheless be included in the calculation of supplementary capital adequacy requirements when collectively they are of non-negligible interest.

(8) In the case of an insurance company excluded under Paragraphs *b)* and *c)* of Subsection (5), the competent authorities of the Member State in which that insurance company is situated may ask the entity which is at the head of the financial conglomerate for information which may facilitate their supervision of the insurance company.

(9) The Commission, in its capacity as the appointed coordinator, after consultation with the other relevant competent authorities, shall identify the type of intra-group transactions and risk concentration to take into account for the calculations under Subsections (2)-(4). In these consultations they shall take into account the specific group and risk management structure of the financial conglomerate. In order to identify significant intra-group transactions and significant risk concentration, the Commission, in its capacity as the appointed coordinator, after consultation with the other relevant competent authorities and the conglomerate itself, shall define appropriate thresholds based on regulatory own funds and/or technical provisions.

(10) Insofar as no definition of the thresholds referred to in Subsection (9) has been drawn up, an intra-group transaction shall be presumed to be significant if its amount exceeds at least five per cent of the total amount of capital adequacy requirements at the level of a financial conglomerate.

(11) The formulas for calculations of capital adequacy requirements at the level of a financial conglomerate are contained in specific other legislation.

Risk Management Processes and Internal Control Mechanisms of Insurance Companies Subject to Supplementary Supervision at the Level of the Financial Conglomerate

Section 189/G.

(1) Insurance companies subject to supplementary supervision shall be required to have adequate risk management processes and internal control mechanisms in place at the level of the financial conglomerate.

(2) The risk management processes shall include:

a) sound governance and management based on the policies and strategies at the level of the financial conglomerate with respect to all risks they assume;

b) adequate capital adequacy policies in order to anticipate the impact of their business strategy on risk profile and capital requirements;

c) adequate procedures to ensure that their risk monitoring systems are well integrated into their organization and that all measures are taken to ensure that the systems are consistent so that the risks can be measured, monitored and controlled at the level of the financial conglomerate.

(3) The internal control mechanisms shall include:

a) adequate mechanisms as regards capital adequacy to identify and measure all significant risks incurred and to appropriately relate own funds to risks;

b) procedures to identify, measure, monitor and control the intra-group transactions and the risk concentration.

(4) All insurance companies included in the scope of supplementary supervision shall have adequate facilities for the production of any data and information which would be relevant for the purposes of the supplementary supervision, as well as means of security and internal control mechanisms to protect such facilities.

The Coordinator

Section 189/H.

(1) The Commission, as the competent authority, shall cooperate with the competent authorities of other Member States of the European Union in selecting a competent supervisory authority to coordinate and exercise supplementary supervision of entities of financial conglomerates (hereinafter referred to as “coordinator”).

(2) The Commission shall exercise the tasks of the coordinator if authorization to the insurance company that is at the head of the financial conglomerate was granted by the Commission.

(3) The Commission shall exercise the tasks of the coordinator if the financial conglomerate is not headed by a regulated entity and:

a) the parent company of the insurance company authorized by the Commission is a mixed financial holding company; or

b) where more than one regulated entity with a head office in the Community have as their parent the same mixed financial holding company with a head office in Hungary, and one of the insurance companies in the financial conglomerate has its head office in Hungary; or

c) the financial conglomerate does not include an insurance company that has been authorized in the Member State where the head office of the mixed financial holding company is located, the most important financial sector in the financial conglomerate is the insurance services sector, and the insurance company with a head office in Hungary has the largest balance sheet total.

(4) The Commission shall exercise the tasks of the coordinator if:

a) the financial conglomerate is headed by more than one mixed financial holding company with a head office in different Member States of the European Union and there is a regulated entity of the financial conglomerate in each of these States; or

b) the financial conglomerate is not headed by a parent company, and the most important financial sector in the financial conglomerate is the insurance services sector, and the insurance company with a head office in Hungary has the largest balance sheet total within the financial conglomerate.

(5) By way of derogation from Subsections (2)-(4) above, the Commission may exercise the tasks of the coordinator by common agreement with the competent authorities concerned, and appoint a different competent authority as coordinator, taking into account the structure of the conglomerate and the relative importance of its activities in different countries. Before taking its decision, the Commission shall give the conglomerate an opportunity to state its opinion on that decision.

Tasks of the Coordinator

Section 189/I.

- (1) The tasks to be carried out by the Commission in the capacity of the coordinator shall include:
- a)* supervisory overview and assessment of the financial situation of a financial conglomerate;
 - b)* gathering of data and information pertaining to the entities in a financial conglomerate and forwarding them to the competent authorities concerned;
 - c)* assessment of compliance with the rules on capital adequacy and of risk concentration and intra-group transactions within the financial conglomerate as set out in Section 189/F;
 - d)* assessment of the financial conglomerate's structure, organization and internal control system as set out in Section 189/G;
 - e)* planning and coordination of supervisory activities in cooperation with the relevant competent authorities involved;
 - f)* other tasks, measures and decisions assigned to the coordinator and which are necessary in order to achieve the objectives of supervision;
 - g)* notification of the entity that is at the head of the financial conglomerate, the competent authorities concerned, the supervisory authority of the Member State where the mixed financial holding company is established and the European Commission when identifying a group as a financial conglomerate and of the appointment of a coordinator.
- (2) In order to facilitate and establish supplementary supervision, the Commission, in its capacity as the coordinator, and the other relevant competent authorities, and where necessary other competent authorities concerned, shall have coordination arrangements in place.

Cooperation between Competent Authorities

Section 189/J.

- (1) The Commission shall cooperate closely with the competent authorities concerned for supplementary supervision of entities in a financial conglomerate. The Commission shall provide data and information which is essential or relevant for the exercise of supplementary supervision to the other competent authorities.
- (2) Cooperation with the competent authorities concerned shall cover the following items:
- a)* identification of the group structure of the financial conglomerate, as well as of the competent authority exercising supervision of the regulated entities in the group;
 - b)* monitoring the financial conglomerate's strategic policies and objectives;
 - c)* monitoring the financial situation of the financial conglomerate, in particular on capital adequacy, intra-group transactions, risk concentration and profitability;
 - d)* identification of the major shareholders with qualifying participation and executive employees of the entities in the financial conglomerate;
 - e)* monitoring the organization of the financial conglomerate, risk management and internal control systems at the financial conglomerate level;
 - f)* procedures for the collection of information from the entities in a financial conglomerate, and the verification of that information;
 - g)* monitoring adverse developments in regulated entities of the financial conglomerate which could seriously affect the regulated entities;
 - h)* information on major sanctions and exceptional measures taken by the competent authorities.
- (3) The Commission may also exchange information as may be needed for the performance of supplementary supervision with the central banks of Member States of the European Union, the European Central Bank and the European System of Central Banks.
- (4) The Commission shall, prior to its decision, consult the competent authorities concerned with regard to the following items, where these decisions are of importance for other competent authorities' supervisory tasks:
- a)* changes in the shareholders and/or executive employees, which require the authorization of the Commission;
 - b)* major sanctions or exceptional measures.

(5) By way of derogation from what is contained in Subsection (4), the Commission may decide not to consult in cases of urgency or where such consultation may jeopardize the effectiveness of the decisions. In this case, the Commission shall, without delay, inform the other competent authorities.

(6) The Commission, in its capacity as the coordinator, may contact the competent authority of the country where the entity that is at the head of the financial conglomerate is established to exchange data and information concerning such entity.

Disclosure of Information

Section 189/K.

(1) Regulated and non-regulated entities within a financial conglomerate, and the natural persons involved shall supply all data and information which would be relevant for the purposes of calculations in the interest of supplementary supervision to the entity at the head of the financial conglomerate. The entity at the head of the financial conglomerate shall process such data and information separately, with due observation of data protection regulations.

(2) The Commission may approach the competent authorities concerned for data and information which would be relevant for the purposes of supplementary supervision.

Verification

Section 189/L.

(1) The Commission may verify, on site or otherwise, the data and information supplied by the entities in a financial conglomerate to the extent necessary for the purposes of supplementary supervision.

(2) The Commission may ask the competent authorities of other Member States of the European Union to have the verification carried out.

Section 189/M.

(1) If the financial conglomerate includes an insurance company referred to in Paragraphs *b*) and *c*) of Subsection (3) of Section 189/B, the competent authorities shall appoint the coordinator disregarding the third country parent company that is the head of the financial conglomerate.

(2) The Commission, if serving as coordinator according to Subsection (1), shall examine as to whether the laws of that third country are in conformity with the provisions laid down in Directive 2002/87/EC of the European Parliament and of the Council. The Commission shall consult the competent authorities concerned, taking into account any applicable guidance prepared by the Financial Conglomerates Committee. Following consultations the Commission, in its capacity as the coordinator, shall make a decision regarding conformity.

(3) If the laws of the third country are in conformity with the provisions laid down in Directive 2002/87/EC of the European Parliament and of the Council, supplementary supervision of the financial conglomerate that is headed by the third country parent company of an insurance company referred to in Paragraphs *b*) and *c*) of Subsection (3) of Section 189/B shall not be exercised by the Commission.

(4) If the laws of a third country are not in conformity with the provisions laid down in Directive 2002/87/EC of the European Parliament and of the Council, the Commission, in its capacity as the appointed coordinator, shall take over to exercise supplementary supervision, and shall take all appropriate measures at its disposal.

Chapter IV

COMMISSION PROCEDURES AND ACTIONS

Commission Procedures

Section 190.

Section 191.

(1) Foreign-registered entities shall employ an agent for service of process when submitting an application to the Commission.

(2)

Sections 192-193.

Section 194.

In the course of its procedure, the Commission is entitled

- a) to contact the appropriate foreign insurance supervisory authority and/or foreign insurance company,
- b) to fulfill the request of the foreign insurance supervisory authority and foreign insurance company,
- c) to conclude a cooperation agreement with foreign insurance supervisory authorities.

Actions and Sanctions

Section 195.

(1) In order to enforce the obligations of insurance companies, independent insurance intermediaries and insurance consultants and/or to safeguard the interests of clients and in order to enforce compliance with the provisions of this Act and other relevant legal regulation on insurance activities and the activities of independent insurance intermediaries, consultants and insurance representations, and with the conditions of its resolutions; the Commission shall have powers to

- a) issue a warrant in which to demand proper actions to meet the requirements prescribed in this Act, in other legal regulation on insurance activities and the activities of independent insurance intermediaries, consultants and insurance representations, and in the Commission's resolutions within a specific timeframe;
- b) convene the general meeting (members' meeting) to discuss the issues defined by the Commission;
- c) impose a disciplinary fine (Sections 196-198);
- d)
- e) suspend payment of any dividend in respect of joint-stock companies and cooperatives;
- f) request the dismissal of the executive officers, other members of the management body or the auditors of insurance companies, or disciplinary action against employees;
- g) demand that a restoration plan, financial plan or a financial recovery plan be submitted;
- h) suspend marketing of a certain insurance product;
- i) ban marketing of a certain insurance product;
- j) limit, in part or in full, the insurance company's right of disposition over its technical provisions and solvency margin;
- k) prohibit any unauthorized insurance company, independent insurance intermediary, principal agent or unregistered insurance consultant to further engage in insurance related activities;
- l) remove an insurance intermediary from the register;
- m) compel an independent insurance intermediary business association to increase its capital to the required minimum prescribed in this Act;
- n) delegate a supervisory commissioner in an emergency situation;
- o) compel an insurance company to transfer its insurance portfolio if there is another insurance company willing to receive it;
- p) prohibit the outsourcing of an activity;
- q) interview the chief executive officer of an insurance company or the director of operations of an independent insurance intermediary or consultant;

- r) partially or completely suspend its authorization for operations;
 - s) withdraw its authorization for operations;
 - t) withdraw its foundation permit.
- (2)

Section 196.

(1) The Commission may order the insurance company, the managing director of an insurance company, the independent insurance intermediary, insurance consultant, the director of operations of an independent insurance intermediary or insurance consultant, and any person engaged in any of the activities governed by this Act without proper authorization or without being registered to pay a disciplinary fine

a) for any violation of the provisions of this Act or other legal regulations on insurance activities and the activities of independent insurance intermediaries and consultants,

b) for failure to comply or delayed compliance with the Commission's regulations, or

c) for failure to disclose data or satisfy the hearing obligation ordered by the Commission within the specified deadline.

(2)-(3)

Section 197.

(1)

(2) The disciplinary fine of insurance companies shall be a minimum of one hundred thousand forints and a maximum of twenty million forints.

(3) The disciplinary fine of independent insurance intermediaries and insurance consultants shall be a minimum of forty thousand forints and a maximum of five million forints.

(4) The disciplinary fine of managing directors of insurance companies and of directors of operations of independent insurance intermediaries and insurance consultants shall be a minimum of forty thousand forints and a maximum of one million forints.

(5) The following shall be deemed a serious breach of obligations as set forth in this Act:

a) disclosure of any false information or fraudulent statement in any application for authorization or notification with an intent to mislead the Commission,

b) marketing of any illegal product or an infringement committed in connection with marketing,

c) unauthorized activities or if an insurance company or an independent insurance intermediary or consultant is engaged in activities that are not directly connected to the insurance underwriting or insurance mediating,

d) performing any activities that are subject to registration by the Commission without being registered.

(6) Failure to meet any deadline that is prescribed in this Act or in another legal regulation enacted under authorization by this Act or a deadline in a Commission resolution shall be subject to a fine of fifty thousand forints for each day of delay.

(7)

Section 197/A.

Section 198.

Supervisory Commissioners

Section 199.

(1) The supervisory commissioner shall be appointed - in emergency situations - and discharged by the chairman of the Commission. The term of a supervisory commissioner shall not exceed one hundred and eighty days; however, it may be extended until a liquidator is appointed. The owners (members) with qualifying interests shall be

notified concerning the appointment. The supervisory commissioner shall be responsible for observing and enforcing the provisions of this Act.

(2) In the case of liquidation, the term of the supervisory commissioner shall expire when the liquidator is appointed.

(3) The responsibilities of the supervisory commissioner shall be defined in the letter of authorization.

(4) During the period of the supervisory commissioner's appointment, no executive officers may perform their tasks and exercise their signatory rights as described in the Companies Act, the Accounting Act, the FAA and the charter. For the period of appointment, the supervisory commissioner shall exercise the rights of the executive officer described by law and the charter.

(5) If requested in writing, the supervising commissioner shall, within three days, inform the concerned owners (members) of the measures he has taken in writing.

(6) The supervisory commissioners appointed by the chairman of the Commission shall satisfy the requirements laid down in Subsection (3) of Section 83.

(7) When appointed, the supervisory commissioner shall declare in writing the type of participation held by him or his close relatives in any insurance company, independent insurance intermediary or insurance consulting firm along with the face value and market value of such holdings.

(8)

Section 200.

The regulatory commissioner may be held liable to the Commission only for any damage caused in his official capacity and shall not be subject to any claims for damages directly. The Commission may be held liable for the damages caused to third persons by a regulatory commissioner acting in his official capacity.

Section 201.

The Commission shall convey the name and address of the supervisory commissioner to the court of registry for registration and publication purposes.

Suspension of Operations

Section 202.

(1) The Commission may suspend the operations of an insurance company, independent insurance intermediary or insurance consultant that operates in violation of the legal regulations governing insurance activities, insurance mediation and consultancy if there is a possibility that the legality of operations can be restored during the suspension period. The suspension period may not exceed six months.

(2) The Commission may authorize an independent insurance intermediary or consultant to suspend operations for a maximum of six months.

(3) The liability insurance of independent insurance intermediaries and consultants shall cover damages caused during operations if the damages are realized or reported during the suspension period, or secured financial reserves must be made available for such damages.

Withdrawal of Foundation Permit

Section 203.

- (1) The foundation permit of an insurance company may be withdrawn if
- a) it was obtained by deceiving the Commission or by any other irregular means;

b) the insurance company fails to file the application for authorization for the commencement of operations within ninety days of receipt of the foundation permit or fails to commence operations within one year of receipt of the authorization for operations;

c) the insurance company is no longer in compliance with the requirements prescribed for the foundation permit;

d) the insurance company repeatedly or seriously violates the legal regulations on insurance activities and the actions defined in Sections 195 and 196 have been ineffective;

e) the measures imposed by the Commission during the suspension of the company's insurance operations did not eliminate the infringement for which they were issued;

f) its conduct seriously or repeatedly violates the interests of the policyholders and is detrimental to the insurance industry in general.

(2) When it withdraws a foundation permit, the Commission shall make a resolution for winding up the insurance company or initiate liquidation.

(3) If the Commission has withdrawn the foundation permit of an insurance company, it shall take all appropriate measures to protect the interests of policyholders. Thus, for example, it may limit, in part or in full, the insurance company's right of disposition over its assets.

Withdrawal of Authorization

Section 204.

(1) The authorization of an insurance company to conduct business may be partially or completely withdrawn only if

a) the insurance company fails to commence operations within one year of receipt of the authorization for operations or fails to commence operations within eight days following the end of a suspension period;

b) the insurance company repeatedly or seriously violates the legal regulations on insurance activities, and the actions defined in Sections 195 and 196 have been ineffective;

c) the insurance company is no longer able to meet the requirements for authorization following the time limit prescribed by the Commission for compliance;

d) the insurance company obtained the authorization for conducting business by deceiving the Commission or by any other irregular means;

e) the measures imposed by the Commission during the suspension of the insurance activities did not eliminate the infringement for which they were imposed;

f) the insurance company terminates its operations.

(2) In addition to what is contained in Subsection (1), the authorization of the branch office of a third-country insurance company shall be withdrawn if the authorization of the third-country insurance company has been withdrawn by the supervisory authority responsible for the place where such insurance company is established.

(3) After the authorization is withdrawn, no new insurance contract may be concluded, the existing underwriting liabilities of the insurance company in existing contracts may not be increased and the contracts may not be renewed.

(4) If the Commission has withdrawn the authorization of an insurance company, it shall take all appropriate measures to protect the interests of policyholders. Thus, for example, it may limit, in part or in full, the insurance company's right of disposition over its assets.

(5) The Commission shall notify the supervisory authorities of all Member States concerning the withdrawal of authorization of an insurance company and shall publish it in the Official Journal of the European Communities.

Section 205.

The Commission shall obtain the prior consent of the Minister of Finance for the withdrawal of the authorization of an insurance company.

Notification by the Commission

Section 206.

(1) The Commission shall forthwith send a copy of its resolutions on the foundation permits and authorizations it has issued for insurance activities and on the amendment or withdrawal of such authorizations to the Minister of Finance, the NBH, the court of registry, the county (Budapest) courts that keep records of mutual associations, the Office of Economic Competition and the trade organizations of insurance companies.

(2) The Commission shall forthwith send copies of its resolutions on the authorizations it has issued to independent insurance intermediaries and principal insurance agent and copies of resolutions on the amendment or withdrawal of such authorizations to the competent court of registry.

(3) The Commission shall publish the resolutions referred to in Subsections (1) and (2) in the Official Journal of the European Communities within fifteen days from the date they were adopted.

(4) The Commission shall be required to notify the supervisory authorities of all Member States when taking the measures referred to in Paragraphs j), r), s), and t) of Subsection (1) of Section 195. In connection with the sanction contained under Paragraph j) of Subsection (1) of Section 195, the Commission shall specify the financial assets to which the sanction pertains.

(5) Prior to imposing the sanction under Paragraph j) of Subsection (1) of Section 195, the Commission shall notify the supervisory authority of the Member State of the commitment.

(6) The contents of the Commission's data disclosure obligation shall be decreed by the Minister of Finance.

Supervision Fee

Section 207.

(1) Insurance companies, independent insurance intermediaries, insurance consultants, the Hungarian branch offices of insurance companies established in other Member States, and the Hungarian representations of foreign insurance companies shall be required to pay a supervision fee; they shall record such payment under expenses.

(2) The amount of the supervision fee to be paid by insurance companies - with the exceptions set forth in Paragraph c) of Subsection (3) - shall be two thousandth of their annual premium revenue. The amount of the supervision fee payable by the Hungarian branch offices of insurance companies established in other Member States shall be one thousandth of their annual premium revenue.

(3) The amount of the supervision fee shall be

- a) two thousandth of the annual premium revenue for independent insurance intermediaries,
- b) 40,000 forints per year for insurance consultants,
- c) 200,000 forints per year for joint-stock insurance companies engaged exclusively in reinsurance activities,
- d) 20,000 forints per year for the Hungarian representation of a foreign insurance company.

(4) The supervision fee shall be transferred to the Commission's account

a) in quarterly installments by the insurance companies specified in Subsection (2) by the twentieth day of the month following the subject quarter,

b) by the twentieth day of the month following the subject year by the insurance companies and other organizations specified in Subsection (3).

(5) The supervision fee shall be used to finance the operations of the Commission; in respect of the accounting and use of any funds remaining at year-end, the provisions of the Government Decree on the Budget Planning, Financial Management and Accounting of Budgetary Agencies shall apply.

(6) Any default in the payment of supervision fees shall be subject to a default penalty from the due date until payment is received.

(7) The default penalty shall be levied for each day in default on the basis of the prevailing central bank base rate multiplied by two and divided by three hundred and sixty-five.

(8) When an authorization is issued or registration takes place during the course of the calendar year, the supervision fee payable by independent insurance intermediaries and insurance consultants shall be calculated for the remainder of the year, including the month in which the authorization was issued or the registration took place.

(9) Applications for the authorization of insurance companies, independent insurance intermediaries and insurance consultant; for the amendment of insurance activities; or for the transformation, merger or demerger of an insurance company and for the registration of insurance consultants shall be subject to processing and service

charges for the Commission's services in accordance with Section 67 of Act XCIII of 1990 on Duties. The types of fees and their amounts shall be decreed by the Minister of Finance.

Revenues of the Commission

Section 208.

- (1) Revenues of the Commission shall - in accordance with this Act - consist of:
 - a) supervision fees,
 - b) regulatory fines, and
 - c) other revenue.
- (2) The proceeds from fines imposed by the Commission must be used exclusively for the following purposes:
 - a) training insurance experts,
 - b) promoting the preparation and publication of studies on insurance and supervisory activities,
 - c) providing information to clients,
 - d) providing assistance to compensate for the losses of the non-profit organization conducting the liquidation of insurance companies.
- (3) With the exceptions set out in Subsection (2), the Commission must only use its revenues for covering its operating expenses.

Supervision of the Operations of Insurance Companies, Independent Insurance Intermediaries and Insurance Consultants Established in Other Member States of the European Union Performed in the Republic of Hungary through their Branch Offices or in the Form of Cross-Border Services

Section 209.

- (1) Upon prior notification of the Commission, the supervisory authority of another Member State where an insurance company, independent insurance intermediary or insurance consultant that is engaged in operations in the territory of the Republic of Hungary through a branch office or in the form of cross-border services is established shall be entitled to inspect the operations of such branch or the cross-border service in Hungary; the inspection may be carried out by the supervisory authority itself or by a person it has authorized.
- (2) The Commission may take part in the inspection referred to in Subsection (1).

Section 210.

- (1) If an insurance company, independent insurance intermediary or insurance consultant established in another Member State that is engaged in operations in the territory of the Republic of Hungary through a branch office or in the form of cross-border services violates the Hungarian regulations or if the Commission detects any discrepancies in their operations, the Commission shall instruct the branch office and the parent insurance company, independent insurance intermediary or insurance consultant to bring its operations into compliance with regulations.
- (2) If the branch office and the parent insurance company, independent insurance intermediary or insurance consultant fails to comply with the Commission's instruction in due time, the Commission shall notify the supervisory authority of the home Member State and shall move to take the measures it considers appropriate.
- (3) If the measures taken by the supervisory authority of the home Member State fail to eliminate the illegal situation, the Commission shall impose the sanctions referred to in Paragraphs a), c), d), f), h), i) and k) of Subsection (1) of Section 195 following notification of the supervisory authority of the home Member State.
- (4) The Commission, in order to prevent the conclusion of new insurance contracts in the event of any violation Hungarian laws, may proceed by bypassing the measures referred to in Subsections (1)-(3) if any further

continuation of the illegal situation would seriously jeopardize the stability of the insurance industry or the interests of policyholders.

Section 211.

(1) If, on the basis of information in its possession the Commission is of the opinion that the operations of an insurance company that is established in another Member State and performed in the Republic of Hungary through its branch office or in the form of cross-border services have jeopardized the financial stability of the insurance company, the Commission shall notify the competent supervisory authority of the home Member State.

(2) If the supervisory authority of the home Member State of an insurance company that has a branch office in the Republic of Hungary has withdrawn the authorization of the parent insurance company and has notified the Commission accordingly, the Commission shall take all measures it deems appropriate to prevent the insurance company affected to continue to engage in insurance activities.

(3) If the operations of a branch office jeopardize the financial stability of the parent insurance company, the Commission - at the request of the supervisory authority of the home Member State - shall limit, in part or in full, the branch office's right of disposition over its assets. The supervisory authority of the home Member State shall specify in the above-specified request the financial assets for which the measures are being requested.

(4) When requested by the competent supervisory authority, the Commission shall have the right to inspect the operations of an insurance company established in another Member State that are performed in the Republic of Hungary through its branch office or in the form of cross-border services and to request information from the insurance company.

Supervision of the Operations of Hungarian Insurance Companies in Other Member States through their Branch Offices or in the Form of Cross-Border Services

Section 212.

(1) If the operations of a branch office of a Hungarian insurance company in another Member State jeopardize the financial stability of the parent insurance company, the Commission shall request the competent supervisory authority of the host Member State to limit, in part or in full, the branch office's right of disposition over its assets. The Commission shall specify in the above-specified request the financial assets for which the measures are being requested.

(2) When requested by the Commission, the competent supervisory authority shall have the right to inspect the operations of an insurance company in another Member State through its branch office or in the form of cross-border services and to request information from the insurance company.

Relations with the European Commission

Section 213.

(1) The Commission shall provide the European Commission with written notification of the following:

- a) the issue and withdrawal of authorization to an insurance company,
- b) authorization to the Hungarian branch office of a third-country insurance company and the withdrawal of such authorization,
- c) acquisition of a share in a Hungarian-registered insurance company by a third-country insurance company as a consequence of which the Hungarian credit institution becomes a subsidiary of the third-country credit institution,
- d) if there are any impediments in connection with the freedom of establishment or operations of a Hungarian insurance company in a third country,
- e) the organizations and persons referred to in Sections 146 and 156,
- f) the statutory provisions prescribing mandatory insurance and any amendments therein.

(2) The notification referred to in Paragraph a) of Subsection (1) shall contain an indication if authorization is issued to an insurance company that is directly or indirectly a subsidiary of one or more third-country insurance companies. In such cases, the corporate structure of the company group must also be given.

Supervision of the Hungarian Branch Offices of Third-Country Insurance Companies, Independent Insurance Intermediaries and Insurance Consultants

Section 214.

Third-country insurance companies, independent insurance intermediaries and insurance consultants that have a branch office in Hungary shall publish the official Hungarian translation of their balance sheets and profit and loss statements prepared according to the laws of their home countries and approved by an auditor in two national daily newspapers within thirty days of approval.

Section 215.

(1) The Commission may take measures if the supervisory authority with jurisdiction over the registered office of a third-country insurance company, independent insurance intermediary or insurance consultant has taken measures against or penalized the given insurance company, independent insurance intermediary or insurance consultant or one of its branch offices operating in any country for a reason that affects the safe operation of the Hungarian branch office.

(2) When requested by the competent supervisory authority, the Commission shall have the right to inspect the operations of the Hungarian branch office of a third-country insurance company, independent insurance intermediary or insurance consultant and request information from it.

(3) The Commission, if there is reciprocity or under a valid supervisory agreement, may give its consent for the inspection of the Hungarian branch office of a third-country insurance company, independent insurance intermediary or insurance consultant to be carried out by the supervisory authority of the country where it is established or by an auditor or other expert on its behalf.

PART NINE

EMERGENCY SITUATIONS, SPECIAL RULES PERTAINING TO LIQUIDATION AND WINDING-UP PROCEDURES

Insurance Emergency

Section 216.

- (1) In the event
- a) an insurance company fails to meet its due and undisputed payment obligations within five working days due to insufficient financial resources; or
 - b) the technical provisions of the insurance company are below the required level or if the coverage for technical provisions is insufficient; or
 - c) the coverage of the security capital of an insurance company is insufficient or falls below the required level; or
 - d) an insurance company is unable to execute its restoration or financial plan within the timeframe specified by the Commission; or
 - e) any other emergency situation of substantial gravity develops at an insurance company that endangers the reliability of insurance services (Paragraphs a)-e) are hereinafter referred to collectively or separately as 'emergency');

the Commission shall be empowered to take emergency measures in order to avoid liquidation and safeguard the interests of policyholders.

(2) In emergency situations, the Commission shall have powers to take the measures contained in Section 195.

(3) If the measures taken by the Commission in accordance with Sections 210-211 are ineffective, meaning that the insurance company in question continues to engage in illegal conduct in spite of the measures taken by the supervisory authority of the country where established or due to the measures being inappropriate or lacking altogether, the Commission shall have powers to take measures - after notifying the supervisory authority of the country where established - in order to prevent further infringement, including blocking the insurance company from concluding new insurance contracts in the Republic of Hungary.

(4) If the insurance company that is engaged in illegal conduct holds any share or right in a Hungarian company, such share or right may be subject to judicial execution in connection with the Commission's measures and in harmony with the relevant statutory provisions.

Common Provisions on Bankruptcy and Liquidation and Winding Up Procedures

Section 217.

(1) The provisions of Act IL of 1991 on Bankruptcy Proceedings, Liquidation Proceedings and Member's Voluntary Liquidation, frequently amended (hereinafter referred to as the 'Bankruptcy Act') shall apply to the liquidation and winding up of joint-stock insurance companies and insurance cooperatives with the exceptions set out in this Chapter.

(2) For the liquidation of branch offices, the provisions of Chapters I, III and V of the Bankruptcy Act and the provisions of the FCA shall apply with the exceptions set out in this Chapter.

(3) Joint-stock insurance companies, branch offices and insurance cooperatives shall not be adjudicated in bankruptcy.

(4) The Hungarian branch office of an insurance company established in another Member State of the European Union shall not be liquidated or wound up under Hungarian law.

(5) The regulations contained in the Bankruptcy Act on the avoidance of contracts shall not apply in cases in which the party acquiring any right through a contract is able to verify that the contract in question falls within the scope of the law of another Member State of the European Union and such law does not allow the contract to be contested.

(6) As regards the legal ramifications of any bankruptcy proceeding, liquidation or winding up of an insurance company with headquarters in another Member State of the European Union, the laws of the country in which the insurance company is established shall apply. The decisions adopted in such proceedings shall be recognized without any further proceeding.

Section 218.

(1) As regards the legal aspects of any contract pertaining to real estate involved in liquidation or similar proceedings, the laws of the country in which the property is located shall apply.

(2) The rights attached to securities that are to be registered or kept in an account as a prerequisite for transfer shall be subject to the laws of the Member State in which the register or account is kept.

Section 219.

(1) The court shall notify the Commission forthwith on the institution of liquidation proceedings that are not instituted by the Commission.

(2) The Commission shall revoke the license of any insurance company under liquidation or winding up upon being notified thereof, effective as of the commencement of the liquidation or winding up proceedings.

(3) With respect to any winding up or liquidation proceedings and the ramifications of these proceedings, the Commission shall inform the supervisory authorities of the Member States of the European Union.

(4) Following publication of the court ruling ordering liquidation or winding up in the Companies Gazette (hereinafter referred to as "court ruling"), the Commission shall forthwith publish the contents of the ruling - in Hungarian on the forms referred to in Subsection (7) of Section 220 - in the Official Journal of the European Communities and also in two national daily newspapers in all Member States.

(5) With respect to any creditor whose permanent residence or corporate domicile is located in another Member State of the European Union, the legal ramifications attached to publication as set out in Section 28 of the Bankruptcy Act shall be contingent upon the publication referred to in Subsection (4).

(6) The effect of the court ruling shall apply to the entire territory of the European Union.

Section 220.

(1) The winding up and liquidation proceedings of joint-stock insurance companies, branch offices of third-country insurance companies and insurance cooperatives may only be conducted by a nonprofit company created by the Commission.

(2) Liquidators and receivers shall be subject to the confidentiality requirements prescribed under Sections 153-165.

(3) Receivers and liquidators shall have powers to exercise the rights conferred by this Act and the Bankruptcy Act in all Member States in due observation of the laws of the respective Member State.

(4) In order to carry out their duties more effectively, receivers and liquidators shall have powers to delegate representatives in the territory of the affected Member States to provide assistance to local creditors.

(5) The receiver or liquidator shall be required to inform all policyholders, insured persons and the known creditors concerning the commencement of liquidation or winding up of an insurance company and the termination of their insurance contracts.

(6) The receiver or liquidator shall be required to separately inform all of the policyholders, insured persons and known creditors whose head office, domicile or normal place of residence is located in another Member State of the European Union immediately upon receiving the court ruling concerning the contents of such ruling and the legal consequences attached to specific deadlines. The notification addressed to policyholders shall also indicate the date when insurance contracts will be terminated and the legal consequences attached to their termination.

(7) The information specified in Subsection (6) shall be provided in Hungarian. The form titled "Invitation to lodge a claim. Time limits to be observed" in all the official languages of the European Union shall be used for this purpose.

(8) Any creditor who has his domicile, normal place of residence or head office in another Member State of the European Union may lodge his claim in Hungarian. In addition, he may submit the claim in the official language of his home Member State on condition that the title "Lodgement of claim" [Követelés benyújtása] is indicated in Hungarian.

Section 221.

(1) The receiver or liquidator shall be required to regularly inform the Commission and the creditors on the status of the liquidation or winding up procedure.

(2) At the request of the supervisory authorities of other Member States of the European Union, the Commission shall be required to provide information concerning the status of the liquidation or winding up proceedings.

Section 222.

(1) At the starting date of liquidation or winding up,
a) insurance contracts shall be terminated, with the exception of those in the process of being transferred;
b) no further insurance premiums may be collected in connection with terminated insurance contracts;
c) no new insurance contract may be concluded and existing ones may not be renewed, and no insurance portfolio may be transferred or received at the insurance company's own discretion.

(2) Within fifteen days following the starting date of the liquidation or winding up proceedings, the list of assets shown under mathematical provisions or serving as coverage for the provisions of unit-linked life assurance policies shall be closed as of the date of the commencement of liquidation or winding up and shall be delivered to the liquidator or receiver.

(3) In the course of the liquidation or winding up proceedings, the assets referred to in Subsection (2) shall be handled separately, from which to satisfy the insurance company's underwriting liabilities to policyholders (beneficiaries), covered by mathematical provisions or the provisions of unit-linked life assurance policies, before satisfying any other liabilities.

(4) If the assets under mathematical provisions are insufficient to cover underwriting liabilities, the remaining portion shall be satisfied from other assets of the insurance company as appropriate.

Liquidation

Section 223.

(1) The Commission shall institute liquidation proceedings against a joint-stock insurance company, a branch office of a third-country insurance company or an insurance cooperative and shall notify the Minister of Finance simultaneously if

a) in spite of regulatory measures, the insurance company fails to meet its due and undisputed payment obligations within five working days due to insufficient financial resources or if it is unable to execute its restoration plan within the time limit prescribed by the Commission, or

b) the debts of the joint-stock insurance company, branch office of a third-country insurance company or the insurance cooperative consistently exceed its equity (over-indebtedness).

Section 224.

(1) The insurance company's liabilities arising from insurance contracts shall be satisfied after the liabilities referred to in Paragraphs a) and b) and before those referred to in Paragraphs c)-g) of Subsection (1) of Section 57 of the Bankruptcy Act. This shall have no effect on the contents of Subsection (3) of Section 222.

(2) Insurance companies shall meet their underwriting liabilities from insurance contracts in the following order:

a) liabilities from life insurance and health insurance policies as well as liabilities for payment of benefits from accident insurance policies and liability insurance policies;

b) services approved on the basis of losses suffered before the starting date of liquidation proceedings, and reported within the deadline specified in the Bankruptcy Act;

c) liabilities to refund insurance premiums paid in advance;

d) other liabilities.

Voluntary Liquidation

Section 225.

The prior consent of the Commission shall be required for the termination of an insurance company without legal successor.

Section 226.

(1) The Commission shall grant its prior consent if the insurance company has fulfilled all of its obligations from insurance operations, thus particularly by

a) transferring the portfolio,

b) canceling insurance contracts,

c) concluding agreements with the policyholders.

The insurance company shall be required to submit the documents in proof of the above to the Commission.

(2) The Commission shall withdraw the insurance company's authorization upon granting its prior consent according to Section 225.

PART TEN

CLOSING PROVISIONS

Entry into Force

Section 227.

(1) This Act - with the exception of Subsection (2) of Section 233 - shall enter into force simultaneously with the act promulgating the treaty on Hungary's accession to the European Union; its provisions shall only be applied in respect of pending cases if they include more favorable regulations for the clients, insurance companies and other participants of the insurance industry.

(2) Authorization procedures shall be deemed pending when the application for authorization has been submitted before the date of entry into force in compliance with the form and content requirements set out in Act XCVI of 1995 on Insurance Institutions and the Insurance Business.

(3) The provisions of Act XCVI of 1995 on Insurance Institutions and the Insurance Business must be applied in all cases where the event serving as the basis of the regulatory measure has occurred prior to this Act entering into force, and, according to Act XCVI of 1995 on Insurance Institutions and the Insurance Business, it falls under a less severe category.

Transitional and Miscellaneous Provisions

Section 228.

(1) The insurance associations concurrently engaged in insurance and other activities before 1 January 1996 may continue to provide insurance services only under a separate accounting system.

(2) The rules on taxation and social insurance contributions regarding membership contributions paid on behalf of members in consideration for the life assurance services specified in Paragraph a) of Subsection (1) of Section 10 of Act XCVI of 1993 on Voluntary Mutual Insurance Funds (hereinafter referred to as 'VMIFA'), including employers' contributions and sponsors' donations, and provided by insurance associations established before the entry into force of VMIFA shall be the same as the rules relating to pension funds following the entry into force of this Act, provided the provisions of Sections 46-49 of VMIFA are duly applied to such services as evidenced by the Commission.

(3) The provisions contained in Subsection (1) of Section 99 shall not apply to the insurance associations referred to in Subsection (2).

Section 229.

(1) At the time the Commission's registration system is placed into operation, insurance intermediaries and consultants shall apply for registration - via the insurance company or independent insurance intermediary on whose behalf they mediate insurance - within three months from the date the registration system is placed into operation, and they shall provide proof of satisfying the criteria for registration with the exception of the professional qualifications if they are not yet available. Insurance intermediaries and consultants shall, as a prerequisite for registration, provide the Commission with proof of their professional qualifications within forty-eight months from the date the registration system is placed into operation.

(2) If an insurance intermediary fails to obtain the professional qualifications laid down in specific other legislation within the deadline referred to in Subsection (1), the Commission shall remove such intermediary from the register specified in Section 36.

(3) The persons and organizations authorized to engage in multiple insurance agency at the time this Act enters into force shall be required to satisfy the requirements set out in this Act by 31 December 2004.

(4) Insurance intermediaries who have at least five years of professional experience and are aged fifty-five or older at the time this Act enters into force shall, as a prerequisite for registration, provide the Commission with proof of their professional qualifications within seven years from the date the registration system is placed into operation.

Section 229/A.

(1) The persons authorized to engage in multiple insurance agency at the time this Act enters into force shall be required to notify the Commission by 30 September 2004 as to whether they wish to engage in multiple insurance agency in the capacity of independent insurance intermediaries after 1 January 2005.

(2) The Commission shall withdraw the authorization of persons authorized to engage in multiple insurance agency at the time this Act enters into force if they fail to provide proof of compliance with the relevant requirements by 31 December 2004.

Section 230.

(1) Any insurance company that has already been authorized at the time this Act enters into force and whose solvency margin at that time is below the minimum specified in Schedule No. 8 or the amount of the minimum guarantee funds specified in Section 125 must bring them into compliance by 31 December 2006.

(2) Any insurance company that has already been authorized at the time this Act enters into force and whose solvency margin remains below the required minimum by 31 December 2006 may request the Commission to grant a two-year extension for compliance with the solvency margin requirements on the basis of the recapitalization plan submitted by the insurance company.

(3)

(4) In respect of the life insurance contracts concluded before 1 January 1996 or before 31 December 2000 under a product permit granted before 1 January 1996, insurance companies shall refund to the policyholders at least fifty per cent of the investment profits of the mathematical provisions of the life assurance branch, instead of what is described in Subsection (1) of Section 100, provided the insurance companies have not entered into any other commitment. The refunds, however, shall not be less favorable to the insured parties than what is stipulated in the contract. The refund shall also contain revenue consistent with the technical interest base. The distribution of surplus yield according to Subsection (1) of Section 100 of this Act and the refunds made under this Subsection shall be administered and recorded separately.

Section 231.

(1) The insurance companies already authorized to provide life assurance and non-life insurance services at the time this Act enters into force shall be entitled to engage in both branches concurrently if the solvency margin of the joint-stock insurance company complies with the minimum requirement specified in Sections 121 and 122.

(2) The joint-stock insurance companies authorized to provide life assurance and non-life insurance services at the time this Act enters into force shall, above and beyond the provisions laid down in Subsection (1), be entitled to engage in both branches concurrently under separate internal control and financial management systems. Separate systems shall apply to assets, areas of powers and authorizations, separate accounting records for each branch of insurance and separate profit and loss accounts for each branch.

(3) The rules for separation of insurance branches under Subsection (2) shall be decreed by the Minister of Finance.

(4) The person employed in the capacity of senior legal counsel at the time this Act enters into force must satisfy the requirement set out in Paragraph c) of Subsection (1) of Section 87 as of 1 May 2006.

(5) The person employed in the capacity of chief executive officer at the time this Act enters into force must satisfy the requirement set out in Paragraph c) of Subsection (3) of Section 83 as of 1 May 2006.

(6) Subsection (5) notwithstanding, the persons regarded as chief executive officers at the time this Act enters into force must satisfy the requirements set out in Paragraphs c) and d) of Subsection (3) of Section 83 by 31 December 2006, and they shall provide the Commission with proof of the conditions set out under Paragraphs a), b) and e) of Subsection (3) of Section 83 by 30 September 2004.

(7) The first supplementary report specified under Subsections (5)-(8) of Section 151 shall be prepared for 2005 and sent to the Commission within fifteen days following the annual general meeting of 2006 convened to approve the annual report for 2005.

(8) Independent insurance intermediaries shall comply with the obligation set out in Subsection (1) of Section 39 on or before 1 January 2005. The provisions in force on 30 April 2003 shall be authoritative during the period between the entry of this Act into force and 31 December 2004.

(9) By way of derogation from Paragraph a) of Subsection (3) of Section 207, the supervision fee payable by independent insurance intermediaries for 2004 is

- a) the commensurate portion of the annual fee of 60,000 forints up to 30 June 2004,
- b) the commensurate portion of two thousandths of the annual premium revenue from 1 July 2004.

(10) The person employed in the capacity of head of internal control (internal controller) at the time this Act enters into force must satisfy the requirements set out in Paragraphs a) and b) of Subsection (2) of Section 89 as of 1 May 2006.

(11) The provisions contained in Points 2 and 3 of Part B) of Schedule No. 10 of this Act shall apply to unit-linked life assurance policies effective as of 1 July 2005.

(12) The persons engaged in principal agency activities at the time this Act enters into force shall apply for the Commission's authorization by 30 September 2004 and shall provide proof of compliance with the requirements set out in Subsection (3) of Section 50 by 31 December 2004. Under justified circumstances, the Commission may grant an exemption from compliance with the requirements set out in Subsection (3) of Section 50.

Amendments

Section 232.

Any reference made in legal regulation promulgated before the date of this Act entering into force to Act XCVI of 1995 on Insurance Institutions and the Insurance Business or the Insurance Act shall be understood as referring to this Act.

Repeals

Section 233.

- (1) Simultaneously with this Act entering into force, the following shall be repealed:
- a) Act XCVI of 1995 on Insurance Institutions and the Insurance Business;
 - b) Act XCVIII of 2000 on the Amendment of Act XCVI of 1995 on Insurance Institutions and the Insurance Business;
 - c) Act CXLVIII of 1997 on the Amendment of Act XCVI of 1995 on Insurance Institutions and the Insurance Business;
 - d) Section 442, and Paragraph p) of Subsection (2) of Section 450 of Act CXX of 2001 on the Capital Market;
 - e) Paragraph k) of Subsection (1) of Section 6, and Section 9 of Act XCIII of 2001 on the Elimination of Foreign Exchange Restrictions and on the Amendment of Certain Related Acts;
 - f) Sections 3-17, Subsections (3) and (4) of Section 156, and Schedule No. 3 of Act LXXIV of 2001 on the Amendment of Certain Acts Specific to the Financial System;
 - g) Subsections (3)-(5) of Section 13, and Paragraph c) of Section 14 of Act CXXIV of 1999 on Government Control of Financial Institutions;
 - h) Section 54 of Act LXXV of 1999 on Organized Crime, the Provisions for Actions Against Phenomena Associated with Such, and on the Related Amendments of Laws;
 - i) Subsections (2) and (3) of Section 98 of Act XC of 1998 on the 1999 Budget of the Republic of Hungary;

- j) Section 128 of Act LXXXII of 1997 on Private Pensions and Private Pension Funds;
 - k) the passage "Section 170 of Act XCVI of 1995 on Insurance Institutions and the Insurance Business" in Paragraph c) of Section 119 of Act XI of 1997 on the Protection of Trademarks and Geographical Indications;
 - l) Section 159, and Paragraph b) of Subsection (3) of Section 160 of Act CXXIV of 2000 on the Amendment of Act CXII of 1996 on Credit Institutions and Financial Enterprises;
 - m) Paragraph c) of Section 97 of Act LVII of 1996 on the Prohibition of Unfair Market Practices and Restraint of Trade;
 - n) Subsections (2) and (3) of Section 2 of Act XLIX of 1991 on Bankruptcy Proceedings, Liquidation Proceedings and Member's Voluntary Liquidation.
- (2) Simultaneously with the promulgation of this Act, Subsection (2) of Section 3 and Subsections (1) and (2) of Section 156 of Act LXXIV of 2001 on the Amendment of Certain Acts Specific to the Financial System shall be repealed.

Authorizations

Section 234.

- The Government is hereby authorized to decree
- a) the rules of accounting and annual reporting obligations of insurance companies,
 - b) the detailed rules relating to compulsory insurance prescribed in Subsection (1) of Section 105 and in other acts,
 - c) the special regulations concerning the organizational structure, foundation and operation of Lloyd's,
 - d) the minimum content requirements for the liability insurance coverage of independent insurance intermediaries and insurance consultants,
 - e) the personnel and material conditions for commencing and providing mortgage lending services.
 - f) the mandatory requirements for the liability insurance coverage of organizers of car races.

Section 235.

- The Minister of Finance is hereby authorized to decree
- a) the rules for the reports to be filed by independent insurance intermediaries;
 - b)
 - c) the regulations on exposures; on the determination, analysis, evaluation and definition of exposures relating to mortgage loan operations; on the management and reduction of exposures and on the control of risks;
 - d) the highest technical rate of interest;
 - e) order and contents of the internal data disclosure of insurance companies to the Commission;
 - f) the composition of technical provisions and the procedures for creating and using them;
 - g) the form and content requirements regarding the information to be supplied to clients in connection with unit-linked life assurance policies;
 - h) the scope and amount of supervision fees;
 - i) the rules for the calculation of compulsory motor vehicle liability insurance premiums and the preparation of operating statements, the premium calculation, the schedule of premiums and the insurance premium;
 - j) the ceilings on large exposures and large claims;
 - k) the content requirements for actuarial reports;
 - l) the contents of the Commission's data disclosure obligation;
 - m) the rules for separation of insurance branches;
 - n) the procedure for the regular disclosure of data to the Commission for supervision on a consolidated basis;
 - o) inflation index for the minimum security capital requirement.
 - p) the rules for keeping the register of insurance intermediaries and insurance consultants,
 - q)
 - r) the calculations at the level of the financial conglomerate relating to supplementary supervision, their contents, structure and frequency.

Approximation Clause

Section 236.

Within the framework of Act I of 1994 promulgating the Europe Agreement establishing an association between the Republic of Hungary and the European Communities and their Member States, signed in Brussels on 16 December 1991, this Act contains regulations designed to approximate the legal regulations of the European Communities contained in Schedule No. 12.

Schedule No. 1 of Act LX of 2003

Part A)

Classification of Risks of the Non-life Insurance Branch

- 1) Accident (including industrial injury and occupational diseases)
 - a) one-time services,
 - b) recurrent or regular services,
 - c) combined services,
 - d) services to passengers.
- 2) Sickness
 - a) one-time services,
 - b) recurrent or regular services,
 - c) combined services.
- 3) Land vehicles comprehensive coverage (not including railway rolling stock)
All damage to or loss of
 - a) land motor vehicles,
 - b) other motor-driven land vehicles and machinery,
 - c) land vehicles other than motor vehicles.
- 4) Comprehensive coverage of rail vehicles
All damage to or loss of railway rolling stock.
- 5) Comprehensive coverage of aircraft
All damage to or loss of aircraft.
- 6) Comprehensive coverage of sea, lake and river vessels
All damage to or loss of
 - a) river vessels,
 - b) sea vessels.
- 7) Goods in transit (including merchandise, baggage, and all other goods)
All damage to or loss of goods in transit or baggage, irrespective of the form of transport.
- 8) Fire and natural forces
All damage to or loss of property (other than those included in classes 3, 4, 5, 6 and 7) due to
 - a) fire,
 - b) explosion,
 - c) storm,
 - d) natural forces other than storm,
 - e) nuclear energy,
 - f) land subsidence and earthquake.
- 9) Other damage to property
All damage to or loss of property (other than the property included in classes 3, 4, 5, 6 and 7) due to hail or frost, and any event such as theft, other than those mentioned under class 8.
- 10) All liability arising out of the use of self-propelled motor vehicles operating on the land (including carrier's liability and compulsory liability coverage).

11) Aircraft liability

All liability arising out of the use of aircraft (including carrier's liability).

12) Liability for sea, lake and river vessels

All liability arising out of the use of ships, vessels or boats on the sea, lakes or rivers (including carrier's liability).

13) General liability

All liability other than those forms mentioned under classes 10, 11 and 12, e.g., liability related to the pollution of the environment.

14) Credit

a) insolvency (general),

b) export credit,

c) installment credit,

d) mortgages,

e) agricultural credit.

15) Suretyship, guarantee

a) suretyship, guarantee (direct),

b) suretyship, guarantee (indirect).

16) Miscellaneous financial loss

a) employment risks,

b) insufficiency of income,

c) bad weather,

d) loss of profits,

e) any type of continuing general and other expenses,

f) unforeseen trading and operating expenses,

g) loss of value,

h) loss of rent or revenue,

i) indirect trading losses other than those mentioned above,

j) other financial loss (non-trading),

k) other forms of financial loss.

17) Legal expenses

Legal-expenses policies offer coverage of costs of litigation along with other services for a premium, thus particularly

- indemnification of loss suffered by the insured through an out-of-court settlement or in civil or criminal proceedings,

- defense or representation of the insured in civil, criminal or administrative proceedings or if a claim is filed against the insured for compensation for damages.

18) Emergency assistance

19) Funeral assistance

Part B)

Designation of Multi-Class Authorizations

The following designations shall be used if the authorization covers more than one class:

a) classes 1 and 2: "Accident and Sickness" or "Medical Insurance";

b) classes 1 d), 3, 7 and 10: "Motor Vehicle Insurance";

c) classes 1 d), 4, 6, 7 and 12: "Marine Transport Insurance";

d) classes 1 a), 5, 7 and 11: "Aviation Insurance";

e) classes 8 and 9: "Insurance against Fire and other Damage to Property";

f) classes 10, 11, 12 and 13: "Liability Insurance";

g) classes 14 and 15: "Credit and Suretyship Insurance".

A designation for any other combination of classes must be approved by the Commission.

Part C)

Ancillary Risks

1) An insurance company obtaining an authorization for a principal risk belonging to one class or a group of classes may also insure risks included in another class without an authorization being necessary for them if they

- a) are connected with the principal risk,
- b) pertain to the object that is covered against the principal risk, and
- c) are covered by the contract insuring the principal risk.

2) The risks covered under classes 14, 15 and 17 in Part A) - with the exceptions stipulated in Point 3 - may not be regarded as risks ancillary to other classes.

3) The risk covered under class 17 (legal expenses insurance) may be considered as a risk ancillary to class 18 if the conditions indicated in Point 1 are satisfied and the principal risk only pertains to assistance provided to persons in a country other than the country of their domicile or residence. Furthermore, legal expenses insurance may be considered an ancillary risk if the conditions indicated in Point 1 are satisfied and if it pertains to lawsuits or risks arising from or in connection with the operations of sea vessels.

Part D)

Large Exposures

The following shall be considered large exposures:

- 1) the risks classified under Points 4, 5, 6, 7, 11 and 12 of part A);
- 2) the risks classified under Points 14 and 15 of part A) if the insured is engaged in an industrial or commercial trade or is self-employed and the risk concerns such activities;
- 3) the risks classified under Points 8, 9, 13 and 16 of part A) if at least two of the policyholder's
 - a) balance sheet total,
 - b) turnover,
 - c) average number of employees exceeds the limits specified in the decree of the Minister of Finance issued pursuant to Paragraph j) of Section 235 of this Act.

Schedule No. 2 of Act LX of 2003

Classification of Risks in the Life Assurance Branch

I. Conventional life assurance policies, such as

- fixed term full life death assurance plan,
- assurance on survival to a stipulated age only or life assurance with return of premiums,
- ordinary endowment insurance,
- term fix insurance,
- deferred annuity policy,
- immediate annuity policy,
- supplementary insurance against disability resulting from an accident or sickness.

II. Marriage assurance, birth assurance, where marriage or birth constitutes the insurance event.

III. Unit-linked life assurance.

IV. Individual and group retirement insurance

- retirement funds,
- individual retirement accounts.

V. Annuity insurance auxiliary to social security pension.

Schedule No. 3 of Act LX of 2003

Definition and Calculation of Indirect Holdings

- 1) The ratio of an indirect holding shall be determined by multiplying the ownership share in an intermediary company by the ownership or voting share held by such intermediary company in the original company.
- 2) An indirect holding through an intermediary company shall not be taken into account for the above-specified calculation if the direct and indirect share in the intermediary company on the aggregate does not reach the extent of a qualifying holding.
- 3) All of the ownership shares and voting rights controlled by the close relatives of natural persons (Paragraph b) of Section 685 of the Civil Code) shall be added up.
- 4) Voting rights shall be taken into account the same as ownership shares.

Schedule No. 4 of Act LX of 2003

Insurance Product Plan

Each insurance product must be accompanied by a product plan that is to contain the following:

- 1) Terms and conditions of the insurance contract
- 2) Premium calculation

The premium calculation shall contain the following defined clearly in sufficient detail:

- 2) 1. For products covering risks under the life assurance branch

- 2) 1.1. mortality tables,

- 2) 1.2. formula for premium calculation, premium tables,

- 2) 1.3. formula for the calculation of life assurance premium provisions,

- 2) 1.4. formula for the calculation of premium-free reduction,

- 2) 1.5. formula for the calculation of the cash surrender value,

- 2) 1.6. calculation of the yield on investment, calculation of surplus yield and the measure and manner of refunding.

- 2) 2. For products covering risks under the non-life insurance branch,

- 2) 2.1. loss and risk ratios or other statistics,

- 2) 2.2. description of the premium calculation principle,

- 2) 2.3. description of the components and planned parameters of premium calculation, including premium tables.

- 2) 3. Inflation escalation, when applicable.

The premium calculation referred to in Point 2.2 shall illustrate the data included in those gathered for the subsequent control of calculation.

- 3) Auxiliary data

Auxiliary data shall contain the following estimated figures for the next three years, broken down per year:

- 3) 1. number of policies planned for a portfolio and the premium of the portfolio,

- 3) 2. expected costs of the product, including costs of solicitation, claim settlement and administration costs,

- 3) 3. estimated premium revenues,

- 3) 4. estimated settlement payments.

Schedule No. 5 of Act LX of 2003

Regulations Concerning the Register of Insurance Intermediaries and Insurance Consultants

1. The Commission's register shall comprise the following:

A) Register of natural persons engaged in insurance mediation

- a) name, place and date of birth, mother's name, address,

- b) registration number and date of issue,

- c) indication of the state or states in which the insurance intermediary operates,

d) whether the insurance intermediary is a natural person operating on behalf of a dependent insurance intermediary economic operator,

da) name of this economic operator (including any changes),

db) registration number of the economic operator,

dc) date of entering into and terminating the legal relation with the economic operator, description of the relation (including any changes),

e) type of insurance mediating (independent, dependent),

f) name of the insurance company or companies or independent insurance intermediary with whom the insurance intermediary is engaged by contract for mediating insurance (including any changes),

g) if the insurance mediator is engaged in mediating on behalf of insurance companies, classification of the products mediated according to Schedules Nos. 1 and 2 separately for each insurance company,

h) type of education (college or university degree or professional training specified in specific other legislation); if the person lacks the appropriate qualifications, an indication of the deadline for obtaining it.

B) Register of economic operators engaged in insurance mediation

a) name, abbreviated name, registered address, place of business and branch office, tax number, name(s) and position(s) of authorized representative(s) of the economic operator engaged in insurance mediation,

b) registration number and date of issue,

c) indication of the state or states in which the insurance intermediary operates,

d) type of insurance mediating (independent, dependent),

e) name of insurance companies or independent insurance intermediaries (not including insurance brokers) who are engaged by contract for mediating insurance (including any changes),

f) for dependent insurance intermediaries, classification of the products mediated according to Schedules Nos. 1 and 2 separately for each insurance company.

C) Register of natural persons who engage in insurance consulting or who direct the consulting activities in a consulting firm

a) name, place and date of birth, mother's name, address of the natural person who engages in insurance consulting or who directs the consulting activities in a consulting firm,

b) registration number of the insurance consultant and the person directing operations of an insurance consulting company, and date of issue,

c) indication of the state or states in which the insurance consultant operates,

d) whether the natural persons is employed by an economic operator to direct insurance consulting operations,

da) name of the economic operator at which the insurance consultant directs operations,

db) registration number of the economic operator,

dc) date on which the legal relation with the economic operator begins and ends, description of the relation.

D) Register of economic operators engaged in insurance consulting

a) name, abbreviated name, registered address, place of business and branch office, tax number, name(s) and position(s) of authorized representative(s) of the economic operator engaged in insurance consulting,

b) registration number of the economic operator engaged in insurance consulting and the date of issue,

c) indication of the state or states in which the insurance consultant operates,

2. The registers of insurance companies and independent insurance intermediaries on the insurance intermediaries they employ shall contain the following information (including any changes in the particulars of the insurance intermediaries during the life of their contract and documented records of such changes):

A) Register of natural persons engaged in insurance mediation

a) name, place and date of birth, mother's name, address of the natural persons engaged in insurance mediation,

b) registration number and date of issue,

c) indication of the state or states in which the insurance intermediary operates,

d) whether the insurance intermediary is a natural person operating on behalf of a dependent insurance intermediary economic operator,

da) name of this economic operator,

db) registration number of the economic operator,

dc) date of entering into and terminating the legal relation with the economic operator, description of the relation,

e) type of insurance mediating (independent, dependent),

f) regarding the insurance company or independent insurance intermediary:

fa) date of entering into and terminating the relation,

fb) detailed description of the activities performed on behalf of the insurance company or independent insurance intermediary,

fc) description of any restrictions in the relation with the insurance company or independent insurance intermediary, reasons and circumstances for terminating the relation,

g) if the insurance mediator is engaged in mediating on behalf of insurance companies, classification of the products mediated according to Schedules Nos. 1 and 2,

h) type of education (college or university degree or professional training specified in specific other legislation) and a copy of the relevant certificate, if lacking the appropriate qualifications, an indication of the deadline for acquiring it,

i) the license revoked from a natural person following his termination of employment with the insurance company or independent insurance intermediary,

j) certificate proving no criminal record.

B) Register of dependent insurance intermediary companies

a) name, abbreviated name, registered address, place of business and branch office, tax number, name(s) and position(s) of authorized representative(s) of the economic operator engaged in insurance mediation,

b) registration number and date of issue,

c) indication of the state or states in which the insurance intermediary operates,

d) type of insurance mediating (independent, dependent),

e) for dependent insurance intermediaries, classification of the products mediated according to Schedules Nos. 1 and 2 separately for each insurance company.

Schedule No. 6 of Act LX of 2003

Outsourcing Insurance Administrative Activities

I. The following activities cannot be outsourced:

- 1) structural arrangements of the insurance company;
- 2) underwriting risks;
- 3) customer relations;
- 4) internal control;
- 5) balance sheet analysis and solvency margin calculation;
- 6) staffing decisions;
- 7) contracting reinsurance.

II. Outsourced activities to be reported to the Commission:

- 1) actuarial duties;
- 2) electronic data processing;
- 3) claim adjustment;
- 4) asset management.

Schedule No. 7 of Act LX of 2003

Other Contracting Obligations not Defined by Law

- 1) Operation of motor vehicles
- 2) Operation of shooting ranges
- 3) Operation of nongovernmental welfare institutions
- 4) Operation of nongovernmental childcare institutions
- 5) Contract maintenance of elevators and escalators
- 6) Money processing operations
- 7) Testing, inspection and certification of technical equipment
- 8) Gas supply and marketing operations
- 9) Printing securities

- 10) Organization of race events for motor vehicles
- 11) Organization of consumer groups
- 12) Air traffic
- 13) Organization of sports events
- 14) Manufacture of pharmaceutical products for human consumption
- 15) Operation of nuclear facilities
- 16) Roadside services, operation of motor vehicles
- 17) Wholesale of pharmaceutical products
- 18) Actual service of volunteer reservists
- 19) Participating in clean-up operations
- 20) Employer loans
- 21) Activities of regular and volunteer fire brigades
- 22) Provisions for envoys commissioned by the Ministry of Defense
- 23) Temporary foreign (defense) service

Schedule No. 8 of Act LX of 2003

Calculation of the Solvency Requirement

A) Minimum solvency requirement for non-life insurance companies (annual)

1) The minimum solvency requirement for non-life insurance companies may not be reduced compared to the previous year by more than any reduction on the net claims reserve since the end of the previous year. Hence the solvency margin requirement for non-life insurance companies

where:

- 2) f_1 is the net claims reserve (less reinsurance cessions) at the end of the year in the non-life insurance branch;
- 3) f_0 is the net claims reserve (less the contracts ceded) at the beginning of the year in the non-life insurance branch;
- 4) S^* is the previous year's minimum solvency requirement in the non-life insurance branch;
- 5) $S_0 = \max(E_1, E_2)$, that is, the first result representing the revenue index and the second result representing the claim index, whichever is greater.

Calculation of the first result (revenue index)

6) The first result is calculated by the following formula:

where the symbols have the following meanings:

- 7) a_1 means the sum marked a under Point 9 that is not in excess of 12,500 million forints (or the amount adjusted by the inflation index according to Section 128);
- 8) a_2 means the sum marked a under Point 9 that is in excess of 12,500 million forints (or the amount adjusted by the inflation index according to Section 128);
- 9) a means the aggregate adjusted amount of unearned premiums for the year or the aggregate adjusted amount of earned premiums for the year, whichever is greater, that is

where:

10)

and

11)

where the symbols have the following meanings:

12) aw_1 means the gross amount of unearned premiums for health and medical insurance policies for the year, including reinsurance acceptances, with cancelled premiums subtracted if they satisfy the following conditions:

- a) premiums determined on the basis of morbidity tables, under actuarial principles;
- b) a mathematical reserve is set up for increasing age;
- c) an additional premium is collected in order to set up a safety margin of an appropriate amount;

- d) the insurer may only cancel the contract before the end of the third year of insurance at the latest;
- e) the contract provides for the possibility of increasing premiums or reducing payments even for current contracts;
- 13) aw2 means the gross amount of unearned premiums for the year for classes 11, 12 and 13, including reinsurance acceptances, with cancelled premiums subtracted;
- 14) aw3 means the gross amount of unearned premiums for non-life insurance companies for the year, other than what is contained in Points 12 and 13, including reinsurance acceptances, with cancelled premiums subtracted;
- 15) ae1 means the gross amount of earned premiums for health and medical insurance policies for the year, including reinsurance acceptances, with cancelled premiums subtracted if they satisfy the conditions set out under Paragraphs a)-e) of Point 12;
- 16) ae2 means the gross amount of earned premiums for classes 11, 12 and 13 for the year, including reinsurance acceptances, with cancelled premiums subtracted;
- 17) ae3 means the gross amount of earned premiums for the year other than what is contained in Points 15 and 16, including reinsurance acceptances, with cancelled premiums subtracted;
- and where
- 18) c means the gross amount of claims of the last three financial years remaining to be borne by the company, this ratio may not be less than 0.5, that is
where
- 19) dn means the amount of claims for the last three financial years remaining to be borne by the company, that is
and
- 20) db means the gross amount of claims paid out during the last three financial years without any deduction of amounts recoverable under reinsurance, that is
where
- 21) bn means the sum of the last three financial years of claims remaining to be borne by the company;
- 22) Fn3 means the net claims reserve at the end of the three-year period;
- 23) Fn0 means the net claims reserve at the beginning of the three-year period;
- 24) bb means the gross amount of claims paid out during the last three financial years;
- 25) Fb3 means the gross claims reserve at the end of the three-year period;
- 26) Fb0 means the gross claims reserve at the beginning of the three-year period.

Calculation of the second result (claims index)

- 27) The second result is calculated by the following formula:
where the symbols have the following meanings:
- 28) b1 means the sum marked b under Point 30 that is not in excess of 8,750 million forints (or the amount adjusted by the inflation index according to Section 128);
- 29) b2 means the sum marked b under Point 30 that is in excess of 8,750 million forints (or the amount adjusted by the inflation index according to Section 128);
- 30) b means the sum of gross claims during the averaging period, that is
where
- 31) k means the length of the averaging period in years: the averaging period is generally three years, unless more than 60 per cent of the premium revenues of the insurance company for the year results collectively from contracts for credit, frost, ice, storm, earthquake and flood risks, the averaging period shall be 7 years. For insurance companies who are in business for less than three years, k means the number of concluded financial years. The averaging period ends with the last concluded financial year.
- 32) bj means the adjusted gross of settlements paid in year j in the averaging period, that is
$$b_j = 1 \cdot b_{j+1} + 1,5 \cdot b_j + b_{j-1}$$
, where $j = 1, 2, 3$
- 33) bj1 means the gross sum of settlement payments made in year j in the averaging period in connection with the direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including reinsurance acceptances, reduced by ceded claims;
- 34) bj2 means the gross sum of settlement payments made in year j in the averaging period in connection with classes 11, 12 and 13 reduced by ceded claims, including reinsurance acceptances with ceded claims deducted;

35) bj_3 means the gross sum of settlement payments made in year j in the averaging period for reasons other than what is contained in Points 33 and 34, reduced by ceded claims, including reinsurance acceptances with ceded claims deducted. For class 18, the assistance services performed shall be taken into account instead of settlement payments;

and where

36) F_k means the adjusted gross claims reserve at the end of the averaging period, that is

37) F_0 means the adjusted gross claims reserve at the beginning of the averaging period, that is

where the symbols have the following meanings:

38) F_{k1} means gross claims reserve at the end of the averaging period in connection with direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including the gross claims reserve set aside for reinsurance acceptances;

39) F_{k2} means gross claims reserve at the end of the averaging period in connection with classes 11, 12 and 13, including the gross claims reserve set aside for reinsurance acceptances;

40) F_{k3} means gross claims reserve at the end of the averaging period for reasons other than what is contained in Points 38 and 39, including the gross claims reserve set aside for reinsurance acceptances;

41) F_{01} means gross claims reserve at the beginning of the averaging period in connection with the direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including the gross claims reserve set aside for reinsurance acceptances;

42) F_{02} means gross claims reserve at the beginning of the averaging period in connection with classes 11, 12 and 13, including the gross claims reserve set aside for reinsurance acceptances;

43) F_{03} means gross claims reserve at the beginning of the averaging period for reasons other than what is contained in Points 41 and 42, including the gross claims reserve set aside for reinsurance acceptances;

and where

44) c in Point 27 is the same as c in Point 18.

B) Minimum solvency requirement for life assurance companies (annual)

1) The solvency margin requirement for life assurance companies shall comprise the total of the minimum solvency margin for life assurance risks, the minimum solvency margin for supplementary non-life risks and the minimum solvency margin for unit-linked life assurance policies and managed pension funds, that is

$$L = L_1 + L_2 + L_3,$$

where the individual classes are calculated according to the following:

Minimum solvency requirement for life assurance risks

2) Minimum solvency requirement for life assurance risks

that is, the total of the first and the second result that are to be calculated for the classes of the life assurance branches illustrated in Schedule No. 2, namely I (Conventional life assurance policies), II (Marriage assurance, birth assurance) and V (Annuity insurance auxiliary to social security pension), not including non-life insurance risks auxiliary to life assurance contracts.

3) The first result is calculated by the following formula:

where

4) V means the mathematical provisions relating to direct business and reinsurance acceptances gross, if not a negative figure, without deducting the provisions on reinsurance cessions;

5) d means the total mathematical provisions net of reinsurance cessions to the gross total mathematical provisions, this ratio may in no case be less than 0.85:

where

6) V_n means mathematical provisions relating to direct business and reinsurance acceptances gross, with the provisions on reinsurance cessions deducted.

7) The second result is calculated by the following formula:

$$R_2 = (s_1 \cdot 0.003 + s_2 \cdot 0.0015 + s_3 \cdot 0.001) \cdot e, \text{ where}$$

8) s_1 means the gross total of capital at risk, if not a negative figure, under life assurance contracts (calculated without reinsurance), excluding the contracts mentioned under Points 9 and 10;

9) s_2 means the gross total of capital at risk, if not a negative figure, under life assurance contracts covering the risk of death for terms of a minimum of 3 years and a maximum of 5 years (calculated without reinsurance);

10) s_3 means the gross total of capital at risk, if not a negative figure, under life assurance contracts covering the risk of death for terms of less than 3 years (calculated without reinsurance);

11) e means the total capital at risk retained, this ratio may in no case be less than 0.5:

where

12) s_n means the gross total of capital at risk, if not a negative figure, under life assurance contracts (adjusted with reinsurance); and

13) $s = s_1 + s_2 + s_3$, where definitions are identical to Points 8-10.

Minimum solvency requirement for non-life insurance risks auxiliary to life assurance contracts

14) L2 means the minimum solvency requirement for non-life insurance risks auxiliary to life assurance contracts is calculated by the same procedure contained under Part A), on the basis of data pertaining to non-life insurance risks auxiliary to life assurance contracts.

Minimum solvency requirement for unit-linked life assurance policies and managed pension funds

15) The minimum solvency requirement for unit-linked life assurance policies and managed pension funds is calculated by the following formula:

that is, the total of the first and the second result, that are to be calculated for the classes of the life assurance branch illustrated in Schedule No. 2, namely III (Unit-linked life assurance) and IV (Individual and group retirement plans: management of pension funds and individual retirement accounts), with the exception of non-life insurance risks auxiliary to life assurance contracts.

16) The first result is calculated by the following formula:

where

17) V_1 means the technical provisions relating to direct business and reinsurance acceptances gross, without deducting the provisions on reinsurance cessions in so far as the assurance company bears an investment risk regarding the investment of such provisions;

18) V_2 means the technical provisions relating to direct business and reinsurance acceptances gross, without deducting the provisions on reinsurance cessions in so far as the assurance company bears no investment risk regarding the investment of such provisions but the allocation to cover management expenses is fixed for a period exceeding five years;

19) C_3 means the net management expenses relating to direct business and reinsurance acceptances, in so far as the assurance company bears no investment risk regarding the investment of such provisions and the allocation to cover management expenses is not fixed for a period exceeding five years;

20)

and

21)

where

22) V_{1n} means the V_1 provisions under Point 17 with the provisions on reinsurance cessions deducted;

23) V_{2n} means the V_2 provisions under Point 18 with the provisions on reinsurance cessions deducted.

24) The second result is calculated by the following formula:

where

25) s' means the gross total of capital at risk, if not a negative figure, relating to direct business and reinsurance acceptances (calculated without reinsurance), for contracts covering the risk of death;

26) e' means the total capital at risk retained, which ratio may in no case be less than 0.5:

where

27) s'_n means the net capital at risk (adjusted by reinsurance), if not a negative figure, for contracts included in the calculation of s' .

C) Minimum solvency requirement for non-life insurance companies (quarterly)

1) The minimum solvency requirement for non-life insurance companies may not be reduced compared to the previous four quarters by more than any reduction on the net claims reserve four quarters prior. Hence the solvency margin requirement for non-life insurance companies

where:

2) f_1 is the net claims reserve (less reinsurance cessions) at the end of the quarter in the non-life insurance branch;
3) f_0 is the net claims reserve (less reinsurance cessions) for the four quarters prior in the non-life insurance branch;

4) S^* the minimum solvency requirement for the quarter for the four quarters prior in the non-life insurance branch;

5) $S_0 = \max(E_1, E_2)$, that is, the first result representing the revenue index or the second result representing the claim index, whichever is greater.

Calculation of the first result (revenue index)

6) The first result is calculated by the following formula:

where the symbols have the following meanings:

7) a_1 means the sum marked a under Point 9 that is not in excess of 12,500 million forints (or the amount adjusted by the inflation index according to Section 128);

8) a_2 means the sum marked a under Point 9 that is in excess of 12,500 million forints (or the amount adjusted by the inflation index according to Section 128);

9) a means the aggregate adjusted amount of unearned premiums for the last four quarters or the aggregate adjusted amount of earned premiums for the last four quarters, whichever is greater, that is,

where:

10)

and

11)

where the symbols have the following meanings:

12) aw_1 means the gross amount of unearned premiums for the last four quarters, including reinsurance acceptances, with cancelled premiums subtracted, for health and medical insurance policies that satisfy the following conditions:

a) premiums determined on the basis of morbidity tables, under actuarial principles;

b) a mathematical reserve is set up for increasing age;

c) an additional premium is collected in order to set up a safety margin of an appropriate amount;

d) the insurer may only cancel the contract before the end of the third year of insurance at the latest;

e) the contract provides for the possibility of increasing premiums or reducing payments even for current contracts;

13) aw_2 means the gross amount of unearned premiums for the last four quarters for classes 11, 12 and 13, including reinsurance acceptances, with cancelled premiums subtracted;

14) aw_3 means the gross amount of unearned premiums for non-life insurance companies for the last four quarters, other than what is contained in Points 12 and 13, including reinsurance acceptances, with cancelled premiums subtracted;

15) ae_1 means the gross amount of earned premiums for the last four quarters, including reinsurance acceptances, with cancelled premiums subtracted, for health and medical insurance policies that satisfy the conditions set out under Paragraphs a)-e) of Point 12;

16) ae_2 means the gross amount of earned premiums for classes 11, 12 and 13 for the last four quarters, including reinsurance acceptances, with cancelled premiums subtracted;

17) ae_3 means the gross amount of earned premiums for the last four quarters other than what is contained in Points 15 and 16, including reinsurance acceptances, with cancelled premiums subtracted;

and where

18) c means the gross amount of claims of the last three financial years remaining to be borne by the company that is to be calculated by the procedure under Points 18-26 of Part A) based on the data of the last three financial years. If no financial year has been completed, this ratio shall be 1.

Calculation of the second result (claims index)

19) The second result is calculated by the following formula:

where the symbols have the following meanings:

20) b1 means the sum marked b under Point 22 that is not in excess of 8,750 million forints (or the amount adjusted by the inflation index according to Section 128);

21) b2 means the sum marked b under Point 22 that is in excess of 8,750 million forints (or the amount adjusted by the inflation index according to Section 128);

22) b means the sum of gross claims during the averaging period, that is,
where

23) m means the length of the averaging period in quarters: the averaging period is generally 12 quarters unless more than 60 per cent of the premium revenues of the insurance company for the last four quarters results collectively from contracts for credit, frost, ice, storm, earthquake and flood risks, in which case the averaging period shall be 28 quarters. For insurance companies that have been in business for less than three years, m means the number of concluded quarters. The averaging period ends with the last concluded quarter.

24) bj means the adjusted gross of settlements paid in quarter j in the averaging period, that is,
where

25) bj1 means the gross sum of settlement payments made in quarter j in the averaging period in connection with direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including reinsurance acceptances, reduced by ceded claims;

26) bj2 means the gross sum of settlement payments made in quarter j in the averaging period in connection with classes 11, 12 and 13 reduced by ceded claims, including reinsurance acceptances with ceded claims deducted;

27) bj3 means the gross sum of settlement payments made in quarter j in the averaging period for reasons other than what is contained in Points 25 and 26, reduced by ceded claims, including reinsurance acceptances with ceded claims deducted. For class 18, the assistance services performed shall be taken into account instead of settlement payments;

and where

28) Fm means the adjusted gross claims reserve at the end of the averaging period, that is,

29) F0 means the adjusted gross claims reserve at the beginning of the averaging period, that is,

where the symbols have the following meanings:

30) Fm1 means gross claims reserve at the end of the averaging period in connection with direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including the gross claims reserve set aside for reinsurance acceptances;

31) Fm2 means gross claims reserve at the end of the averaging period in connection with classes 11, 12 and 13, including the gross claims reserve set aside for reinsurance acceptances;

32) Fm3 means gross claims reserve at the end of the averaging period for reasons other than what is contained in Points 30 and 31, including the gross claims reserve set aside for reinsurance acceptances;

33) F01 means gross claims reserve at the beginning of the averaging period in connection with direct health and medical insurance policies mentioned under Paragraphs a)-e) of Point 12, including the gross claims reserve set aside for reinsurance acceptances;

34) F02 means gross claims reserve at the beginning of the averaging period in connection with classes 11, 12 and 13, including the gross claims reserve set aside for reinsurance acceptances;

35) F03 means gross claims reserve at the beginning of the averaging period for reasons other than what is contained in Points 33 and 34, including the gross claims reserve set aside for reinsurance acceptances;

and where

36) c in Point 19 is the same as c in Point 18.

Estimation of missing figures

37) Any data pertaining to a quarter preceding the date on which this Act enters into force may be replaced in the calculations by reasonable estimates.

D) Minimum solvency requirement for life assurance companies (quarterly)

1) The solvency margin requirement for life assurance companies shall comprise the total of the minimum solvency margin for life assurance risks, the minimum solvency margin for supplementary non-life risks and the minimum solvency margin for unit-linked life assurance policies and managed pension funds, that is,

$$L = L1 + L2 + L3,$$

where the individual classes are calculated according to the following:

2) L1 means minimum solvency requirement for life assurance companies, which is to be calculated for the classes of the life assurance branches illustrated in Schedule No. 2, namely I (Conventional life assurance policies), II (Marriage assurance, birth assurance) and V (Annuity insurance auxiliary to social security pension), not including non-life insurance risks auxiliary to life assurance contracts. It is calculated by the same procedure contained under Points 1-13 of Part B) on the basis of quarterly data.

3) L2 means the minimum solvency requirement for non-life insurance risks auxiliary to life assurance contracts, which is calculated by the same procedure contained under Part C) on the basis of data pertaining to non-life insurance risks auxiliary to life assurance contracts;

4) L3 means the minimum solvency requirement for unit-linked life assurance policies and managed pension funds, which is to be calculated for the classes of the life assurance branch illustrated in Schedule No. 2, namely III (Unit-linked life assurance), and IV (Individual and group retirement plans: management of pension funds and individual retirement accounts), with the exception of non-life insurance risks auxiliary to life assurance contracts. It is calculated by the same procedure contained under Points 15-27 of Part B) based on quarterly data, or on the basis of the last four quarters for calculation of C3 under Point 19 of Part B).

Schedule No. 9 of Act LX of 2003

Rules of Compliance

The type of currency in which the insurance company is to satisfy its liabilities shall be specified in accordance with the foreign exchange regulations in force and with the following provisions:

1) If coverage is expressed in a contract in a specific currency, then, for the purposes of compliance with foreign exchange regulations, the insurance company's liabilities shall be deemed to be in that currency.

2) The assets of technical provisions shall be placed in receivables expressed in the type of currency defined in Point 1 above.

3) Where non-life insurance is concerned, if the cover provided by a contract is not expressly stipulated in any currency, the insurance company's commitment shall be in the national currency of the country where the risk occurs.

4) Where non-life insurance is concerned, Point 2 notwithstanding, if it appears likely that a claim will be paid in the currency of the premium and not in the currency of the country in which the risk is situated, the insurance company may choose the currency in which the premium is expressed in compliance with the rules of matching assets. The insurance company shall be required to notify the Commission when deviating from the main rule under Point 2, including justification.

5) Where a non-life insurance claim has been reported to an insurance company and is payable in a specified currency other than the currency resulting from application of the above procedures, the insurance company's commitments shall be considered to be payable in that currency and in particular the currency in which the compensation to be paid by the insurance company has been determined by a court judgment or by agreement between the insurer and the insured.

6) Where a non-life insurance claim is assessed in a currency that is known to the insurance company in advance but is different from the currency resulting from application of the above procedures, the insurance company may consider its commitments to be payable in that currency in compliance with the rules of matching assets. The

insurance company shall be required to notify the Commission of any deviation from this rule and the reasons therefor.

7) The insurance company may be granted exemption from the obligation stipulated in Point 2, if this obligation would compel the insurance company to keep less than 7 per cent of its assets in other currencies in the currency in question.

8) Insurance companies shall have the option to keep a maximum of 20 per cent of their liabilities in a specific type of currency in assets other than those defined in Point 2. However, the combined total of assets kept in various currencies cannot be less than the combined total of liabilities in various currencies.

Schedule No. 10 of Act LX of 2003

Advice to clients

A) The written information provided with insurance contracts shall contain at least the following:

- 1) the period and duration of coverage;
- 2) starting date of coverage;
- 3) description of the insured event;
- 4) terms of payment of premium and the manner by which to amend the premium, if allowed for the basic coverage and for supplementary risks;
- 5) description of the insurance company's services and the time of performance, the options available;
- 6) termination clauses;
- 7) conditions for cancellation;
- 8) conditions under which the insurance company is released from liability, exclusions;
- 9) mode and rate of inflation escalation;
- 10) extent and manner of refunding surplus yield;
- 11) name and address of the department of the insurance company that handles consumer complaints, facilities for lodging complaints with the Consumer Protection Agency or with reconciliation bodies, information about the judicial process;
- 12) in respect of the branch offices of third-country insurance companies, in addition to what is laid down in this Schedule, the country where legal disputes are settled, description of the material and procedural provisions and the language of such proceedings;
- 13) list of the organizations to which the insurance company is entitled to disclose client data pursuant to Sections 153-161 and Section 165 of the Insurance Act;
- 14) an indication of the governing law under which the contract is concluded;
- 15) for mutual associations, description of the cases serving grounds for calling up additional contributions, and/or the possibility of any cutback in services
- 16) for mutual associations covering risks in connection with compulsory motor vehicle liability, description of the cases serving as grounds for calling up additional contributions,
- 17) tax laws relating to life assurance contracts,
- 18) for life assurance contracts, the amount to be retained by the insurance company from the premium paid in by the policyholder if the contract is cancelled by the policyholder within thirty days,
- 19) whether the insurance company offers any capital or yield guarantees on life assurance contracts.

B) Minimum contents of the product information of life assurance policies:

- 1) Brief description of the reasons, as determined by an interview, for offering the type of policy for the particular
 - a) services,
 - b) term, and
 - c) amount.
- 2) An indication in the manner illustrated under Point 3 of the following applicable for the duration of the proposed life assurance policy - meaning the end of the term fixed for insurance policies under classes I and II of the life assurance branch or for at least 20 years if the term is not specified, or the end of the term fixed for insurance policies under class III of the life assurance branch or a maximum of five years - provided the policy features the option of surrender or premium-free reduction, for each year on the first day of the year insured:
 - a) cash surrender value,

- b) discount value.
- 3) The following provisions shall be observed when determining the cash surrender value and the discount value:
- 3) 1. The contracting party shall be advised that the data shown in the manner expressed below are provided for information purposes only as they are, to some extent, based on assumptions.
- 3) 2. In the case of unit-linked life assurance policies, the client shall be advised that the value of the underlying units may show a gain or loss. Furthermore, the client must also be notified as to who is to bear the risks from changes in the value of these units determined in accordance with the provisions of the insurance contract pertaining to capital guarantees or capital and yield guarantees.
- 3) 3. Where the premium is to be regular, at the beginning of the year the status before the premium is paid shall be taken into consideration.
- 3) 4. The contract shall be concluded under the assumption that the key figures of the policy (premium, sum insured, various deductions etc.) remain constant during the term of the contract unless otherwise prescribed in the contract.
- 3) 5. In addition to what is contained in Point 3.4, unit-linked life assurance policies shall be contracted under the assumption that the value of the underlying units remain unchanged. Where the insurance company offers capital guarantees or capital and yield guarantees, the cash surrender value shall be determined accordingly.
- 3) 6. In the case of insurance policies under classes I and II of the life assurance branch with no technical interest rate, the provisions of Point 3.5 shall apply as appropriate.

Schedule No. 11 of Act LX of 2003

Methods for the calculation of the adjusted solvency of insurance companies

1) Deduction and aggregation method

The adjusted solvency situation of the insurance company, if a parent or participating company, is the difference between Paragraph a) and Paragraph b):

a) the sum of the elements eligible for the solvency margin of the participating insurance company and the proportional share of the participating insurance company in the elements eligible for the solvency margin of the subsidiary or related insurance company,

b) the sum of the book value in the parent company or the participating insurance company of the subsidiary or related insurance company, the solvency requirement of the parent company or the participating insurance company, and the proportional share of the solvency requirement of the subsidiary or related insurance company.

The solvency margin and the solvency requirement of subsidiary insurance companies or related insurance companies shall include the corresponding proportional shares of the elements eligible for the solvency margin and of the solvency requirement. Calculating the solvency margin and the solvency requirement shall take into account any indirect ownership.

2) Requirement deduction method

The adjusted solvency situation of the insurance company, if a parent company or participating company, is the difference between Paragraph a) and Paragraph b):

a) the sum of the elements eligible for the solvency margin of the parent or participating insurance company,

b) the sum of the solvency requirement of the parent company or participating insurance company and the proportional share of the solvency requirement of the subsidiary or related insurance company.

When calculating the solvency margin, the investments shall be included according to the provisions of the Accounting Act relating to the consolidation of associated companies.

3) Accounting consolidation-based method

Any insurance company that is a parent company or a participating company shall calculate its adjusted solvency margin on the basis of consolidated accounts prepared in compliance with the provisions of the Accounting Act on consolidated annual reports.

The adjusted solvency situation of the insurance company, if a parent company or participating company, is the difference between Paragraph a) and Paragraph b):

a) the elements eligible for the solvency margin calculated on the basis of consolidated data,

b) either the sum of the solvency requirement of the parent company or the participating insurance company and of the proportional shares of the solvency requirements of the parent company or the related insurance company,

based on the percentages used for the establishment of the consolidated accounts, or the solvency requirement calculated on the basis of consolidated data.

Schedule No. 12 of Act LX of 2003

Conformity with the Laws of the European Union

This Act contains regulations that may be approximated with the following legal regulations of the European Communities:

1. Council Directive 64/225/EEC of 25 February 1964 on the abolition of restrictions on freedom of establishment and freedom to provide services in respect of reinsurance and retrocession.

2. Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and to the enforcement of the obligation to insure against such liability.

3. Council Directive 72/430/EEC of 19 December 1972 amending Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and to the enforcement of the obligation to insure against such liability.

4. First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance.

5. Council Directive 73/240/EEC of 24 July 1973 abolishing restrictions on freedom of establishment in the business of direct insurance other than life assurance.

6. Council Directive 76/580/EEC of 29 June 1976 amending Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance.

7. Council Directive 77/92/EEC of 13 December 1976 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of the activities of insurance agents and brokers (ex ISIC Group 630) and, in particular, transitional measures in respect of those activities.

8. Council Directive 78/473/EEC of 30 May 1978 on the coordination of laws, regulations and administrative provisions relating to Community co-insurance.

9. First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct life assurance.

10. Second Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles.

11. Council Directive 84/641/EEC of 10 December 1984 amending, particularly as regards tourist assistance, the First Directive (73/239/EEC) on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance.

12. Council Directive 87/343/EEC of 22 June 1987 amending, as regards credit insurance and suretyship insurance, First Directive 73/239/EEC on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance.

13. Council Directive 87/344/EEC of 22 June 1987 on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance.

14. Second Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC.

15. Third Council Directive 90/232/EEC of 14 May 1990 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles.

16. Council Directive 90/618/EEC of 8 November 1990 amending, particularly as regards motor vehicle liability insurance, Directive 73/239/EEC and Directive 88/357/EEC, which concern the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance.

17. Council Directive 90/619/EEC of 8 November 1990 on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/267/EEC.

18. Commission Decision 91/323/EEC of 30 May 1991 relating to the application of Council Directive 72/166/EEC on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and to the enforcement of the obligation to insure against such liability.

19. Commission Recommendation 92/48/EEC of 18 December 1991 on insurance intermediaries.

20. Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (Third Non-Life Insurance Directive).

21. Council Directive 92/96/EEC of 8 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (Third Life Assurance Directive).

22. Directive 98/78/EC of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group.

23. Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (Fourth Motor Insurance Directive).

24. Directive 2001/17/EC of the European Parliament and of the Council of 19 March 2001 on the reorganization and winding-up of insurance undertakings.

25. Directive 2002/12/EC of the European Parliament and of the Council of 5 March 2002 amending Council Directive 79/267/EEC as regards the solvency margin requirements for life assurance undertakings.

26. Directive 2002/13/EC of the European Parliament and of the Council of 5 March 2002 amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings.

27. Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (consolidated).

28. Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council.

Schedule No. 13 of Act LX of 2003

1. The natural persons engaged in dependant insurance intermediary (agency, principal agency) activities specified in Subsection (4) of Section 33 must have:

- a) "insurance intermediary" professional qualification; or
- b) "dependant insurance intermediary" professional qualification; or
- c) "independent insurance intermediary" professional qualification; or
- d) "insurance consultant" professional qualification.

2. Any dependant insurance intermediary who is engaged solely in the mediation of insurance products for the "Legal expenses" insurance sector under Point 17 of Part A) of Schedule No. 1 must have:

- a) "insurance intermediary" professional qualification; or
- b) "legal expenses insurance intermediary" professional qualification; or
- c) "dependant insurance intermediary" professional qualification; or
- d) "independent insurance intermediary" professional qualification; or
- e) „insurance consultant" professional qualification.

3. Any natural person engaged in independent insurance intermediary (brokering or multiple insurance agency) activity specified in Section 45 must have:

- a) "insurance intermediary" professional qualification; or
- b) "dependant insurance intermediary" professional qualification; or
- c) "insurance consultant" professional qualification.

4. Any natural person engaged in independent consulting activities specified in Section Subsection (1) of Section 51 must have:

- a) "insurance consultant" professional qualification; or
- b) "insurance lawyer" professional qualification; or