

Act No. 9267 date 29.07.2004

**On the Activity of Insurance, Reinsurance and Intermediation in
Insurance and Reinsurance**

In reliance to articles 78, and 83 part 1 of the Constitution, upon the proposal of the Council of Ministers

Assembly of the Republic of Albania

Decided:

**Chapter I
General Provisions**

**Article 1
Object**

Object of this law is the implementation of general principles and rules with regard to the insurance and re-insurance activity, intermediary in insurance and re-insurance and the supervision by the state of the entities undertaking to perform the activities provided for in this law.

**Article 2
Scope of implementation**

This law shall be implemented with regard to the foreign and local undertakings of insurance, re-insurance, intermediaries in insurance and reinsurance and branches of foreign companies exercising their activity in the territory of the Republic of Albania, as well as of operations connected directly to the insurance and reinsurance activity.

**Article 3
Definitions**

For the purpose of this law, the following terms have these meanings:

1. "Insurance" means the transfer of an eventual risk, financial loss or material damage from the insured to the insurer in accordance with an insurance contract.
2. "Compulsory insurance" means the insurance, which is subject to a legal obligation.

3. "Voluntary insurance" means the insurance, which is not subject to a legal obligation.
4. "Reinsurance" means the transfer of a part of the risk from the insurer to the re-insurer in accordance with an insurance contract.
5. "Coinsurance" means the activity through which two or more insurer undertake together a risk in accordance with the percentage determined in the contract concluded between them.
6. "Risk" means the insecurity with regard to an expected event in the future, which causes damage.
7. "Insurance Company" means a legal entity with its seat within the territory of the Republic of Albania, licensed in order to carry out insurance activity by the Insurance Supervision Commission in accordance with this law.
8. "Reinsurance Company" means a legal entity with its seat in the territory of the Republic of Albania, licensed to carry out reinsurance activity by the Insurance Supervision Authority in accordance with this law.
9. "License" means the administrative act issued in writing by the Insurance Supervisory Authority, which recognizes the right of a natural or legal person to start, exercise and extend the insurance, reinsurance or intermediary activity.
10. "Insured" means a person, who has signed up to an insurance contract with an insurance company.
11. "Insurer" means the insurance company, licensed in accordance with the provision of this law.
12. "Re-insurer" means the reinsurance company, licensed in accordance with the provisions of this law.
13. "Beneficiary" means the person being entitled to the indemnification or other benefits stemming from the insurance contract.
14. "Insurance activity" means the conclusion and implementation of insurance companies, coinsurance and reinsurance, concluded between the insurer and insured.
15. "Reinsurance activity" means the conclusion and implementation of reinsurance contracts by the licensed companies in order to carry out insurance activity, insuring that part of risk, which exceeds the maximal coverage by the insurance company.
16. "Actuary" means a mathematician, trained in statistics and accounting, authorized by the Insurance Supervisory Authority, who is responsible for the calculation of premiums, technical provisions, dividends and sickness or mortality charts.
17. "Operations stemming directly from the insurance and reinsurance activity" means the assessment of risk, assessment of damages, actuary intermediary services in selling the remaining part of the damaged property, consultancy in insurance and reinsurance, intellectual and technical services connected to the insurance and reinsurance activity.

18. "Reinsurance agreement" means an agreement concluded between the insurance and reinsurance company, providing for the terms and conditions concerning the risks which shall be reinsured.
19. "Insured event" means the event foreseen in the insurance contract, which, as long as it happens, provides the right to the insured to be indemnified by the insurer.
20. "Insurance contract" means the written contract between the parties, through which the insurer undertakes, against the payment of the premium, to offer to the insurer an indemnification upon the verification of the insured event.
21. "Premium" means the amount paid immediately or periodically by the insured to the insurer or a person acting on his behalf, in order to insure him from a risk determined in the insurance or reinsurance contract.
22. "Gross written premium" means the premium registered in the accounts of the company, in accordance with an insurance contract prior to subtracting the commission, expenses of taking in insurance and ceded premiums in reinsurance.
23. "Net written premium" means the received gross premium, in accordance with an insurance contract, after subtracting the part of premium ceded in reinsurance.
24. "Earned premium" means the part of the premium written down in accordance with the insurance or reinsurance company, which belongs to the present financial year, regardless of its cashing.
25. "Unearned premium" means the part of the premium written down in accordance with the insurance or reinsurance contract, which belongs to the next financial year, regardless of its cashing.
26. "Earned amounts" means the part of premium, cashed in the financial year by the life insurance company.
27. "Cession" means the transfer of a part of the insured risk from an insurance company to a reinsurance company.
28. "Damage" means the financial or non-financial loss caused by the occurrence of insured risk.
29. "Indemnity" means the sum paid for a financial or non-financial loss, in accordance with an insurance company upon the occurrence of an insured risk.
30. "Claim adjustor" means the natural or legal person, licensed by the Insurance Supervisory Authority, who is involved in assessing the eventual damages.
31. "Provision" means a sum calculated for covering the liabilities.
32. "Technical provision" means a sum calculated in reliance to an expectation and in accordance with the set ways, which is preserved in the account of the insurer in order to cover the liabilities stemming from the insurance contracts.
33. "Mathematical provision" means a sum calculated on the basis of a forecast or certain actuary ways, which serves the insurer to cover the liabilities which stem only from the life insurance contract.

34. "Solvency" means the assets of the insurer's company free from any obligation or liability, after subtracting the immaterial elements, which serves for continuously meeting the liabilities and responsibilities contracted in the course of the insurance activity through its own assets.
35. "Guarantee fund" means a sum of the in monetary resources deposited by the insurance or reinsurance company in a specific bank account with the same name, in one of the banks in the territory of the Republic of Albania, where the company has its own main seat, obligatory to be disposed by the insurer from the moment of starting the activity and on.
36. "Insurance portfolio" means the entirety of the insurance contracts of one or different insurance classes concluded by one insurer.
37. "Risk management" means the entirety of the methods and rules used by the insurance, or Reinsurance Company for determining, assessing and analyzing all the eventual risks, in order to avoid the financial losses.
38. "Intermediary activity in insurance and reinsurance" means the activity of offering, negotiating, signing, and selling the insurance and reinsurance contracts, which is performed by natural or legal persons licensed by the Insurance Supervisory Authority.
39. "Agent" means a legal person licensed by the Insurance Supervisory Authority and authorized by the insurance company to carry out intermediary activity on behalf of the insurance company.
40. "Agents' company" means a legal person licensed by the Insurance Supervisory Authority and authorized by the insurance company to carry out intermediary activity in insurance in the name and on behalf of the insurance company.
41. "Broker" means a natural person, authorized by the Supervisory Insurance Authority and carries out intermediary activity in insurance and reinsurance on behalf of the brokering company.
42. "Brokerage Company" means a legal person, licensed by the Insurance Supervisory Authority and authorized by the insured to carry out intermediary activity in insurance and reinsurance on its behalf.
43. "Financial guarantee" means a sum of monetary resources, which is deposited by the broker at the moment of its establishment, in the banks within the territory of the Republic of Albania, on behalf of the Authority and it is preserved during all its activity.
44. "Professional liability insurance" means the insurance against the legal responsibility to third parties for losses or damages caused through negligence, mistakes or omissions of professional actions of the person himself or others employed by him.
45. "Directorate" means the highest managing authority of an insurance or reinsurance company, elected through voting by the supervisory council.

46. “Director” means every natural person who is defined as such in his appointment act.

47. “Branch” means the organization unit which is set up separated from the central seat of the company, which operates as its own part within the functions determined by the mother company and exercises the same activity on behalf and on the account of the mother company.

48. “Representation office” means the organization unit of a foreign insurance or reinsurance company, which does not exercise insurance or reinsurance activity and promotes the interests of the company within the territory of the Republic of Albania.

Provided that this law mentions the term “insurance company”, it means an insurance or reinsurance company.

Provided that this law mentions the term “insurance activity”, it means insurance and reinsurance activity.

Provided that this law mentions the term “intermediary”, it means intermediary in insurance and reinsurance.

Provided that this law mentions the term “Authority”, it means the Insurance Supervisory Commission, the rules for the organization and functioning of which are regulated in a separate law.

Article 4

Limits to the scope of activity of the insurance company

The insurance company and branches of foreign companies limit their scope of activity only to insurance and reinsurance activity and the operations stemming directly from this activity, excluding any other commercial activity.

Article 5

Direct insurance of risks, which are outside the territory of the Republic of Albania

1. Direct insurance with a foreign company outside the territory of the Republic of Albania for a risk which pertains to a person, thing or liability which is in the territory of the Republic of Albania, shall not be allowed, unless it has been foreseen differently in the international agreements where Republic of Albania is a party.

2. The first provision of this article shall not be applied to the insurance of risks connected to the sea or air transportation.

3. The Authority can, notwithstanding the provision of the first paragraph of this article, authorize direct insurance with a foreign company outside the territory of the Republic of Albania in the cases when the risk is not covered by the local company or the branch of the foreign company, which carries out its activity in the territory of the Republic of Albania.

Article 6

Reinsurances – Liability of the insurer

1. The insurance company can insure part of the liabilities which it has contracted with the insured by the local reinsurance companies and branches of the foreign reinsurance companies, licensed in the territory of the Republic of Albania.
2. Notwithstanding the provisions of article 5 of this law, the insurance company can reinsure a part of the liabilities which it has contracted with the insured at foreign reinsurance companies approved by the Authority, which do not have a branch in the Republic of Albania.
3. Local insurance companies, licensed to carry out reinsurance activity prior to entry into force of this law, can carry out insurance or/and reinsurance activity only upon the approval of the Authority.
4. The insurance company is solely responsible to the insured, signatory or beneficiaries from the insurance contracts, regardless the fact that it has been reinsured for covering the liabilities it has undertaken.

Article 7

Insurance classes

The insurance activity shall be carried out in accordance with the following classes:

A. With reference to risks, insurance classes are:

1. Insurance of accidents (including the industrial injuries and professional diseases) includes:
 - 1.1 immediate payment of the total sum in monetary resources, agreed for the compensation of the damage,
 - 1.2 payment in installments of the total sum in monetary resources, agreed for the compensation of the damage,
 - 1.3 combination of 1.1 and 1.2,
 - 1.4 payment due to injuries, health abnormalities or death of passengers,
2. Insurance of illnesses covers:
 - 2.1 fixed financial incomes due to health incapability,
 - 2.2 remuneration of the hospital treatment expenses,
 - 2.3 combination of 2.1 and 2.2
3. Insurance of land motor vehicles (other than those which move on the rails) includes the damages or losses from:
 - 3.1 land motor vehicles,
 - 3.2 non-self-propelled land vehicles.
4. Insurance of rolling vehicles on rails includes the damages or losses from the rolling vehicles on the rails.
5. Insurance of airplanes includes the damages or losses suffered by the aircrafts.

6. Insurance of ships includes the damages or losses suffered from:
 - 6.1 ships of rivers or channels,
 - 6.2 ships of lakes,
 - 6.3 ships of seas.
7. Insurance of goods during transport (including goods, luggage, and all kinds of other things) includes all the damages or losses of goods during the transport or luggage, regardless of the way of transport.
8. Insurance from fire and nature forces include the damage or loss of things (different from those mentioned in paragraphs 3, 4, 5, 6 and 7) caused by:
 - 8.1 fires,
 - 8.2 explosions,
 - 8.3 storms,
 - 8.4 nature forces,
 - 8.5 nuclear energy,
 - 8.6 land slides.
9. Insurance of other damages of property includes all the damages or losses of property (different from those mentioned in paragraphs 3, 4, 5, 6 and 7), if the damage has been caused by the hail, frost or any similar event such as theft, different from those mentioned in paragraph 8.
10. Insurance of civil liabilities from the use of vehicles includes all the liabilities which stem from the use of the land vehicles (including the carrier's liability).
11. Insurance of civil liabilities from the use of aircrafts includes all the liabilities which stem from the use of aircrafts (including the carrier's liability).
12. Insurance of civil liabilities for ships (of seas, lakes, rivers and channels) includes all the liabilities which stem from the use of ships and boats (small ships) which sail in the seas, lakes, rivers and sailing rivers (including the carrier's liability).
13. Insurance of general civil liabilities includes all the liabilities, other than those mentioned in paragraphs 10, 11 and 12.
14. Insurance of credit includes:
 - 14.1 risk of non-payment because of the insolvency or other circumstances,
 - 14.2 export credits and other risks related to export, commerce and investments in the country and abroad,
 - 14.3 credits paid back in installments,
 - 14.4 mortgage credits and Lombard loans,
 - 14.5 agricultural credits,
 - 14.6 other credits.
15. Insurance of guarantees includes:
 - 15.1 direct guarantees,
 - 15.2 indirect guarantees.

16 Insurance of different financial losses includes the financial losses caused as a result of:

16.1 employment risks,

16.2 incomes insufficiency (general),

16.3 bad weather,

16.4 loss of incomes,

16.5 general unforeseen expenditure,

16.6 commercial unforeseen expenditure,

16.7 loss of market value,

16.8 loss of rent or revenue,

16.9 indirect loss due to trading, different from those mentioned above,

16.10 financial losses (different from commercial)

16.11 other kinds of financial losses.

17. Insurance of legal protection includes:

17.1 expenses for the legal and judicial services,

18. Insurance of assistance includes:

18.1 assistance to persons who have difficulties during the travels and other cases of distances from the house or permanent residence.

19. Life – death insurance includes:

19.1 insurance for survival up to a certain age, insurance for the death, insurance for survival up to a certain age or early death, insurance of life through the remuneration of premiums.

20. Marriage – birth insurance includes:

20.1 expenses related to the marriage or birth of children.

21. Life insurance connected to investment funds includes:

21.1 the insurance of life connected to shares in investment funds, where the insured takes over the risk of investing with regard to the value of shares of other securities,

22. Insurance of collective funds administration includes:

22.1 the insurance of individuals jointly to the effect of capitalizing their contributions and distribution of assets depending from the accumulated funds among the persons who have reached a certain age (those who have survived) or among the beneficiaries of insurance, in the event of the death of insured persons.

23. Insurance of funds for payments, which includes the insurance of life based on the actuarial calculations, according to which, in exchange of a single payment or periodical payments previously agreed upon, the insured shall be indemnified for the set period and the respective sum.

B. Classification in insurance groups.

Insurance activity which includes more than one insurance class shall be classified in insurance groups as follows:

1. Classes no 1 and 2 shall be named “Accident and Health Insurance”,
2. Classes no 1 (fourth paragraph), 3, 7 and 10 shall be named “Motor Vehicle Insurance”
3. Classes no 1 (fourth paragraph) 4, 6. 7 and 12 shall be named “Marine and Transport Insurance”,
4. Classes no 1 (fourth paragraph) 5, 7, and 11 shall be named “Aircraft Insurance”,
5. Classes no 8 and 9 shall be named “Insurance from fire and other property damages”,
6. Classes no 10, 11, 12 and 13 shall be named “Liability Insurance”
7. Classes no 14 and 15 shall be named “Credit and Guarantee Insurance”,
8. Classes no 19, 20, 21, 22 and 23 shall be named “Life Insurance”.

C. Classes of insurance foreseen in paragraph A of this article shall be grouped as follows:

1. Non-life insurance includes the insurance classes from 1 to 18 of the paragraph A of this article.
2. Life insurance includes classes 19 to 23 of this article.

Article 8

Right to carry out insurance activity

1. Insurance activity shall be carried out by:
 - a. insurance company with its main seat in the territory of the Republic of Albania, licensed by the Authority,
 - b. branch of the foreign insurance company licensed by the Authority.
2. Carrying out of insurance activity by other legal entities, other than those provided for in paragraph 1 of this article, shall not be allowed.

Article 9

Activity of insurance company

1. The company carrying out insurance activity for the classes of life, provided for in paragraph C of article 7 of this law, shall not perform at the same time insurance activity for the non-life classes and vice versa.
2. Notwithstanding the provision of paragraph one of this article, the reinsurance company may carry out reinsurance activity for the Life and Non-life classes.

Article 10

Accessory risks insurance

1. Insurance company carrying out the activity of life insurance in classes 19 and 21 of article 7, except paragraph 1e of article 9 of this law, can be authorized directly

by the Authority to provide directly accessory insurance for the risks which pertain to the insurance classes 1 and 2, in accordance with article 7 of this law, respectively the risks of the body injuries, which include professional incapability, accidental death or invalidity stemming from accident of decease.

2. The insurance company, which has been licensed for carrying out the activity of non-life insurance for one or many insurance classes, in accordance with article 7 of this law, covers accessory risks, which fall under another class, as long as they meet the following conditions:

- a. accessory risks be connected to the main risk,
- b. accessory risks pertain to the object which has been covered against the main risk,
- c. accessory risk be guaranteed through contracts which cover the main risk.

3. The risks included in the classes 14 and 15, in accordance with Article 7 of this law, shall not be considered accessory risks of the other insurance classes.

Article 11

Contributions and commissions

1. Expenditure of every nature for the supervision by the state of the insurance and reinsurance activity in accordance with the provisions of this law shall be covered through the contributions of the insurance companies and branches of the foreign insurance company.

2. Contributions shall amount up to 1.5% of the amount of:

- a. gross premiums written for the non-life insurance companies;
- b. risks and elements of expenses of sums gained during the financial year for the life insurance company. The risk and elements of expenses of sums of life insurance shall be calculated by the actuary of the life insurance company and are equal to the total of sums, after the subtraction of the saving elements.

3. The contributions shall be paid to the account of the Authority by every insurance company or branch of foreign insurance company for every month within the 10th of the upcoming month. The payment shall be made in the currency in which the premium or the insurance sum has been cashed. At the end of every financial year, the Authority makes the respective coordination with the companies or branches of foreign companies.

4. The Authority applies commissions for covering the expenses of processing and correspondence for the issue and renewal of licenses, authorizations and approvals. These commissions shall be determined through the decisions of the Council of Ministers.

Article 12

Albanian Insurance Bureau

The insurance companies, licensed to provide motor vehicle insurance, with regard to the liability to third parties, become, prior to starting its activity, members of the Albanian Insurance Bureau (AIB).

Article 13

Professional associations

Insurance and reinsurance companies, brokers, actuaries and assessors of damages can join into national professional associations, as well as become members of the international associations.

Chapter II

Insurance Companies

Article 14

Establishment of insurance companies

The insurance company shall be set up as a joint stock company, with its seat in the territory of the Republic of Albania, in accordance with the provisions contained in the law “On the Commercial Companies”, unless otherwise provided for in this law.

Article 15

Right to participate as shareholder in an insurance company

1. Shareholder of an insurance company is a natural or legal person meeting the requirements of this act and the requirements set out by the Authority.
2. Shareholder of an insurance company in the process of setting up can not be a person who is the object of the of liquidation and bankruptcy proceedings.
3. Shareholder of an insurance company in the process of setting up must not be a person who has been legally forbidden to establish a trade company.

Article 16

Qualifying holding

1. Qualifying holding is the direct or indirect possession by a natural or legal person of shares in an insurance company, in reliance to which the person possesses not less than 10% or more than 10% of the shares with a right to vote in his capital, and this holding gives to him the right to decision-making in this insurance company.
2. An indirect possessor of shares and the rights to vote shall be a person on whose behalf the other person has gained the shares or the right to vote.

3. A person shall be considered an indirect possessor of shares and the right to vote as long as the direct possessor of them is connected to that person, in the capacity of the spouse, parent or child.

4. For the purposes of the third paragraph of this article, persons are connected to each-other, as long as one of them is the spouse, parent or child.

Article 17

Establishment capital

1. The insurance company should have a nominal capital, excluding the contributions in material assets, not less than the values determined in the guarantee fund, provided for in Article 98 of this law.

2. Along with the establishment capital provided for in the first paragraph of this article, the insurance company should also have an additional fund in order to cover the foundation, functioning and administration expenditure, which in every case shall not be less than 5% of the establishment capital. (from now on called “fund for initial expenses”).

3. Every shareholder should pay to the account of the company which has requested to be registered, the respective values of the establishment capital in cash provided for in the first paragraph of this article and fund for the initial expenses, explained in the second paragraph of this article, in a destined account in one of the banks in the territory of the Republic of Albania, where the company is going to have its own central seat.

4. For the purpose of the third paragraph of this article, the payment shall be documented in the certificate, drafted in the moment of depositing the funds, in accordance with the list of shareholders, where the sums paid by each one of them have been written down.

5. The company requesting the licensing makes available, for every shareholder, the information to the Authority concerning the source of the establishment capital. The Authority, with regard to the source of the establishment capital, cooperates with the General Department of Preventing Money Laundering and receives its confirmation.

6. The establishment capital of the insurance company should consist at least in its two third in monetary resources.

7. Following the registration of the company in the commercial register, the shares of the insurance company shall always be registered in the Registering Shares Center in the Republic of Albania. Every change in the insurance company in the course of its activity shall be registered in the Registering Shares Center

Article 18

Source of establishment capital

1. Every shareholder must provide information with regard to the source of the establishment capital, in accordance with the criteria set out by the Authority.
2. Establishment capital shall not consist of:
 - a. loans from the public,
 - b. credit from banks,
 - c. prepayments from entities or third parties.

Article 19

Exemption from the liability for the compulsory reserve

The insurance company shall be exempt from the liability to set up compulsory provisions provided for in the law “On Commercial Companies”.

Chapter III

Licensing, Approvals and Notifications

Section I

Licensing of insurance company and of the branch of foreign company

Article 20

License

1. To carry out an insurance activity, the company and the branch of the foreign company shall be licensed by the Authority.
2. The insurance company carries out insurance activity only for the classes for which the license has been provided by the Authority.
3. The company shall be licensed as:
 - insurance company, or branch of foreign company,
 - reinsurance company, or branch of foreign company,
 - insurance and reinsurance company, or branch of foreign insurance or reinsurance company.
4. The license shall be unlimited in time, not transferable and not purchasable.
5. The license shall be granted for an insurance class and covers the entire class, except the cases when the company asks for covering only a part of the risks which relates to the insurance class in accordance with the provisions of letter “A”, Article 7 of this law.
6. The license shall be granted even in accordance with the classification provided for in point “B” of Article 7 of this act.

Article 21

Types of licenses

1. The insurance company shall be provided with a license by the “Authority” (hereafter: license for carrying out the activity).
2. The insurance company or the branch of the foreign company shall be provided with a license by the Authority for every new insurance class, other than the ones it was licensed earlier (hereafter: license for extending the activity).
3. A foreign insurance company shall be provided with a license by the Authority for the establishment and carrying out the activity of its branch in the Republic of Albania (hereafter: license for carrying out the activity of the foreign company branch).
4. The Authority imposes commissions for the expenses of processing, official correspondence, different indispensable verifications for the issue of licenses. These commissions shall not be reimbursed.

Article 22

Licensing stages

1. The licensing of the insurance activity includes two stages:
 - a. preliminary approval,
 - b. license.
2. The entitlement to start carrying out the insurance activity begins after the company and the branch of the foreign insurance company has been provided with a license by the Authority.

Article 23

Licensing requirements for carrying out the activity

1. The application for carrying out the activity as an insurance company shall be submitted in writing to the Authority along with the:
 - a. establishment act,
 - b. draft statute,
 - c. proposed name and the address of its seat,
 - d. list of shareholders, provided with regard to the kind of shares, to the nominal value of the shares, percentage of holding in the shares capital and a certificate from the respective authorities for the settlement of tax obligations by the shareholders,

- e. information on the source of capital of shareholders in the form determined by Authority in its bylaws,
 - f. activity program, drafted in accordance with article 24,
 - g. list of proposed members for the managing bodies, along with the respective information, in reliance to the requirements of chapter IV of this law,
 - h. organization structure at the center and branch along with the list of proposed persons for the main managers in the center,
 - i. certificate for the payment of half of the establishment capital provided for in article 17 of this law,
 - j. draft contracts for the outsourced operations to third parties concerning the specific functions of the activity of insurance company, as long as the company has planned such undertakings,
 - k. names of banks with which it is going to operate.
2. The Authority is entitled to ask for supplementary information, in addition to what is provided for above, and failure to produce them consists a reason for refusing the preliminary approval of the licensing.

Article 24

Activity program

1. The activity program provided for in the subparagraph (f), of the first paragraph of article 23, shall be drafted for at least the first three years and contains the:
- a. insurance classes, for which licensing is requested,
 - b. provisions for the transformation into reinsurance, including the charts of maximal coverage for all the insurance classes,
 - c. calculation of the required level of solvency margin,
 - d. elements which consist the guarantee fund,
 - e. provision for the initial detailed expenditure fund,
 - f. fees and premiums which it foresees to impose for the classes it has applied to be licensed and the way of their calculation,
 - g. business plan.
2. The business plan for the first three initial years contains the:
- a. shortened version of the financial balance sheet and its financial charts,
 - b. provisions for the premiums and indemnities,
 - c. chart of money influx,
 - d. financial sources for meeting the obligations which will be undertaken by the company and preserving the required solvency level,
 - e. foreseen profits,
 - f. calculation of technical provisions and methods used for their calculation.

Concerning class 18 of Article 7 of this act, there shall be provided data on the assets and personnel, as well as on financial resources destined for covering these expenses.

3. The company aiming at carrying out the activity in accordance with the life insurance classes and accessory insurance mentioned in paragraph 1 Article 10 of this act, drafts the activity program for the first seven years.

4. For the insurance operations containing liabilities, the performance of which depends from the life duration and the operations connected to accessory insurances provided for in Article 10 of this law, the insurance company shows in the activity program the additional data as follows:

- a. fees pertaining to the main and accessory risks for all the operations,
- b. technical principles and actuary methods used for calculating the premiums and amounts for the indemnities and the mathematical reserves.

These data should be signed by certified actuaries.

5. If the business plan includes reinsurance activity, it should contain the managing principles of the reinsurance policy.

Article 25

Consideration period

1. The Authority, within 6 months from the date of receiving the licensing application, grants or refuses the initial approval and notifies in writing the company about its decision.

2. For the purposes of paragraph (1) of this act, the receiving date of the license application is the date on which the company has met all the requirements in accordance with this law and regulations adopted by the Authority.

Article 26

Preliminary approval or its refusal

1. The Authority grants the preliminary approval if the company has met the requirements of this law, its regulations, and the outcome is:

- a. it has met the requirements provided for in article 14 of this law,
- b. it has restricted the scope of activity, provided for in article 4 of this law,
- c. it possesses the guarantee fund,
- d. shareholders have met the requirements provided for in Article 15 of this law,
- e. proposed members of the company directorate meet the requirements provided for in articles 62 and 64 of this law,
- f. documents produced by the company are appropriate,
- g. activity program has been drafted in accordance with Article 24 of this law,
- h. calculation of premiums and technical or mathematical provisions are sufficient.

2. The Authority refuses the preliminary approval in case the company has not met the conditions provided for in this law and other bylaw acts issued for its implementation.

3. The Authority explains the reasons regarding the cases when the information produced by the company is considered insufficient and constitutes a reason for refusing the initial approval.

Article 27

Notification of decision

1. The decision of the Authority concerning the preliminary approval or refusal should be grounded and should be notified to the company in writing within 10 working days from the date of receiving the respective decision.

2. In case of refusing the preliminary approval by the Authority, the company can file a complaint, in accordance with the provisions contained in the Administrative Procedures Code.

Article 28

Court Registration

Following the preliminary approval, the company shall be registered at the First Instance Tirana Court,, as an insurance company.

Article 29

License for “carrying out an insurance activity”

1. The insurance company shall be provided with a license for “carrying out insurance activity” after submitting to the Authority the following:

- a. decision of registration at the court and act of association and the statute of insurance company, deposited at the commercial register,
- b. proof of payment for the other half of the establishment capital and of the initial expenses fund, provided for in Article 17 of this law,
- c. ownership certificate or the renting contract for the premises where the insurance activity shall be carried out,
- d. appointment act of the members of the directorate and supervisory council, along with a brief description of their powers, as well as specimens of their signatures,
- e. appointment act of the authorized accounting expert, in accordance with Article 71 of this act,
- f. specimens of insurance contracts in accordance with the classes, asked from it.

2. The authority is, along with the requirements provided for in the first paragraph of this article, entitled to determine additional requirements with regard to the forwarded documentation and failure to produce such documentation can constitute a reason for refusing the license.

Article 30

Consideration period

1. The Authority considers the licensing request within two months from the date of depositing the documents, in accordance with Article 29, and makes a decision.
2. The Authority is entitled to extend the consideration period mentioned in the first paragraph of this Article to three months, in objectively verifiable cases, when the Authority needs the necessary time for consideration.

Article 31

Approval or refusal of licensing

1. The Authority grants the license if the company has met the requirements of Article 29 of this law or refuses it if these requirements have not been met.
2. In the event of license refusal by the Authority, the company can file a complaint, in accordance with the provisions of the Administrative Procedures Code.

Article 32

Announcement of licensing

1. The decision for granting the license for carrying out the activity shall be published in the Official Gazette. The Authority sends the decision granting the license for publication within 15 calendar days from decision making. The decision granting the license becomes effective immediately after the publication in the Official Gazette.
2. Insurance company informs in writing the Authority concerning the date of starting its activity.
3. Insurance company should start working within 6 months from the date of being granted the license.

Article 33

Withdrawal of license for “carrying out the activity”

1. The license for carrying out the activity as an insurance company shall be withdrawn in the following cases:
 - a. if the insurance company does not start its activity within a period of 6 months from the date of entry into force of the license,
 - b. if the insurance company suspends its activity for a longer period than 6 months,

- c. if the insurance company is subject to the bankruptcy proceedings,
 - d. if the insurance company is subject to liquidation proceedings,
 - e. if the insurance contracts are transferred to another insurance company,
 - f. if the insurance company voluntarily gives up carrying out the activity,
 - g. if it is proven that the documents for the issue of the license are forged or false.
2. The Authority decides to withdraw the license in the cases provided for in the first paragraph of this article and notifies the insurance company within 10 calendar days from the date of making the decision.
3. The insurance company, upon taking the notification on the withdrawal of the license for carrying out the activity:
- a. deposits the license within 10 calendar days at the Authority,
 - b. does not conclude other insurance contracts,
 - c. does not renew insurance contracts,
 - d. does not extend the coverage in insurance for the valid contracts,
 - e. does not increase the sum of insurance or reinsurance,
 - f. cancels the registration at the court.

Article 34 Publication

The decision for withdrawing the license shall be published in the Official Gazette. The Authority sends the decision for publication within 5 days since it has been made.

Article 35 Application for licensing the extension of activity

1. The insurance company or the branch of the foreign company, which has been granted the license for “carrying out an insurance activity” for one or many classes, must be provided with a license by the Authority for “extending the activity” in order to carry out the activity in other insurance classes, other than those for which it has been licensed earlier.
2. The application for “extending the activity” shall be made in writing along with:
 - a. the decision of shareholders assembly, for extending the activity,
 - b. the classes in which it asks to carry out the activity,
 - c. source for increasing the capital, in accordance with Article 18, for the classes it asks to be licensed,
 - d. depositing of the increase of the establishment capital, in accordance with the insurance classes it is going to ask for carrying out the activity,
 - e. draft for amending the statute,

- f. certificate for possessing the guarantee fund, in accordance with the classes it asks for licensing,
- g. certificate for possessing the level of solvency, in accordance with the provisions of this law,
- h. additional program of activity, drafted in accordance with the Article 24 of the law.

Article 36

Consideration period

1. The Authority, within three months from the date of depositing the requirements met in accordance with Article 35, grants or refuses the license for “extending the insurance activity”.
2. The Authority is entitled to extend the consideration period provided for in the first paragraph of this Article up to 1 month, in objectively verifiable cases, when the time period to the Authority seems necessary.

Article 37

Approval or refusal of licensing for extending the activity

1. The Authority grants the license if the company has met the requirements of Article 35 of this law.
2. The authority refuses the license application for “extending the activity” if:
 - a. it finds out that with adding up of new insurance classes, the activity of the insurance company shall be endangered in accordance with the rules provided for in Chapter VI of this act,
 - b. it has not met the requirements provided for in Article 35 of this law,
 - c. it does not meet the legal requirements for carrying out insurance activity for the insurance classes for which it has been licensed earlier.

Article 38

Notification of the decision and announcement

1. The decision of the Authority decision for approving or refusing the license for “extending the activity” shall be grounded and notified to the company or to the branch of foreign company in writing within 10 working days from the date of making the respective decision.
2. The decision shall be sent for publication within five calendar days from the day it is taken. The decision for granting the license for extending the activity enters into force immediately after its publication on the Official Gazette.

Article 39

Application for licensing for “carrying out activity by the foreign company branch”

1. The foreign insurance company files with the Authority a written application in Albanian, to have its branch licensed, along with:
 - a. decision of the highest managing body of the foreign company for opening its branch in the Republic of Albania,
 - b. certificate that the company has carried out insurance activity at least 5 years in the state of origin,
 - c. decision of appointing the branch administrator, his representation powers in the relations with the state authorities and the Albanian courts,
 - d. its act of association and statute,
 - e. license for carrying out the insurance activity, issued by the respective authority in the country where its seat is located,
 - f. official approval for opening the branch of the foreign company issued by the supervisory authority of the country where its seat is located,
 - g. activity program of the branch drafted in accordance with the requirements of Article 24 of this law,
 - h. audited financial statements for the three last years of the company, according to the criteria of the supervisory authority of insurances in the country where its seat is located,
 - i. certificate that it has allocated in the territory of the Republic of Albania assets with a value equal of $\frac{1}{2}$ of the minimal guarantee fund, depositing of $\frac{1}{4}$ of this fund in monetary means in a bank which is located in the territory of the Republic of Albania, reversible in case of non-licensing,
 - j. statement with regard to the financial relations of the branch and the foreign company,
 - k. statement for keeping the entire internal and correspondence documentation, between the branch and the mother company in Albanian,
2. The documents mentioned in the first paragraph of this Article shall be submitted in Albanian.
3. The branch shall keep a separate account for the activity it carries out in the territory of the Republic of Albania and preserves all the documents pertaining to this activity.

Article 40

Administrator of foreign company branch

The branch administrator of the foreign company should be a person resident in the Republic of Albania, fulfilling the following conditions:

- a. university education,
- b. experience not less than three years in the management of insurance companies or financial institutions,
- c. professional qualifications,
- d. certificate proving that he does not have a criminal record,
- e. no legal obstacles for performing this function.

Article 41

Decision for granting the license to a foreign company branch

Articles 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33 of this law are applicable when granting or refusing the licence of the foreign branch of the insurance company.

Article 42

Registration in the register of the Authority

1. The Authority keeps a special register where, for each licensed company or branch of a foreign company shall be registered the name, address of the main seat of the company or branch of the foreign company, license number, classes for which it has been licensed, shareholders, their holdings in the capital of the company, as well as every change experienced by the company in the course of its activity.
2. The insurance company, the license of which has been withdrawn, shall be crossed out of the register of the Authority.

Section II

Approvals

Article 43

Approval or refusal of the application for carrying out the activity outside the territory of the Republic of Albania

1. The insurance company should, in order to carry out an insurance activity outside the territory of the Republic of Albania, receive in advance the approval of the Authority.
2. The application of the insurance company shall be made in writing along with:
 - a. decision of the shareholders assembly for the extension of the activity,
 - b. amount of investment and source of financing,
 - c. legal form of investment (branch, subsidiary),
 - d. insurance classes asked for carrying out the activity,
 - e. other documents required by the Authority.

3. The Authority shall, within a period of three months, consider and make a decision with regard to the application of the company to exercise activity outside the Republic of Albania.

4. The Authority notifies the insurance company in writing within 10 calendar days from the date of making the decision for approving or refusing the application.

Article 44

Approval or refusal of the application for opening a representation office of a foreign company

1. The foreign company submits, for opening a representation office in the territory of the Republic of Albania, a written request in Albanian and files it with the Authority along with the:

- a. decision of the highest body,
- b. act of association and statute of the foreign company,
- c. license of the insurance company, issued by the supervisory authority of the country where its seat is located,
- d. decision of the foreign insurance company for appointing the representative of the office.

2. The documentation provided for in the first paragraph of this law shall be forwarded in Albanian.

3. Within a period of one month, the Authority considers and makes a decision with regard to the application of the foreign company for a representation office in the Republic of Albania.

4. The authority notifies the foreign insurance company in writing within 10 calendar days from the date of making the decision whether to approve or refuse the application.

5. The representation office shall be registered with the court after being granted the approval by the Authority.

Article 45

Transfer of portfolio

1. The insurance company or the branch of foreign company may transfer through an agreement to one or many insurance companies, upon the approval of the Authority, the entirety or part of the portfolio of contracts along with the liabilities and rights.

2. The insurance company or the branch of the foreign company concludes agreements with another insurance company (accepting company) for the transfer of the insurance contracts or the insurance portfolio.

3. The transfer request shall be announced to the creditors in an announcement in Official Gazette, giving a one month notice from the publication date, to terminate their contracts.
4. The insurance company or the branch of the foreign company transfers, in addition to what has been foreseen in paragraph (1) of this article, the assets for covering the technical and mathematical provisions equal to the technical and mathematical provisions calculated to cover the liabilities of the insurance portfolio which shall be transferred. The transfer of insurance portfolios does not require the approval of the insured. The Authority approves the transfer if it thinks that it is in line with the interests of creditors and insured.
5. The agreement referred to in the first paragraph of this article shall enter into force on the date on which the Authority approves the transfer of the insurance portfolio.
6. The insurance company accepting the transferred insurance portfolio notifies the insured within 10 calendar days from the entry into force of the decision of the Authority proving the transfer of portfolio, through its publication at least in two daily national newspapers, for 5 days in succession.
7. The insurance company transfers the insurance portfolio to:
 - a. other insurance companies with their seat in the territory of the Republic of Albania,
 - b. branches of foreign companies in the territory of the Republic of Albania,

Article 46

Application for the transfer of portfolio

The application for the transfer of portfolio shall be made in writing from the transfer company and shall be submitted to the Authority along with the:

- a. transfer approval by the decision-making authorities of the transferring company,
- b. approval by the decision-making authorities of the receiving company,
- c. list of insurance contracts, in accordance with the classes to be transferred, time periods, general and specific conditions and respective calculations of technical and mathematical provisions,
- d. list of assets for covering the technical and mathematical provisions, along with the act of their assessment by licensed experts and other requirements set out by the Authority, in reliance to which the value of assets at the moment of transfer can be controlled,
- e. changed business plan of the company accepting the insurance portfolio, as a result of transfer,
- f. concluded agreement on the transfer of the insurance portfolio and the reasons for such a transfer,

- g. report drafted by an actuary authorized by the Authority, in the event of transfer of life insurance portfolio, which certifies that the transfer is not at variance with the police-keeper interests and the receiving insurance company.

Article 47

Consideration period

The Authority considers, since the depositing date of the submitted documentation, the request for the transfer of insurance portfolio and makes a decision on the approval or refusal of the request.

Article 48

Approval or refusal of application

1. The Authority approves the transfer of the portfolio if the transferring company has met the requirements of Article 46 of this law and the accepting company possesses, with regard to the transfer of portfolio, a solvency margin equal to the required one, as well as the guarantee fund.
2. If the accepting company is a branch of a foreign company, the Authority makes this decision only if the supervisory authority of the country of origin provides the approval concerning the above in writing.
3. The Authority refuses the application for the transfer of portfolio if the value of assets for covering the technical and mathematical provisions is lower than the value of provisions, which should be deposited in exchange of the insurance portfolio, which should be transferred, or if the Authority is of the opinion that this transfer endangers the interests of the insured.
4. The Authority refuses the application for the transfer of the insurance portfolio if the accepting company does not meet the requirements set for the insurance classes, which pertain to the portfolio to be transferred, or if through accepting the portfolio the financial situation of the accepting company deteriorates.
5. The Authority refuses the request if the accepting company is not licensed for carrying out the activity in the insurance classes which pertain to the insurance portfolio which is transferred.
6. The Authority, within one month since the depositing of the filled-in requests in accordance with the provisions of Article 46 of this law, approves or refuses the transfer of the insurance portfolio.

Article 49

Announcement of the decision

1. The decision of the Authority on the approval or refusal of the transfer of insurance portfolio shall be grounded and notified to the insurance company or branch

of foreign company in writing within 10 calendar days since the date of making the respective decision.

2. The decision on the transfer of insurance portfolio shall be sent for publication on the Official Gazette within 5 calendar days since the making of the decision.

3. The decision on the transfer of the insurance portfolio enters into force immediately following its publication on the Official Gazette.

Article 50

Release in undertaking of some functions of the insurance company

1. An insurance company is entitled to conclude agreements with another insurance company, with a legal or natural person for the transfer in undertaking of specific functions of its activity.

2. For the purposes of this law, specific functions shall be considered:

- a. treatment of claims,
- b. management of assets of the insurance company for covering the technical provisions or assets for covering the mathematical provisions,
- c. keeping of accounts,
- d. actuary services,
- e. data processing.

Article 51

Application for releasing in undertaking

1. The insurance company or the branch of the foreign company, for the release in undertaking of the operations shall be submitted to the Authority in writing along with the:

- a. undertaking contract, concluded between the insurance company and the legal entity,
- b. other additional documents and data required by ISC.

2. The Authority considers it within a one-month period and makes a decision with regard to the application of the insurance company for the release in undertaking of its specific functions.

3. The Authority notifies the insurance company or the branch of the foreign company in writing within 10 calendar days from the date of making the decision.

Article 52

Approval or refusal of releasing in undertaking

1. The Authority approves the release in undertaking of specific operations if the requirements contained in Article 51 of this law are met.

2. The Authority refuses the release in undertaking if interests of the insured are jeopardized.
3. The Authority refuses the release in undertaking if the supervision of the insurance activity is made difficult or impossible.

Article 53

Supervision of the specific functions released in undertaking

1. Subject to the provisions of this law on the supervision of insurance companies or branches of foreign companies are also the legal or natural persons which are going to carry out specific functions in undertaking.
2. Upon the request of the Authority, the insurance company or the branch of foreign company shall provide data with regard to its legal status, financial situation and activity of the legal entity with which it has concluded the contract for a release in undertaking.
3. The Authority revokes the granted approval if the:
 - a. interests of the insured are endangered,
 - b. supervision of the insurance company becomes difficult or impossible.

Article 54

Approval for the merging and division of the insurance company

1. The merger or division of the insurance company shall be made only with the approval of the Authority.
2. Regarding the life insurance companies, it shall be filed with the Authority a report drafted by an actuary authorized by the Authority, which certifies that the merger or division is not in conflict with the interest of policyholders, insurance company and the companies involved in this transaction.
3. The Authority considers the request for the merger or division and makes its decision after the conditions or procedures contained in the regulations of the Authority have been met.
4. The Authority makes the decision for the merger of the insurance of companies only after the insurance companies have received from the Competition Authority the approval for their merger.

Article 55

Approval or refusal of changes

1. The insurance companies, prior to sending any changes in their statute, to the extraordinary assembly of the shareholders, shall get the approval of the Authority.
2. The Authority shall express itself with regard to the approval or refusal of changes in the statute in writing within two months from the date of depositing the draft statute. In case of a refusal, the Authority notifies in writing the company.

3. The insurance company gets the approval of the Authority prior to every change of the name of the insurance company, providing grounds for the requested change, members of the board, accounting expert and members of internal control committee.

4. The Authority approves or refuses the application of the insurance company concerning the respective changes within a period of one month.

5. The branch belonging to a foreign company deposits with the Authority every change regarding the statute of the foreign insurance company, within three months from the date of change.

6. The branch belonging to a foreign company deposits with the Authority and the court every change in the name of foreign company, branch of which it is, within one month since the date of change in the country of origin.

Article 56

Application for qualified holding

1. The possession of shares in an insurance company, where a shareholder directly or indirectly reaches or exceeds the level of qualified holding (influencing shareholder), provided for in the first paragraph of Article 16 of this law, shall be made only upon the approval of the Authority following the filing of the qualified holding.

2. The Authority, along with the provision of the first paragraph of this article, approves every further holding, which reaches or exceeds 20%, 33% or 50% of the right to vote or holding in the capital of the insurance company.

3. The shareholder, who has been granted the approval provided for in the first and second paragraph of this article, notifies the Authority for the decrease of his holding.

4. If the company is subject to one of the measures provided for in Article 127 of this law, the sale operation shall be performed only upon the approval of the Authority.

5. Every natural or legal person, aiming at purchasing directly or indirectly shares in an insurance company, shall be subject to the requirements of Article 18 of this law.

6. The Authority determines in its regulations the necessary documentation for making the decision provided for in the first and second paragraph of this Article, consideration period and the way of notification referred to in the third paragraph of this Article.

Article 57

Approval, refusal and revoking for qualified holding

1. The Authority makes its decision within three months from the date of depositing the applications for the possession of qualified holding.
2. The Authority approves the qualified holding if the requirements contained in the regulations drafted to this effect have been met, **including the legal and technical compliance requirements of qualified holding.***
3. The Authority refuses the request if the requirements of this law and of the effective bylaws have not been met.
4. The Authority revokes the approval provided for in the first paragraph of Article 56 of this law if:
 - a. the approval has been granted in reliance to untrue or false information,
 - b. the approval jeopardizes the activity of the insurance company in accordance with the provisions contained in Chapter VI of this law,
 - c. the qualified shareholder approved earlier does not possess anymore 10% of the shares of the insurance company with the right to vote.

Article 58

Approval or refusal of investments of the capital of insurance company

1. The insurance company shall not be allowed to invest no bigger amounts than 10% of its capital in one or more non-bank legal persons, without prior approval of the Authority.
2. The insurance company, if it intends to invest bigger amounts than 10% of its capital in one or many non-bank legal persons, files a written request with the Authority.
3. The Authority makes a decision with regard to the second paragraph of this Article, within three months from the date of meeting the requirements determined in its regulations.

Section III Notifications

Article 59

Notification for extending or limiting the activity

The insurance company is entitled to extend or limit the number of branches in the territory of the Republic of Albania, after notifying the Authority.

Section IV Publication

Article 60

Publications of Insurance Supervisory Authority

The Authority publishes in its bulletin every decision mentioned in the provisions of this chapter.

Chapter IV

Management and Functioning of the Insurance Company and Internal Control

Article 61

Management

1. The insurance company shall be organized as a joint stock company in accordance with the law “On the Commercial Companies”, unless it is explicitly provided for differently in this act.
2. The insurance company has the following managing bodies:
 - a. Shareholders Assembly,
 - b. Supervisory Council,
 - c. Board.

Article 62

Conditions for carrying out the function of the Supervisory Council member and Board member

1. The conditions for carrying out the function of the member of supervisory council are:
 - a. university graduation,
 - b. professional qualifications,
 - c. no criminal record,
 - d. no legal obstacles for performing these functions.
2. The conditions for carrying out the function of the board member are those provided for in the first paragraph of this article. Board members are required to have an experience of not less than three years in the management of insurance companies and not less than four years in the management of a company with a similar activity or not less than four years in the management of other financial institutions.

Article 63

Approval for carrying out the function of the member of the Supervisory Council and Board

1. In the function of the member of the supervisory council and in the function of the member of the board of an insurance company there shall be appointed the person who has been granted previously the approval of the Authority.

2. The application for performing the functions, in accordance with paragraph 1 of this Article, shall be submitted along with the documents certifying the fulfilling of criteria provided for in Article 62 of this law.

3. The Authority makes its decision within 15 calendar days from the day the insurance company forwards the full documentation.

Article 64

Incompatibility with the function of the Board member

A person does not carry out the function of the member of Board if:

- a. he is a member of the Board of another insurance company with its seat in the Republic of Albania, unless the insurance company is a legal entity connected to it,
- b. he has been legally deprived of the right to be in the Board of a commercial company organized in accordance with the law for the commercial companies,
- c. he serves or has served at any time previously for a period of 12 months as a member of managing and controlling bodies of a commercial company which has been subject to bankruptcy proceedings,
- d. he has served or facilitated the establishment of unauthorized commercial activities for receiving and collecting deposits,
- e. he has been subject to the procedures of declaring the insolvency for the liabilities to third parties,
- f. he carries out the function of the member of the internal control committee.

Article 65

Board responsibilities

The insurance company Board is responsible for:

- a. abiding by the effective legislation,
- b. implementation of the decisions of the Shareholders Assembly and Supervisory Council,
- c. normal ongoing of the activity of the insurance company,
- d. drafting and implementation of procedural policies and practices which are followed by the insurance company and for its internal control of its activity,
- e. reporting instantly to the Supervisory Council of the insurance company and to the Authority in the following cases:
 - i. solvency and liquidity is endangered,

- ii. extension of the activity of the company endangers the financial situation and solvency margin.

Article 66

Authorized actuary

1. The function of the actuary in an insurance company shall be carried out only by an actuary authorized by the Authority.
2. The insurance company or the branch of foreign company shall be obliged to employ an authorized actuary and notify the Authority with regard to this.
3. Conditions and criteria for granting and withdrawal of authorization of the actuary shall be determined in the Authority regulations.
4. The Authority notifies the insurance company concerning the persons who have been provided with the authorization for carrying out the function of authorized actuary.
5. The Authority informs the insurance company about the persons, whose authorization to carry out the function of the authorized actuary has been withdrawn.
6. As long as the insurance company does not appoint an authorized actuary within 3 months from the date this position remains vacant, or it appoints an unauthorized person, the appointment of the actuary shall be made by the Authority.

Article 67

Conflict of interests

The authorized actuary shall not be allowed to carry out his function in an insurance company if he:

- a. is directly or indirectly shareholder of an insurance company,
- b. is a member of the Supervisory Council or of the Board,
- c. carries out the function of the member of the Internal Control Committee.

Article 68

Internal Control Committee

1. The Internal Control Committee is an organization unit of the insurance company. This unit functions separately from the other units of the organization structures of the insurance companies.
2. Internal Control Committee is a body depending from the Supervisory Council and reports to it.
3. The supervisory council determines the rules of functioning and exercising the internal control, as well as approves the annual program of control.
4. The member of the Internal Control Committee shall not be allowed to be exercise any other function in the insurance company.

Article 69

Responsibilities of the Internal Control Committee

1. The Internal Control Committee exercises a complete supervision on the activity of the insurance company to verify whether the company:
 - a. carries out the activity in accordance with the valid legislation and internal standing rules of the company,
 - b. keeps the registers of economic activity appropriately,
 - c. registers precisely the accounting data,
 - d. prepares the annual financial and statistical reports.
2. The Internal Control Committee exercises its functions in accordance with:
 - a. the professional principles and standards of the internal control,
 - b. code of professional ethics,
 - c. rules for functioning and exercising the control determined by the Supervisory Council of the insurance company.

Article 70

Reports of Internal Control Committee

1. The Internal Control Committee prepares not less than twice a year a report which contains:
 - a. the description of the controls exercised on the activity of the insurance company,
 - b. effectiveness of the internal control system,
 - c. irregularities found out during exercising the internal control and the measures taken for their elimination,
 - d. implementation of measures determined earlier by the Supervisory Council.
2. The Internal Control Committee prepares an annual report, which contains data on the realization of the program of its activity.
3. The reports shall be submitted to the Board and Supervisory Council and subsequently the approved annual report shall be submitted to the Authority in order to have its say to it.
4. If during the control the Internal Control Committee finds out that the insurance company has violated the rules of risk management and as a consequence the solvency margin, liquidity or continuation of the activity is risked, it informs immediately the Board and the Supervisory Council.

Article 71

Accounting expert

1. The insurance company or the branch of foreign company appoints as authorized accounting experts only the legal persons approved by the Authority.

2. The authorized accounting expert of the insurance company or of the branch of foreign company is a company of authorized accounting experts.
3. The insurance company or the branch of foreign company shall be obliged to get the approval of the Authority for every replacement of the authorized accounting expert of the company.

Article 72

Report of the authorized accounting expert

1. The financial annual report of the insurance company or of the branch of foreign company shall be subject to control and legal certification by the company of authorized accounting experts which provide its own opinion.
2. The Authority can determine analytical reporting and accounting standards, obligatory to be implemented by the insurance companies.
3. The insurance company submits to the Authority a copy of the annual report of the authorized accounting expert within 8 days from the date of its reception and not later than 30 April of the following year. If the insurance company prepares consolidated accounts, or has participation in other companies, the report should be submitted not later than 31 May of the following year.

Article 73

Contents of the report

1. The company of authorized accounting experts controls and proves legally, through a report, in accordance with the standards and procedures with regard to the genuine and legal presentation of the:
 - a. balance sheet of the insurance company,
 - b. profit – loss account,
 - c. chart of the technical and mathematical provisions in accordance with the type and classes of insurance and directions of their investments in reliance to the actuary calculations,
 - d. list of assets for covering the technical or mathematical provisions and structure of their investments,
 - e. activity of internal control,
 - f. keeping of accounting registers,
 - g. assessment of balance item and those outside the balance sheet,
 - h. distribution of the profit,
 - i. chart of the circulation of the monetary resources.
2. The Authority is entitled to send back the report to the company of authorized accounting experts if it is not compiled in accordance with the first paragraph of this Article, and it is entitled to assign another company of authorized accounting experts

with the expenses of the insurance company of branch of foreign company to compile a report in accordance with the provisions of this Article.

Article 74

Reporting to the Authority

1. If the company of authorized accounting experts in the course of carrying out the control finds out that the insurance company or the branch of the foreign company has violated the rules of risk management and as a consequence the solvency, liquidity or continuation of the activity of the insurance company is endangered, it must notify the Authority immediately.
2. The Authority is entitled to ask from the company of authorized accounting experts of the insurance company or branch of foreign company any information on the activity of the company. The company of authorized accounting experts is released from the professional secrecy in providing the information to the Authority.

Article 75

Publication of annual report

1. The insurance company or branch of foreign company publishes in one of the periodic financial publications the annual report within 15 days from the date of approval of the annual report by the Authority, but not later than six months from the end of the calendar year.
2. The annual report includes the annual balance sheet, profit – loss account and the summary report of the company of authorized accounting experts.

Chapter V

Intermediary in Insurance and Reinsurance

Article 76

Intermediary activity

1. The intermediary activity shall be carried out by the agents or companies of agents and brokerage companies.
2. In order to carry out an intermediary activity in the Republic of Albania, the agent or broker shall be provided with a license by the Authority.
3. The activity of the broker is incompatible with the activity of the agent.

Article 77

Agent of company of agents

1. The agent is a natural person licensed by the Authority, who acts on behalf and on the account of the insurance company or the branch of the foreign company.

2. The company of agents shall be set up as a joint stock company with its seat in the Republic of Albania, licensed by the Authority in order to carry out intermediary activity in insurance.
3. The licensed agent or company of licensed agents shall carry out the activity on behalf of only one insurance company or branch of the foreign company, except when in the contract between the agent or the agents and the insurance company or branch of foreign company it is foreseen differently.
4. The agent is not entitled to authorize any other person to sign up to a contract on his behalf and on his account.
5. In the company of agents, the functions of the agent shall be carried out in the name of the agents company by natural persons, partners or shareholders licensed by the Authority.
6. The agent or the company of agents shall not be allowed to carry out intermediary activity in life and non-life insurance.
7. The company of agents deposits with the Authority the decision for the registration of the company in the commercial register, along with the establishment act and its statute.
8. The relationship between the licensed agent or company of agents and the insurance company or the branch of foreign company are provided for in the contract concluded between them.
9. The activity of the agent in insurance can be carried out even other entities performing activities in the field of services, upon the condition that they employ agents licensed by the Authority.
10. The field of services shall be determined through the decision of Council of Ministers.

Article 78

Broker

The broker is a natural person authorized by the Authority, which carries out intermediary activity in insurance and reinsurance on behalf of the brokering company.

Article 79

Brokerage agency and company

1. The brokerage company shall be established as a joint stock company with its seat in the Republic of Albania, licensed by the Authority to carry out intermediary activity in insurance and reinsurance with a minimal capital of 5 million Lek.
2. The licensed brokering company carries out intermediary activity in insurance and reinsurance in the name and on behalf of the insured.
3. Notwithstanding paragraph 2 of this Article, the activity of a brokerage company can be carried out even by banks, after receiving the approval from the Bank of Albania and being licensed by the Authority.
4. The brokerage company deposits with the Authority the decision of the registration of the company in the commercial register along with the foundation act and statute.
5. In the brokerage company, the functions of the broker shall be carried out in the name of the brokering company by natural persons, partners or shareholders who are brokers authorized by the Authority.
6. The brokerage company shall be paid through a commission by the insurance company or the branch of foreign company, in accordance with the insurance contracts sold on its behalf, unless it is foreseen differently in the agreement concluded between the brokering company and the insured.

Article 80

Financial guarantee and liability insurance

1. The brokerage company shall possess a financial guarantee equal to the level of minimal capital, provided for in paragraph 1 of Article 79 of this law.
2. The brokerage company shall, in addition to the provision of par 1 of this Article, insure an insurance company for the professional liabilities to the third parties for covering the liabilities, in the cases of violating the conditions of the intermediary contract, in an amount not less than 30 million Lek for an insurance case and not less than 100 million Lek for all the cases of insurance in a calendar year.

Article 81

Licensing of intermediaries in insurance and reinsurance

1. The Authority licenses the intermediaries if they fulfill the:
 - a. loyalty criteria,
 - b. professional capability criteria.
2. The criteria, procedure, time period of validity of license, cases of its refusal and the rules for supervising the intermediaries shall be determined through the decision of the Council of Ministers.

3. The license for carrying out the activity of intermediary is not transferable and not purchasable. It shall be provided for a limited time period, with the exception of the brokerage companies.

Article 82

Liabilities of the agent and insurance companies

1. If the insured concludes an insurance contract through the agent of the company of agents, the insurance company or the branch of the foreign company, on behalf of which the agent is working, shall be solely liable for the actions or omissions of the agent with regard to the insured.
2. The insurance company shall conclude a contract only with licensed agents or company of agents, in reliance to the provisions of the Civil Code and of this law.
3. The agent or company of agents is liable to the insurance company for the losses caused to the insured as a result of his negligence and misinformation.

Article 83

Liabilities of the brokering company

1. While exercising its activity, the brokerage company represents the interests of the insured. Prior to concluding a contract, the brokerage company shall provide explanations and advice with regard to conditions, time periods, limitations or exclusions of the contract and insurance or reinsurance premium.
2. The brokerage company notifies the insurance company or branch of the foreign company with regard to the proposals of the insured concerning the entry into force of the insurance contract or reinsurance agreement. It explains to the insured the conditions of the insurance contract and rules of determining the premium.
3. The brokerage company shall control the content of the insurance contract before it is concluded.
4. The broker shall pay the premiums collected from the insured immediately to the insurance company within 30 calendar days. The premiums cashed by the brokerage company, but which have not yet been paid to the insurance company, shall be deposited in a separate account in a bank within the territory of the Republic of Albania.
5. The brokerage company is liable for the losses suffered by the insured if these losses have been caused through negligence and misinformation of the insured.
6. The brokerage company explains to the insured all the legal and economic relations with a certain insurance company, which influence the impartiality of the brokerage company in order to fulfill the liabilities towards the insured.
7. The legal and economic relations shall, for the purpose of the sixth paragraph of this Article, be considered as provisions of the agreements of a brokerage company concluded with an insurance company, in reliance to which an insurance brokerage

company is entitled to a special brokerage commission remuneration or a higher one for certain insurance classes or companies.

Article 84

Liability of the brokering and insurance company

1. The brokerage company mediates the conclusion of an insurance contract or reinsurance agreement only with the licensed insurance companies in accordance with the provisions of this law.
2. The brokerage company shall not be allowed to mediate the conclusion of insurance contracts or reinsurance agreements, which are not in conflict with Article 157 of this law.
3. The brokerage company can not be a shareholder of an insurance company and vice versa.
4. The insurance company shall conclude a contract for carrying out the intermediary activity only with the brokering companies licensed by the Authority, in accordance with the provisions of this law.

Article 85

Withdrawal of the license

1. The Authority withdraws the license for carrying out the intermediary activity in insurance and reinsurance if:
 - a. intermediary does not start the intermediary activity within 6 months from the date of being granted the license,
 - b. intermediary quits voluntarily the performance of the intermediary activity in insurance and reinsurance,
 - c. it is certified that the documents for granting the license are forged,
 - d. intermediary carries out his activity at variance with the interests of the insured,
 - e. intermediary has violated the provisions of this law,
 - f. intermediary has intentionally offered false information for the insured or the Authority,
 - g. intermediary carries out fictitious activity connected to his own activity.
2. The decision of the Authority for the withdrawal of the license shall be published in two newspapers of national circulation within 5 days from the date of making the decision.
3. The insurance company and the branch of the foreign company shall be obliged to terminate the intermediary contract, in case the license of the intermediary has been revoked, in accordance with the provisions of paragraph 1 of the Article.

Article 86
Complaint

Against the decision of the Authority for the withdrawal of the license of intermediary, a complaint may be submitted in accordance with the provision of Administrative Procedure Code.

Article 87

Foreign intermediary company in insurance and reinsurance

1. The foreign intermediary company carries out intermediary activity in the Republic of Albania only through the branch licensed by the Authority. .
2. The provisions of articles of this chapter shall be implemented even for the branch of the foreign intermediary company, which carries out intermediary activity in the territory of the Republic of Albania.

Article 88

Intermediaries register

1. The insurance company shall be obliged to keep a register for the authorized agents and companies of agents, with which it has concluded an intermediary contract.
2. The insurance company shall, upon concluding or terminating a contract with an agent or company of agents, notify the Authority immediately.
3. The brokerage house shall keep a register of the brokers employed by it.
4. The brokerage house keeps the list of the insurance companies with which he has concluded an agreement.
5. The brokerage house deposit with the Authority the concluded agreements with the insurance and re-insurance companies.
6. The Authority keeps the register of agents, companies of agents, brokerage houses and branches of foreign intermediary companies licensed by it.

Article 89

Licensing of claim adjustors and insurance consultants

1. The Authority licenses the adjustors of damages, supervises and controls their activity.
2. The conditions and criteria for granting and withdrawing the license of claim adjustor shall be determined through a decision of Council of Ministers.
3. The Authority licenses consultants in insurance, supervises and controls their activity. The conditions, criteria, procedures and validity period for granting the license as well as the withdrawal of the license of the consultants in insurance shall be determined upon the decision of Council of Ministers.

4. The Authority keeps a register of claim adjustors and insurance consultants licensed by it, as well as notifies the insurance company or the branch of foreign company for the persons who have received the license.
5. The insurance company and the branch of foreign company shall be obliged to have an assessment of the damages done only through a licensed claim adjustor.
6. The insurance company or branch of foreign company accepts expertise from licensed consultants.
7. The Authority informs the insurance companies and the branch of the foreign company about the persons, from which the license for carrying out the activities provided for in the first and third paragraph of this Article, has been withdrawn.
8. The insurance company and the branch of foreign company shall be obliged to terminate the contract with the claim adjustors and the insurance consultants in case their license has been withdrawn.
9. Against the decision of the Authority for withdrawing the license of the claim adjustor and insurance consultants it can be filed a complaint in accordance with the provisions of the Administrative Procedures Code.

Chapter VI

Risk management

Section I

Insurance company capital

Article 90

Insurance company capital

The insurance companies capital shall consist of the establishment capital and the additional capital.

Article 91

Establishment capital

1. In calculating the establishment capital of an insurance company, the following elements are included:
 - a. paid share capital,
 - b. security reserve, which does not belong directly to the effective insurance contracts or those which have been effective,
 - c. provisions of the insurance company (statutory and specified in the statute), which do not belong directly to the effective insurance contracts or those which have been effective,
 - d. undistributed profit carried forward from previous years,

- e. undistributed profit which belongs to the financial year, after the subtraction of the taxes, other contributions and paid dividends, after the profit sum has been verified by the authorized accounting expert of the insurance company,
 - f. losses of the financial year and or due losses.
2. In calculating the establishment capital of an activity, the following elements shall not be included:
- a. shares of the insurance company, which have not been paid,
 - b. immaterial assets,
 - c. losses in the financial year and succeeded and uncovered losses,
 - d. other undertakings which the insurance company is obliged to reflect in the financial balance sheet (undertakings outside the balance sheet).
3. The establishment capital of an insurance company in monetary resources, not including the assets capital, shall be in accordance with the provisions contained in Article 17 of this law.

Article 92

Additional capital

1. In calculating the additional capital of the company, the following elements shall be included:
- a. share capital paid on the basis of the preferential accumulated shares,
 - b. instruments of the depending loan,
 - c. securities of unlimited maturity.
2. The instruments of the depending loan are the securities and other financial instruments, which in case of bankruptcy or liquidation of the issuer are:
- a. re-payable only after the other loans of the issuer have been paid off,
 - b. appropriate for covering the possible losses, for which the insurance company is vulnerable to occurred risks, the characteristics of which are connected to their maturity.

Article 93

Security reserve

1. The insurance company sets up and keeps every financial year with its own assets the security guarantee at the level of not less than 1/3 of the profit of the financial year, if the profit is not used for covering the losses inherited from the previous years.
2. The insurance company which has accumulated a security reserve at a level not lower than 30% of the average premiums collected in the two last years, if the premiums of the previous years have been increased as result of the increase of price

index, including the year for which the profit has been distributed, is not subject to the obligation to set up the security reserve from the profit.

3. The security reserves are the assets which serve for covering the long-term liabilities of the insurance company. They are accumulative and do not exceed 30% of the total of written average net premiums in the two last years, but not less than 15% of the written gross premiums in the two last years. This reserve shall be created for guaranteeing the solvency and guarantee fund of the insurance company.

Article 94

Calculation of the capital

The capital of the insurance company, referred to in Articles 91, 92 and 93 of this law shall be calculated subtracting the following elements:

- a. investments of the insurance company in shares and instruments of the depending loan issued by another insurance company or other financial entities, where the insurance company has a qualifying holding above 10%,
- b. other investments in the entities provided for in point “a” of this Article, which are included in the calculation of the capital of the respective entities,
- c. investments of the insurance company in shares or instruments of depending loan issued by another insurance company, or other financial entities, different from those provided for in letter “a” of this article, which exceeds 10% of the capital of the insurance company, calculated before subtracting the elements of point “a” and “b” of this Article,
- d. non-liquidity assets of the insurance company. In these assets are included:
 - i. investments in the stock market of the company,
 - ii. liabilities concerning the payments belonging to the guarantee fund and state entities,
 - iii. other liabilities, which can not be transformed into liquidity within the period needed for paying off the liabilities of the company.

Article 95

Capital investment

1. The insurance company invests its capital in the following directions:
 - a. real estate (land and building),
 - b. financial investments (securities of government and public loan, loan securities, other resources in the money and capital market),
2. The capital investment limits of the insurance company shall be determined in the regulations adopted by the Authority.

4. The financial investments of the insurance company in a bank shall, in reliance to point “b” of the first paragraph of this law, not exceed 25% of the company capital.

5. The financial investments of the insurance company in a non-bank legal entity shall, in reliance to point “b” of the first paragraph of this Article, not be allowed to exceed 10% of the capital of the company.

Article 96

Solvency margin

1. During its entire activity, the insurance company should possess a sufficient capital which consists its solvency margin.

2. The solvency margin is equal to the value of assets of the insurance company, free from every foreseen obligation or liability.

3. The solvency margin of the insurance company shall be calculated in reliance to Articles 91, 92, 93 and 94 of this chapter.

Article 97

The required level of solvency margin

1. The capital of the insurance company, which exercises a non-life insurance activity, should, in the course of the activity of the company, not be lower than the required level of solvency margin of the company, calculated through the method based on premiums or damages. The required level is the highest value coming out of the calculations.

2. Notwithstanding the provision of paragraph 1 of this Article, only for the first year of its activity, the required level of solvency margin shall be calculated implementing the method based on premiums.

3. The capital of insurance company, performing insurance activity in life classes, should, during the entire activity of the company, not reduce the required level of the solvency margin of the company, calculated as the total sum of the results coming out of the implemented methods.

4. The ways of calculating the required level of solvency margin for the life and non-life insurance shall be determined upon the decision of Council of Ministers.

Article 98

Guarantee fund

1. The guarantee fund of an insurance company shall account for one- third of the required level of solvency margin.

2. Notwithstanding paragraph 1 of this Article, the guarantee fund of an insurance company, within the non-life insurance classes, can not be lowered than the following minimal limits:

- a. 370 million Lek if the company carries out its activity in one or more of the classes 10, 11, 12, 13 and 15, in accordance with the classification provided for in Article 7 of this law,
 - b. 260 million Lek if the company carries out its activity in the classes 1, 2, 3, 4, 5, 6, 7, 8, 16, and 18, in accordance with the classification provided for in Article 7 of this law,
 - c. 185 million Lek if the company carries out its activity in the classes 9 and 17, in accordance with the classification provided for in Article 7 of this law,
 - ç) 615 million Lek if the company covers all or some of the risks of the class 14 provided for in Article 7 of this law, as long as the total of annual premiums for this class exceeds the amount of 35 million Lek or 4% of the total of annual premiums of the insurance company,
 - d. 370 million Lek if the company covers all or some of the risks of class 14, provided for in Article 7 of this law, as long as the total of annual premiums for this class, for each of the three financial years, does not exceed the sum of 35 million Lek or 4% of the total sum of the annual premiums of the insurance company.
3. Notwithstanding the provision of the first paragraph of this Article, the guarantee fund of an insurance company must never be lower than the minimum margin of 370 million Lek at the beginning of the activity, as long as the company carries out the activity for the life insurance in the classes 19, 20, 21, 22 and 23, in accordance with the classification provided for in Article 7 of this law.
 4. Notwithstanding paragraph 1 of this Article, the guarantee fund of an reinsurance company can not be lower than 615 million Lek.
 5. The minimal margin of the guarantee fund of the company covering the risks of some classes of non-life insurance should be equal to the value of minimal value of the guarantee fund of the insurance classes, for which a higher margin has been foreseen.
 6. The guarantee fund shall be deposited in a specific bank account with the same name, in one of the banks in the territory of the Republic of Albania, where the company has its own main seat.
 7. The guarantee fund shall be invested only within the bank system: treasury bonds and deposits with a maturity period of no less than one year.
 8. The administration and cases of intervention in the guarantee fund of the insurance company shall be determined upon the decision of the Council of Ministers.

**

Article 98/1

Insurance companies licensed before entering into force of this law, should maintain the level of the guarantee fund foreseen in article 98, as below:

- a) if the company carries out its activity in one or more of the classes 10, 11, 12, 13 and 15, in accordance with the classification provided for in Article 7 of this law:
 - i) 185 million Lek within one month after entering into force of the law;
 - ii) 270 million Lek till 30 September 2007;
 - iii) 370 million Lek till 31 March 2008.
- b) if the company carries out its activity in the classes 1, 2, 3, 4, 5, 6, 7, 8, 16, and 18, in accordance with the classification provided for in Article 7 of this law:
 - i) 130 million Lek within one month after entering into force of the law;
 - ii) 190 million Lek till 30 September 2007;
 - iii) 260 million Lek till 31 March 2008.
- c) if the company carries out its activity in the classes 9 and 17, in accordance with the classification provided for in Article 7 of this law:
 - i) 90 million Lek within one month after entering into force of the law;
 - ii) 135 million Lek till 30 September 2007;
 - iii) 185 million Lek till 31 March 2008.
- ç) if the company covers all or some of the risks of the class 14 provided for in Article 7 of this law, as long as the total of annual premiums for this class exceeds the amount of 35 million Lek or 4% of the total of annual premiums of the insurance company:
 - i) 370 million Lek within one month after entering into force of the law;
 - ii) 500 million Lek till 30 September 2007;
 - iii) 615 million Lek till 31 March 2008.
- d) if the company covers all or some of the risks of class 14, provided for in Article 7 of this law, as long as the total of annual premiums for this class, for each of the three financial years, does not exceed the sum of 35 million Lek or 4% of the total sum of the annual premiums of the insurance company:
 - i) 185 million Lek within one month after entering into force of the law;
 - ii) 270 million Lek till 30 September 2007;
 - iii) 370 million Lek till 31 March 2008.
- dh) if the company carries out the activity for the life insurance in the classes 19, 20, 21, 22 and 23, in accordance with the classification provided for in Article 7 of this law:
 - i) 220 million Lek within one month after entering into force of the law;
 - ii) 300 million Lek till 30 September 2007;
 - iii) 370 million Lek till 31 March 2008.
- e) if the company carries out reinsurance activity:
 - i) 370 million Lek within one month after entering into force of the law;

- ii) 500 million Lek till 30 September 2007;
- iii) 615 million Lek till 31 March 2008".**

Article 99

Premiums of insurance or reinsurance

The premium of insurance or reinsurance consists of:

- a. the calculated part for covering the taken insurance risk, called clear premium,
- b. the calculated part for covering the administration expenditure,
- c. elements of saving in certain classes of life insurance,
- d. the calculated part for profits of the company, including the profit from investment without risk and investment in insurance with a risk.

Article 100

Approval of premiums

- 1. The clean premiums for covering the risk taken in obligatory insurance shall be approved by the Minister of Finance.
- 2. The voluntary insurance premiums shall be defined by the insurance company itself.
- 3. The Authority, regarding the supervision of the insurance company activity, is entitled to recommend the grounds of statistical data to be used in the calculation of fees and premiums for the entire products of the voluntary insurance.
- 4. The insurance company and the insurance intermediaries shall be obliged to apply compulsory insurance premiums.

Section II Provisions

Article 101

Technical and mathematical provisions

- 1. The insurance company forms, with regard to the performed activity, appropriate technical and mathematical provisions to meet its obligations arising from the insurance contracts and reinsurance agreements.
- 2. The technical and mathematical provisions of the insurance company are formed prior of evidencing the fiscal year financial results.
- 3. The non-life insurance company shall be obliged to form the following provisions:
 - a. provisions for unearned premium, which shall be created for that part of the paid premium, which pertains to the risk period after the closing date of the financial year,

- b. provisions for bonuses and cancellations, which shall be created up to an amount, which equals to the payments which the insured persons are entitled to receive and which:
 - i. are created at a level equal to the amount which the insured receive based on the right to a part of the profit or other rights (bonuses), stemming from the insurance contracts,
 - ii. are created at a level equal to the right for partial reduction in premiums (discounts),
 - iii. are created at a level equal to the right of reimbursing the part of premium connected to the unused period of premium because of the cancellation of the contract,
 - c. provisions for equalization reserve, which shall be created for that part of damages which stem from insured events, which have happened before the expiry of the financial period, but exceed the assessed liabilities of the company. The provision of equalizing the damages serves for the temporary equalization of the fluctuations of unforeseen losses.
 - d. other technical provisions shall be created referring to the expected liabilities and risks for big damages, for insuring nuclear liabilities, pharmaceutical productions, earthquakes, flooding, as well as the provision for other obligations or risks, which are not included in any of the provisions foreseen in this Article,
 - e. mathematical provisions which shall be held in the present value of the assessed future liabilities of the insurance company, which stem from the insurance company, after subtracting the present value of the future premiums to be paid based on a actuary assessment approved by the Authority,
 - f. provisions for damages which have happened, but not paid.
3. Mathematical provisions are calculated as an actuary assessment, considering all the future liabilities of the insurance company, which stem from the individual contracts of insurance, including:
- a. guaranteed payments, where the insured persons have rights,
 - b. bonuses in which the insured person enjoys the right individually or together with other insured persons, regardless of their form,
 - c. all the rights, from which the insured person is allowed to select based on the insurance contract,
 - d. obligations, including commissions.
4. In selecting the method of actuary assessment, it should be considered the assessment method of the assets for covering the technical provisions implemented by the insurance company.

5. The mathematical provisions shall be calculated for every insurance contract separately and can not be lower than zero. The appropriate approximations or generalizations can be implemented only if it is wished that the result achieved in their sense shall be approximately the same as that of a specific calculation.
6. If the insured person, based on the contract, has the right of payment of the forwarded value, the mathematical provisions, formed with reference to this insurance contract, must not be under the forwarded value.
7. The insurance company, which signs life insurance contracts or non-life insurance contracts, for which the probability chart and calculation similar with those of life insurance, creates mathematical provisions for these contracts.
8. The insurance companies are obliged to provide explanations in the annex of the annual report, on the applied principles and methods in calculating mathematical provisions.
9. The insurance company signing insurance contracts, where the investment risk is kept by the insured person, creates provisions to this effect.
10. Grounds and accounting methods, as well as the ways of keeping the technical provisions are defined in the standing rules of the Authority.

Section III

Assets covering the technical and mathematical provisions

Article 102

Assets covering the technical and mathematical provisions

1. The assets covering the technical provisions shall be the insurance company assets, intended to cover obligations arising from insurance contracts or reinsurance agreements.
2. The investment of assets covering the technical and mathematical provisions shall be made in such a way as to ensure the preservation of the value, profitability and liquidity from investments.
3. The assets covering the technical and mathematical provisions for the responsibilities contracted in the territory of the Republic of Albania should be in the Republic of Albania.
4. The Authority is entitled to authorize allocating these assets outside the territory of the Republic of Albania when judged as legally grounded.
5. The assets covering the technical and mathematical provisions found in the form of debt claims shall be considered as situated in the country of their realization.

Article 103

Asset investment covering the technical and mathematical provisions

1. The insurance company invests technical and mathematical provisions in assets of various kinds, which are equal to technical provisions formed by it.
2. The asset investment covering the technical and mathematical provisions shall be performed as such as to preserve the investment value, profitability and liquidation.
3. The insurance company is obliged to ensure the preservation of the investment value of assets for covering the technical provisions with the responsibilities stemming from the insurance contracts, exposed to eventual risks, such as the change of interest rates, fluctuation of exchange rates and other risks of the market, in which these changes have an impact.
4. The insurance company is obliged to ensure the preservation of investment value of assets covering the mathematical provisions with the responsibilities stemming from the life insurance contracts, as opposed to the fluctuation of exchange rate not less than 80%.
5. The insurance company, as many times as the assets for covering the technical provisions are invested, should take into consideration the maturity of liabilities stemming from the insurance contracts.
6. The rules for assessing the assets covering the technical and mathematical provisions shall be determined through a decision of the Council of Ministers.

Article 104

Separation of Assets

1. The Insurance Company shall be obliged to set aside assets covering the technical and mathematical provisions from the other assets of the company.
2. The insurance company shall be obliged to keep a special register in order to ensure setting aside assets covering the technical and mathematical provisions from the other assets of the company.
3. The insurance company shall be obliged to hold separate bank accounts, preliminarily approved by the Authority, for the assets covering the technical and mathematical provisions from the other assets of the company.

Article 105

Categories of investment permitted

1. The assets covering the technical and mathematical provisions shall be invested as following:
 1. Investments;
 - a) state securities and public debt.
 - i. Securities of the government and public debt,
 - ii. Debt certificate,

- iii. Shares as part of the capital of a commercial company, listed in a legally regulated market,
 - iv. Shares in the schemes of collective investment and other investment funds,
 - v. Land, buildings and rights on immovable properties,
 - b) debt securities and claims for indemnities,
 - i. debts possessed in the re-insurers, including the part of reinsurance in technical provisions,
 - ii. deposits in ceding companies and debts possessed by them,
 - iii. debts possessed by the insurers and intermediaries in insurance, stemming from the insurance and re-insurance activity,
 - iv. amounts to be paid back from taxes,
 - v. preliminary payments made with regard to the value of insurance companies,
 - vi. claims opposed to the guarantee fund,
 - c) others,
 - i. money in bank and in cash, deposited in credit institutions and in every other institution authorized for accepting deposits,
 - ii. due interests and rents, other due income and pre-payments,
 - iii. steady material assets, in addition to those provided for in paragraph “v” of letter “a” of par 1 of this Article, assessed in reliance to wear and tear norms,
 - iv. other recoverable interests.
2. Other investment categories of assets for covering the technical and mathematical provisions at the maximal permitted limits of their investment shall be determined upon the decision of the Council of Ministers.

Article 106

Prohibition of free use of assets

1. The Authority shall not allow the free use of assets covering the technical provisions if the insurance company does not abide by provisions of articles 101, 102, 103, 104 and 105 of this law.
2. The Authority takes the necessary measures, in order to protect the interest of the insured himself or his beneficiaries from the insurance contracts.
3. In reliance to par 1 of this Article, the Authority determines in its standing rules the procedures for prohibiting the free use of the assets of insurance company.

Section IV

Other measures of risk management

Article 107

Obligation to reinsure

1. The insurance company shall be obliged to reinsure with a reinsurance company the liabilities deriving from the insurance contracts, which according to the tables of maximum coverage, exceed the possible coverage from the insurance company.
2. The insurance company can not take in insurance liabilities which exceed its maximal coverage.
3. The maximal coverage of the insurance company represents 10% of the company capital for every specific company.
4. The insurance company is obliged to sign reinsurance contracts only with reinsurance companies which meet the international levels of paying the debts, in accordance with the criteria set by the Authority, listed in reliance to international assessments.

Article 108

Program of reinsurance

1. The insurance company shall be obliged, for each financial year, to adopt a program of needs for reinsurance.
2. The program of reinsurances must include:
 - a) a table of maximum coverage made up on the basis of the company's capital, statutory provisions and premium for each insurance class;
 - b) procedures, bases and criteria for establishing the highest probability of loss with regard to taken risk in insurance and the level of preliminarily agreed coverage;
3. In calculations referring to letter "a" and "b" of second paragraph, the insurance company will take into account:
 - a. size of capital and the level of required solvency margin;
 - b. total volume of the activity;
 - c. insurance premiums collected within the groups and insurance classes;
 - d. level of covering which has been agreed for every class of insurance,
 - e. regulations as a result of deviations in every specific insurance class.

4. The insurance company forwards the reinsurance program provided for in paragraph 2 of this Article with the Authority no later than 60 calendar days from the beginning of the new financial year.

5. The Authority expresses its opinion on the reinsurance program provided for in paragraph 2 of their Article within 45 calendar days from the day of depositing this program with the Authority.

6. The Authority defines in standing rules the requirements of second paragraph of this Article.

Article 109

Co-insurance

The insurance company, for every insurance class, does not co-insure a risk level which exceeds its coverage capacity, in conformity with the charts of maximal covering, foreseen in paragraph 2 of Article 108 of this law.

Article 110

Liquidity management

1. The insurance company manages its own assets so as to be able, at any point in time, to settle liabilities due, deriving from the signed insurance contracts.

2. The insurance company shall calculate the liquidation norms and their minimum level on the bases of defined methods.

3. The methods of calculating the liquidity norms and the minimal level of liquidity shall be determined in regulations of the Authority.

Article 111

Limitation of profit distribution

The Authority shall not allow the insurance company to distribute profits if the:

- a) solvency margin of the insurance company is below the required level of the solvency margin,
- b) on account of previous year dividend payout, the solvency margin of the insurance company is below the required level,
- c) insurance company fails to achieve the minimum level of liquidity calculated in accordance with the methods compiled by the Authority,
- d) on account of previous year dividend distribution, the insurance company fails to achieve the minimum level of liquidity,
- e) insurance company has failed to implement the remarks of the Authority for inappropriate disclosure of items of the balance sheet, which would affect the company's profit-and-loss accounts.

Article 112

Accounting and control

1. The non-life insurance company is obliged to calculate and control every three months on:
 - a. capital of the company,
 - b. solvency margin,
 - c. required level of the solvency margin,
 - d. technical provisions,
 - e. assets covering the technical provisions,
 - f. investments on assets covering the technical provisions,
 - g. liquidity norms,
 - h. ceding to reinsurance,
 - i. other data requested by the Authority.
2. The life insurance company calculates and controls every three months the data foreseen in the letters “d”, “e”, “f” and “h” of paragraph 1 of this Article. The life insurance company at the end of every financial year forwards at the Authority a report drafted by the authorized actuary, which contains statements with regard to the mathematical provisions, solvency, appropriateness of assets covering the provisions, sufficiency of premiums and an analysis of the exceeding or missing part of the calculated profit.
3. The insurance company deposits a report containing the data required in the first paragraph of this Article within 10 calendar days at the end of each quarter.

Article 113

Foreign company branch

The provisions of this chapter are applicable even by the branches of foreign companies, which are licensed to perform their activities on the territory of the Republic of Albania.

Chapter VII

Accounting and the financial situation of the insurance company

Article 114

Accounting

1. The insurance company maintains accounting and compiles accounting reports pursuant to the provisions of accounting law, except when otherwise required by the Authority.
2. The insurance company shall keep books of account, registers required by this law and any other books required by the Authority, as well as attestation documents of

the financial actions, activity documents and other records in compliance with the provisions of the legislation in force.

Article 115

List of documents of detailed reports

The insurance company shall be obliged to present to the Authority a detailed report of its activity pursuant to form, lists and deadlines defined in the instruction of the Authority.

Article 116

Reporting

1. The insurance company shall be obliged to prepare financial statements and other reports on its activity, for each calendar year and present it to the Authority within March 31 of the following year.
2. Not subject to the first paragraph, are the insurance companies, which initiate their activity for the first time in the second half of the successive year, so as they can report at the end of the following year.
3. The insurance company prepares financial reports and other reports on its activity for periods shorter than the calendar year, in compliance with the legal acts in force and regulations of the Authority.
4. The Authority publishes financial summary reports of the insurance company jointly with a brief report of authorized accounting expert in its periodic bulletin.

Article 117

Verification of the authorized actuary

The reporting of the insurance company also includes the report of the authorized actuary, if premiums, technical provisions and their investments, the guarantee fund, the required level of solvency margin and ceding to reinsurance, are in compliance with the provisions of this law and bylaws in force.

Article 118

Payment and cashing money

1. The financial transactions and payment of damages shall be performed through banks licensed by the Bank of Albania.
2. The financial transactions of the brokerage company shall be performed through banks licensed by the Bank of Albania.

3. The insurance company and the brokerage company shall deposit with the Authority the bank names, bank accounts and deposits numbers with which they operate, in compliance with the first and second paragraph of this Article.

Article 119

Foreign company branches

The provisions of this chapter are applicable even for the foreign company branches licensed to perform their insurance activity in the territory of the Republic of Albania..

CHAPTER VIII SUPERVISION

Article 120

Scope of supervision

1. The Authority is the sole institution that supervises the activities provided for in this law, for the purpose of protecting the interests of the insured.
2. The Authority shall conduct the supervision of the activities of the insurance company, foreign insurance company branch, agents and agencies, brokers and domestic and foreign brokerage companies.
3. The Authority performs supervision of the activities of other entities licensed by it.
4. The Authority conducts supervision of the activity of legal entities in which the insurance company takes part. The Insurance Supervisory Authority will perform this supervision in cooperation with their supervisory authorities.

Article 121

Conducting supervision

1. The supervision of the insurance company and of the branch of foreign company is conducted through:
 - a) control of documents,
 - b) documentation analysis and control on the ground, being partial or complete,
 - c) intervention and implementation of the measures provided for by this law.
2. The Authority requires from the insurance companies, in the framework of supervision, every information and paperwork related to its activity.
3. The insurance company and the branch of foreign company are obliged to provide to the Authority every required document in compliance with the second paragraph of this Article.

Article 122

Reporting to the Authority

1. The insurance company and the branch of foreign company must submit and deposit reports to the Authority for:
 - a. every proposal for change of data in the commercial register,
 - b. notifications for calling the shareholders general assembly and decisions taken by it,
 - c. list of the shareholders of the insurance company and of the branch of foreign company, their holding in the share capital,
 - d. dismissal and proposals for appointing the Board members,
 - e. investments of the insurance company and the branch of the foreign company,
 - f. change of capital structure,
 - g. general and specific conditions of the new insurance contract and changes in the existing ones,
 - h. premiums' tariffs,
 - i. reinsurance agreements signed with the re-insurer;
 - j. new products of insurance,
 - k. materials of advertising nature,
 - l. improvement of business plan,
 - m. change of location of the insurance company seat,
 - n. contract with the agent, company of agents, broker, brokering company, assessor of damages, consultant in insurance and actuary, if these activities are performed by foreign natural or legal persons licensed in the country of origin.
2. The insurance company board or the branch of foreign company immediately notifies in writing the Authority when the:
 - a) liquidity or the solvency margin of the insurance company or of branch of foreign company becomes jeopardized;
 - b) financial situation of the insurance company deteriorates and it is not able to ensure the required level of the solvency margin.
3. The Authority, in compliance with this Article, compiles detailed rules for the content, ways and time limits of the reporting.

Article 123

Measures of supervision

The Authority, in compliance with the provisions of this law, takes the following measures against the insurance company and the branch of foreign company:

- a. imposes sanctions,
- b. orders the elimination of legal provisions breaches and takes corrective measures,
- c. withdraws the license,
- d. declares provisional administration,

- e. initiates procedures for the compulsory liquidation of the insurance company or branch of the foreign company,
- f. initiates the bankruptcy proceedings against the insurance company or branch of foreign company.

Article 124

Order for eliminating the violations of the legal provisions

1. The Authority issues the order for eliminating the breaches if in the course of conducting the supervision activity of the insurance company and of the branch of foreign company, finds out that the:
 - a. Board member has not taken the approval defined in compliance with Article 63 of this law,
 - b. insurance company and branch of foreign company do not fulfill the conditions for carrying out the activity,
 - c. insurance company and branch of foreign company performs their activity in classes for which they are not licensed,
 - d. insurance company and the branch of foreign company violate the risk management rules,
 - e. insurance company and branch of foreign company violate the rules provided for in second paragraph of Article 114 of this law,
 - f. insurance company and branch of foreign company violate the regulations in relation with the internal audit and authorized accounting expert,
 - g. insurance company and branch of foreign company violate the obligation in relation with reporting, provided for in Article 116 of this law,
 - h. insurance company and branch of foreign company violate the provisions of this law and its bylaws.
2. The Authority defines the time limits of avoiding the violations provided for in the first paragraph of this Article.

Article 125

Reporting elimination of violations

1. The insurance company or the branch of foreign company, within the time limit defined by the Authority, submits to the latter a detailed report for the measures taken for eliminating the violations.
2. The Authority, once taking the report provided for in the first paragraph, verifies the elimination of violations.
3. The Authority takes a decision within 30 calendar days from the submitting of the report on eliminating the violations.

Article 126

Taking of supplementary measures

1. If the Authority, in the course of performing the supervision of the activity of the insurance company and of the branch of foreign company, observes serious violations of risk management rules, apart from the order for the elimination of violations provided for in the first paragraph of article 124 of this law, orders the insurance company Board or the branch of the foreign company:
 - a. to make up a plan in order to reach the required level of solvency margin of the company,
 - b. to call the shareholders general assembly in order to propose:
 - i. the increase of the establishment capital of the insurance company and branch of foreign company through new investments,
 - ii. the increase of the establishment capital through profits (not distributing the dividends).
 - c. to prohibit the conclusion of new insurance contracts,
 - d. to prohibit the payment for certain legal entities,
 - e. to stop or restrict the free use of assets covering the mathematical or technical provisions.
2. The Authority orders the Supervisory Council to dismiss one or some members of the Board and their replacement within a period of one-month. The seconded persons, as members of the Board and approved by the Authority, cannot serve in this position more than one month.
3. In compliance with the provisions of this law, serious violations of the management regulation shall be considered if:
 - a. solvency margin of the company is below the required level,
 - b. solvency margin of the company falls below the minimum of the guarantee fund, provided for in Article 98 of this law,
 - c. performs activities which the insurance company and the branch of foreign company is not licensed for,
 - d. distributes the dividend contrary to Article 111 of this law,
 - e. breaches the provisions 100, 101, 102, 103, 104, 105 and 107 of this law,
 - f. does not comply with the obligation to report correctly in due time to the Insurance Supervisory Authority,
 - g. enter fictitious transactions with the purpose of making an incorrect presentation of the financial situation of the insurance company or of the branch of foreign company,
 - h. carries out other activities, which threatens the liquidity and the solvency margin of the company.

4. The Authority, as appropriate, defines through its decision the time period of fulfilling the additional correcting time periods, which should never be less than 30 days and not more than 3 months from the day of taking the decision.

Article 127

Financial recovery

1. The Authority orders the insurance company and the branch of foreign company to present for approval a long-term plan for settling a steady financial situation in case the solvency margin of the company has decreased below the required level, provided for in Articles 96 and 97 of this law.
2. The insurance company or branch of foreign company should present to the Authority the long-term plan within three months from the order reception date.
3. The financial long-term plan should include the objectives and the ways of their realization, for the upcoming three years and it consists of:
 - a. assessment of the administrative expenditures, in particular the general expenditures and commissions,
 - b. detailed plan of assessing incomes in relations with the direct insurance activity, acceptance and ceding to reinsurance,
 - c. balance sheet forecast,
 - d. assessment of the necessary financial resources to cover liabilities and calculation of the requested margin of solvency,
 - e. general reinsurance strategy.
4. The Authority also has the right to take measures provided for in Article 106 of this law, if the solvency margin of the company falls below the minimum of the guarantee fund provided in Article 98 of this law.
5. The Authority, in the sense of the third paragraph of this Article, asks the insurance company or the branch of foreign company to present for approval a short-term financial plan within one month from the date of taking the order from the Authority.
6. The Authority takes a decision for the approval or rejection of the short-term financial plan within one month from its submission.

Article 128

Withdrawal of license

1. The Authority shall withdraw the granted license if:
 - a. the insurance company or the branch of foreign company has not eliminated the violations provided for the first paragraph of Article 124 of this law,

- b. the insurance company or branch of foreign company has not completed the additional correctional measures provided for in the first paragraph of Article 126 of this law,
 - c. the insurance company has not accomplished the provisions of article 127 of this law
 - d. the insurance company or branch of foreign company refuses to accomplish the requirement of Article 121 of this law,
2. The withdrawal of license can be complete or partial. The Authority withdraws the granted license for performing the insurance activity for specific classes.

Article 129

Notification for license withdrawal

1. The decision of the Authority for the withdrawal of license shall be notified to the insurance company or branch of foreign company within 10 calendar days from the decision date.
2. The insurance company or the branch of foreign company, once notified for the withdrawal of license, shall not:
 - a. conclude new insurance contracts,
 - b. renew insurance contracts,
 - c. extend the insurance coverage for the contracts in force,
 - d. increase the insurance premium.
3. The insurance company or branch of foreign company deposits the license with the Authority within 10 workdays.
4. The insurance company and branch of foreign company succeed to be subject to the provisions of this law even after the license is withdrawn by the Authority.

Article 130

Complaint

The insurance company or branch of foreign company lodges a complaint, within 30 days from receiving the notification on the withdrawal of license, in accordance with the provisions of the Administrative Procedures Code.

Article 131

Publication

The decision for complete or partial withdrawal of the license for performing insurance activity is published in the official gazette and in two national papers with high edition. Concerning the cases foreseen in Article 130 of this law, the decision shall be published after it has become final, within five calendar days.

Chapter IX
Provisional administration, liquidation and bankruptcy

Section I
Provisional administration

Article 132
Decision for provisional administration

1. The Authority shall issue a decision concerning the provisional administration of the insurance company in order to bring it back into a sound financial situation, :
 - a. the insurance company ordered to take additional measures referred to in Article 126 of this law has neither begun the implementing of this measures nor has implemented these measures by the deadlines set by the Authority,
 - b. the insurance company, despite having started the implementing of the additional measures, has not attained the required level of solvency margin,
 - c. the further activity of the insurance company could endanger its liquidity or solvency margin.
2. The Authority shall elect and appoint the temporary administrator, who will take under administration and control the insurance company.
3. The Authority determines the time period of temporary administration, which may not exceed 12 months.

Article 133
Provisional administrator

1. The Authority appoints one or many provisional administrators and defines their responsibilities and competencies, within 10 calendar days from the taking of decision.
2. The salary of the provisional administrator and the expenditures for performing his functions in relation to provisional administration are covered by the insurance company.

Article 134
Legal effects of provisional administrator

1. As of the day of receiving the decision of the Authority in relation with provisional administration of the company, all the responsibilities and competencies of the members of the board, supervision council and shareholders general assembly's competencies shall be suspended during the temporary administration period.

2. The Authority submits the instructions to the provisional administrator for the management of the insurance company, obligatory to be implemented by him.
3. The provisions of this law in relation with company's board shall also apply to a provisional administrator, unless it is otherwise determined by the Authority in the issued instructions.

Article 135

Obligation to report to the provisional administrator

1. The members of the Board of the insurance company shall be obliged to put at the provisional administrator's disposal all the documents of the activity of the insurance company and prepare a report on its situation.
2. The members of the board of the insurance company, upon the request of the provisional administrator, shall be obliged to submit explanations and additional reports for the activity of the insurance company.
3. The provisional administrator is entitled to dismiss any person who refuses to provide the requested information in compliance with paragraph 1 and 2 of this Article.

Article 136

Reports of the provisional administrator

1. The provisional administrator reports periodically to the Authority progress of temporary administration. Time periods and the form of periodical reporting shall be determined as appropriate by the Authority.
2. The temporary administrator shall be obliged to forward every three months a report on the financial condition of the company and on the progress of its activity under the provisional administration circumstances.
3. The provisional administrator shall be obliged within 9 months from his appointment day, to prepare and submit to the Authority a report on the financial situation, the progress of the activity of the insurance company under the provisional administration circumstances, assessment on the economic stability and capabilities to continue the activity of insurance company.

Article 137

Increase of the establishment capital for the purpose of ensuring the economic stability

1. If the Authority assesses as necessary, on the basis of the reports of the provisional administrator under the first and the second paragraph of Article 136 of this law, it shall order the provisional administrator, to call the shareholders extraordinary assembly of the company and request the increase of the establishment capital.

2. The temporary administrator shall be obliged to announce the calling of the meeting of the shareholders assembly no later than 10 after the receipt of the order from the Authority under the first paragraph of this Article.

3. The provisional administrator notifies the shareholders extraordinary assembly that in case of refusing the capital increase in accordance with the first paragraph of this Article, the company shall go bankrupt in reliance to letter “d” of Article 154 of this law.

Article 138

Evaluation of results by the Authority

1. The Authority shall, once every 3 months, evaluate the provisional administration results.

2. The Authority shall adopt a final evaluation report of the provisional administration within 3 months after the receipt of the report referred to in the third paragraph of Article 136 of this law.

3. The Authority decides on the conclusion of the provisional administration if:

- a) it evaluates that the financial situation of the insurance company is improved during the provisional administration period,
- b) the company has met all its obligations,
- c) the company can normally exercise its activity,

4. The Authority decides on the initiation of liquidation proceedings or defines the conditions for starting the bankruptcy proceedings in case it assesses that during the provisional administration the aforementioned requests in paragraph three of this Article have not been met.

Section II

Liquidation

Article 139

Voluntary liquidation

1. If the shareholders of an insurance company voluntarily decide to bring the company to liquidation, the company has to initially notify the Authority.

2. The Authority approves the voluntary liquidation and takes measures for protecting the interests of the insured.

Article 140

Grounds for initiating obligatory liquidation procedures

1. The Authority shall decide on initiating the liquidation proceedings if:

- a) the license of the insurance company to perform the insurance activity has been withdrawn,

- b) this has been requested by the creditors.
- 2. The Authority decides to initiate the liquidation proceedings within 20 calendar days from:
 - a) the date receiving the decision for withdrawing the license, provided for in letter “b” of the first paragraph of this article,
 - b) the date of depositing the request by the creditors.
- 3. The authority files a request at the Tirana First Instance Court, to start the procedures of liquidation.

Article 141

Initiation of liquidation proceedings for the insurance companies

- 1. Tirana First Instance Court shall be the competent court to start and implement of the liquidation proceedings.
- 2. Tirana First Instance Court, appoints two or more liquidators.
- 3. Tirana First Instance Court decides for instituting the liquidation proceedings within 30 calendar days from the day of receiving the request by the Authority.

Article 142

Decision for initiating the liquidation procedures of insurance company

- 1. The decision of the court for instituting the liquidation procedures contains:
 - a. name of insurance company, addressed of central seat and numbers of bank accounts,
 - b. full name and address of liquidator,
 - c. date of starting liquidation.
- 2. Based on the decision of starting liquidation procedures, the company shall be registered in the commercial register as a company in the process of liquidation.

Article 143

Notification of decision for instituting liquidation procedures

- 1. Creditors shall be informed about the decision for instituting the liquidation procedures through a public notification.
- 2. The notification for the decision of the court shall be published in the Official Gazette, in the bulletin of the court and at least in two daily papers five successive days and not later than three calendar days from the day of taking the decision of the court.
- 3. The decision for initiating the liquidation procedures consists of the:
 - a. court issuing the decision,
 - b. copy of decision,
 - c. name of the insurance company, address of the central residence,

- d. name of the liquidator,
 - e. invitation for creditors of insurance company for registering their claims,
 - f. invitation for the debtors of the insurance company for the immediate payment of their debts,
 - g. date of publication in the bulletin of the court.
4. The decision of the court for instituting the liquidation procedures shall be notified to the Authority, insurance company and banks, with which the company concludes bank transactions.

Article 144

Prohibition for concluding new insurance contracts

1. The insurance company, upon being announced to start the liquidation proceedings, may not enter into :
 - a) new insurance contracts
 - b) renewing the insurance contracts.
2. Notwithstanding the first paragraph of this Article, the insurance company can sign the necessary contracts for transforming the assets into liquidities with a prior approval of the liquidator.

Article 145

Effects of liquidation for the insurance company

All the competencies and responsibilities of the board and supervision council members of the insurance company, as well as the rights of the shareholders assembly expire by the date of decision for initiating the liquidation proceedings.

Article 146

Preparation of the balance sheet by the liquidator

1. The liquidator prepares a balance sheet and an explanatory report in relation with items of the company's balance sheet under liquidation within 30 workdays from the date of initiating the starting the proceedings of liquidation.
2. The liquidator is obliged to submit to the competent court and to the Authority the balance sheet and reports in compliance with the first paragraph of this Article within 15 calendar days from the conclusion of the deadline defined in the first paragraph of this Article.

Article 147

Rights and responsibilities of the liquidator

1. The liquidator has the rights and responsibilities of the insurance company Board. The liquidator represents the insurance company.

2. The liquidator and the appointed persons to represent or assist him shall not be paid higher salaries than those paid to insurance company employees for similar services.

3. The liquidator signs all the acts and documents issued by the insurance company, which bear its name, followed by the note “company under liquidation”.

Article 148

Conclusion of the contracts

The validity of the insurance contracts signed with the insurance company will end after 30 calendar days from the day of starting the liquidation proceedings.

Article 149

Distribution of assets

1. The liquidator determines the obligations to creditors, the third parties claims to the insurance company under liquidation, the remaining pending responsibilities of the insured, which derive from the insurance contracts and transforms the remaining assets into liquidities.

2. The liquidator prepares a register in compliance with the first paragraph of this Article, which is submitted to the competent court and to the Authority.

3. The liquidator announces the competent body on transforming the remaining assets to liquidities and proposes its distribution.

4. The competent court takes decision for the distribution of the liquidities to the creditors, whose claims have been accepted.

Article 150

Priorities in distributing the assets

1. The distribution of the liquidities is carried out according to the following priorities:

- a. the necessary and reasonable expenditure payments in order to perform the proceedings of liquidation,
- b. the salaries of the insurance company employees, unpaid until the date of starting the procedures of the liquidation with a court decision,
- c. indemnities of the insured deriving from the insurance contracts,
- d. unearned premiums,
- e. the taxes and obligations that the insurance company owes until the date of initiating the proceedings of liquidation by a court decision,
- f. other creditors.

2. If the liquidities are insufficient to payoff completely in according to the foreseen priorities in the first paragraph of this Article, these payments are proportionally reduced.

3. The remaining liquidities, once the requirements of the first paragraph of this Article are met, are divided among the shareholders of the insurance company in rapport with the nominal value of the shares.

Article 151

Payment to the insured in life insurance contracts

On the event of the liquidation of the life insurance companies, assets covering the mathematical provisions shall be used to cover the only liabilities that source from the life insurance contracts.

Article 152

Reporting to Authority

The liquidator submits to the Authority every three months reports in relation with the progress of the liquidation procedures.

Article 153

Erasure from the commercial register

Upon conclusion of the liquidation procedures, the insurance company is erased from the commercial register.

Section III

Bankruptcy

Article 154

Reasons for starting the bankruptcy proceedings

The Authority shall issue a decision for initiating bankruptcy proceedings if:

- a. on the basis of the report, referring to Article 136 of this law, it assesses that during the provisional administration the financial situation of the insurance company has not improved and the company is not able to currently fulfill its due obligations towards its creditors,
- b. while carrying out the supervision on the insurance company, it establishes that the assets are insufficient for the settlement of all claims of the creditors,
- c. the insurance company is in a situation of overburdened with debts and, as a consequence, is incapable to continue the activity and cover all claims to creditors in the maturity date,
- d. the general assembly of shareholders refuses the proposal provided for in paragraph 1 of Article 137 of this law.

Article 155

Initiating of bankruptcy proceedings

1. The Authority files with the Tirana First Instance Court a petition for the initiation of the bankruptcy proceedings within 5 calendar days after the announcement date of the decision.
2. The right for filing a petition for initiating the bankruptcy proceedings goes to the creditors and liquidators of the insurance company.
3. The court shall request from the Authority a copy of the petition, if the petition is filed by the creditors.
4. For the further bankruptcy proceedings, provisions of Articles 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152 and 153 of this law shall be applied.

Chapter X

Consumer protection

Article 156

Insurance Company and intermediaries' obligations

1. The insurance companies and the intermediaries should:
 - a. perform their activities with professionalism, care and devotion to the insured;
 - b. act in confidentiality and honesty to respect the insured' rights,
 - c. inform the insured on the products of insurance, special and general conditions, expenses and profits that derive from the insurance contracts, fees and premiums which the insured has to pay,
 - d. pay all claims in appropriate size and due time.
2. The insurance company and the intermediary should not provide information, or submit a presentation that misinforms or deceives the consumer.

Article 157

Conditions of the insurance contract

1. The insurance contract covering the risks in the Republic of Albania, apart from provisions in the Civil Code, should consists of the following data:
 - a. the excluded event,
 - b. the legal consequences in cases of non payment,
 - c. the period of validity of the insurance contract, which should consist of:
 - i) the way of contract renewal,
 - ii) the way of partial or complete annulment,
 - iii) the responsibilities of the company or branch of foreign company in such occasions,
 - d. the consequences of failing to fulfill the obligations in compliance with defined conditions in the life insurance contracts, time limits, conditions, the preliminary sums, ways of calculating the paid earned value by the annulment of the contract,

- e. the treatment of insurer's services,
 - f. the detailed rules for premium adjustment,
 - g. the rules in case of returning the investments in life insurance,
 - h. the rules of capitalizing the annuities on the occasion of the insurance of deceases, accidents and third parties, as long as they are accompanied with annuity payments.
2. The insurance contracts concerning the risks covering class 17, in accordance with the classification made in Article 7 of this law, must include the covering of the expenses of legal representation.

Article 158

Notification of the insured during the validity period of the insurance contract

1. The insurance company, branch of foreign company and brokerage house shall be obliged that during the contract validity period, to inform the insured on the following:
- a) the change of name , address of its seat and branches through which insurance contract has been completed,
 - b) the changes of the general conditions, validity period, the premium size, if the changes occur as a results of the changes in the company's acts.
2. Every change in the conditions of the contract during its validity period, shall be done only in a written form and signed by the parties.

Article 159

Content of general conditions of the contract

The general and specific conditions of the insurance contract are compiled in Albanian language, clearly expressed and easy to understand.

Article 160

Interest on Claims

1. The insurance company and branch of foreign company pays interest on calculated claims, equally to bank interest norms, for exceeding the deadlines provided for and signed in the insurance company for the payment of claims.
2. The interest calculated on the indemnities, if the time period for paying the damage is exceeded, shall be made with reference to the interest rates of deposits declared by the Bank of Albania, compared to the delayed period and sort of currency.

Article 161

Confidential data

1. The insurance company, the branch of foreign company and intermediary shall be obliged to protect the confidentiality of all data, facts and circumstances which have to do with the insured, which they become familiar with in the course of providing their services.

2. The same obligation for preserving the confidentiality provided for in paragraph 1 of this Article is also for the Authority in the course of exercising its functions and competences.

Article 162

Obligation to protect confidentiality

1. Board members, members of Supervisory Council, its shareholders, employees and other persons of the insurance company and intermediaries, shall not be allowed to use the confidential data for personal use and submit this data to third parties.

2. The obligation to protect confidential data shall not apply if:

- a. the insured agrees explicitly in writing for their disclosure,
- b. information is required to establish facts in criminal proceedings and if the submission is required in written form by the competent court,
- c. information is required to establish facts in investigation proceedings by the prosecution office,
- d. in case stipulated by the legal acts and bylaw acts for preventing the money laundering,
- e. information is required by the Authority or other supervision bodies for the purpose of supervision within the framework of their competencies,
- f. information is required by the tax collection office.

3. The employees of the Authority are obliged to preserve the confidentiality in the course of performing their duties.

Article 163

The insured complaints

1. The insurance company and branch of foreign company forms the internal system of treating all complaints of the insured.

2. The complaints of the insured are treated in an unbiased way and within the deadlines defined by the company.

3. The insured is entitled to approach the Authority, if he remains unsatisfied from the treatment of his complaint by the insurance company or branch of the foreign company.

4. The Authority, when finding it necessary, has the right to return to the insurance company or branch of foreign company the complaint case.

5. The complaining procedure to the Authority shall be defined in its regulations.

Chapter XI
Administrative contraventions

Article 164
Violation of provisions

Every violation of the provisions of this law, as long as it does not consist a criminal offence, it constitutes an administrative contravention and shall be sentenced to a fine.

Article 165
**Sanctions to the insurance company, branch of foreign company
and responsible person**

1. The Authority shall impose on the insurance company and branch of the foreign company fines between 1.500.00 to 2.000.000 Lek for the following violations:
 - a. when the insurance company performs activities in contravention with provisions of Articles 4 and 9 of this law,
 - b. when the insurance company performs activities in contravention with provisions of article 20 of this law,
 - c. when the foreign insurance company branch performs activities contrary to the provisions of the first paragraph of Article 22 of this law,
 - d. when the insurance company performs activities in contravention with provisions of paragraph 1 of Article 112 of this law,
 - e. when the insurance company does not respect any further the provisions of articles 101, 102, 103, 104, 105 of this law and the regulations issued by the Authority for their implementation,
 - f. when the insurance company does not respect the provisions of Articles 107 and 108 of this law,
 - g. when the insurance company does not possess the required level of solvency margin provided in Article 97 of this law,
 - h. when the insurance company has violated provision 98 of this law,
 - i. when the insurance company has not respected the provisions of first paragraph of Article 43, first paragraph of Article 44, Article 46, first paragraph of Article 51, first paragraph of Article 54, Article 55, 56 and 58 of this law,
 - j. when the insurance company has violated the provisions of Articles 115, 116, 117, 118 of this law,
 - k. whether insurance company has not organized the internal auditing and has violated the provisions of first paragraph of Articles 69, 70, and 71 of this law,

- l. when the insurance company has not reported to the Authority, in compliance with the provisions of Article 65 and first paragraph of Article 122 of this law,
- m. when the insurance company has not cooperated with the Authority during the course of its supervision, provided for in provisions of third paragraph of Article 121 of this law,
- n. when the insurance company has not respected the provisions of fifth paragraph of Article 100 of this law.
- o. when the insurance company has violated the provisions of Article 75 of this law,
- p. when the insurance company has violated the provisions of Article 95 of this law,
- q. when the insurance company has violated the provisions of article 111 of this law.

The Authority shall impose sanctions in penalties between 300.000 to 400.000 Lek on the responsible person of the insurance company for the violation of the first paragraph of this Article.

Notwithstanding the provisions of the above paragraph, the Authority is entitled to suspend the responsible person from the function he holds in the insurance company for a period of one year.

2. The Authority imposes sanctions in penalties varying from 800 000 to 1 000 000 Lek to the insurance company for the following violations:

- a. when the insurance company has not reported to the Authority, in compliance with the provisions of first paragraph of Article 72 of this law,
- b. when the insurance company has violated the provisions of Article 59 of this law;
- c. when the insurance company has violated the provisions of the third paragraph of article 100 of this law;
- d. when the insurance company has violated the provisions of the second paragraph of Article 82 of this law,
- e. when the insurance company has not respected the provisions of the fourth paragraph of Article 84 of this law;
- f. when the insurance company has not respected the provisions of the sixth paragraph of Article 89 of this law,
- g. when the insurance company has violated the provisions of Article 109 of this law,
- h. when the insurance company has violated the provisions of Articles 156, 158, 159, 160 of this law.

The Authority shall impose on the responsible persons of the insurance company fines between 100.000 to 200.000 Lek for violations of the second paragraph of this Article.

In addition to the provisions of second paragraph of this law, the Authority is entitled to suspend the responsible person from the function he holds in the insurance company for a period of one year.

Article 166

Sanctions to agents and companies of agents

1. The Authority imposes sanctions ranging from 300.000 to 400.000 Lek to the agents and companies of agents for the following violations:
 - a. if the agent or company of agents has violated the provisions of paragraph 5 of Article 100 of this law,
 - b. if the agent of board of agents has violated the paragraph 2, 3 and 4 of Article 77 of this law,
 - c. if the agent has violated the provisions of paragraph 2 of Article 80 of this law.
 - d. if the branch of foreign company of agents has violated the provisions of paragraph 2, 3 and 4 of Article 87 of this law.
2. The Authority imposes sanctions in penalty ranging from 30 000 to 50 000 Lek to the responsible person of the company of agents for the violations of first paragraph of this Article.

Article 167

Sanctions on brokering companies

1. The Authority shall impose on the brokerage company fines between 800.000 to 1.000.000 Lek for the following violations:
 - a. when the brokerage company has violated the provisions of the third paragraph of Article 78 of this law,
 - b. when the brokerage company has not respected the provisions of the second paragraph of Article 80 of this law,
 - c. when the brokerage company has violated the provisions of the fourth paragraph of Article 88 and the second paragraph of Article 115 of this law,
 - d. when the branch of foreign brokerage company has violated the provisions of Article 87 of this law;
 - e. when the brokerage company has violated the provisions of Article 156, 158 and 159 of this law.
2. The Authority shall impose on the responsible persons of the brokerage company fines between 50.000 to 100.000 Lek for violations of the first paragraph of this law.

Article 168
Sanctions on authorized actuary

The Authority shall impose on the authorized actuaries fines between 50.000 to 100.000 Lek when the certified actuary has violated provisions of Article 117 of this law.

Article 169
Sanctions on the disclosure of secret

1. The Authority shall impose on the insurance company fines between 100.000 to 1500.000 Lek for violations of provisions of Article 161 of this law.
2. The Authority shall impose on the responsible persons of the insurance company and of the branch of foreign company fines between 20.000 to 50.000 Lek for violations of the first paragraph of Article 162 of this law.
3. The Authority shall impose on the companies of agents and brokering companies fines between 50.000 to 100.000 Lek for violations of the provisions of Article 161 of this law.
4. The Authority shall impose fines between 10.000 to 300.000 lek on the agents, brokers, responsible persons of the company of agents and brokerage companies, which have violated the provisions of first paragraph of Article 162 of this law.

Article 170
Repetition of violations

The Authority shall, in event of repetition of the violations, impose the double of fines provided in Article 165, 166, 167 and 169 of this law and it might decide to:

- a) to dismiss the responsible person from the function he holds in the insurance and reinsurance company as well as and intermediary in insurance and reinsurance and in the branch of foreign company,
- b) the partial or complete withdrawal of the license.

Article 171
Notification

The Authority notifies the insurance and reinsurance company, intermediary in insurance and reinsurance, and the branch of the foreign company as well as the responsible persons for each sanction granted in compliance with Articles 165, 166, 167, 168, and 169 within 10 calendar days from the day taking the decision and a notification receipt on their part.

Article 172

Cashing in fines

1. The fines for violations provided in Articles 165, 166, 167, 168 and 169 of this law, are cashed in a special bank account of the Authority within 20 calendar days from day receiving the notification provided for in Article 171 of this law.
2. The Authority allocates in the state budget 80 % of the sum within 15 calendar days after the date of its cashing in.
3. The insurance and reinsurance company, and the intermediary in insurance and reinsurance pays for each exceeding day from the deadline, provided for in paragraph 1 of this Article, an interest of 0.01 % of the fine.

Article 173

Complaints

The insurance and reinsurance company, the intermediary in insurance and reinsurance and the responsible persons who are fined, are entitled to make a complaint, in accordance with the provisions of the Administrative Procedure Code.

Article 174

Publication

The Authority publishes the fines imposed against the insurance and reinsurance companies, intermediaries in insurance and reinsurance and against the branch of the foreign company, within 5 days after it has become final, in three papers with the highest edition.

Chapter XII

Final and Temporary Provisions

Article 175

1. The insurance and/or reinsurance companies licensed prior to coming into force of this law will succeed to perform the activity in compliance with the granted license. The insurance and/or reinsurance company, referred to in the first paragraph, shall perform its activity in compliance with the provisions of this law soon after this law comes into force.
2. The insurance and/or reinsurance company, licensed before the entry into force of this law, has to reach the level of the guarantee fund, provided for in Article 98 of this law within one year from the date of entry into force of this law.

Article 176

1. The Authority is entitled, on the date of entry into force of this law, to authorize an existing insurance and/or reinsurance company to perform

simultaneously life and non-life activity for as long as no other separate company for life insurance has been established.

2. The company is obliged to keep a special account for life insurance, to separately manage the payment funds for the above insurance and specifically define the final results. The assets for covering the mathematical provisions of the life insurance shall be registered separately from the other assets and shall be deposited in separate bank accounts.

Article 177

The licensed intermediaries shall prior to entry into force of this law succeed to perform intermediary activity in compliance with the granted license.

Article 178

All the ongoing licensing and approval proceedings by the Authority, prior to entry into force of this law shall be applied in compliance with the provisions of this law.

Article 179

Law no 8081, dated 07.03.1997 “On insurance and/or reinsurance activity”, amended, shall be repealed.

Article 180

Council of Ministers shall, in reliance to Articles 11, 77, 81, 89, 97, 98, 103 and 105 of this law, issue the necessary bylaws.

Article 181

This law comes into force 15 days after its publication in the Official Gazette.

- *Amended by Law No. 9338, date 16.12.2004 published in the Official Gazette No. 96, year 2004.
- ** Amended by Law No. 9685, date 26.02.2007 published in the Official Gazette No. 27, year 2007.