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Ordinance

of 17 December 1996

**on the Law on Supervision of
Insurance Undertakings
(Insurance Supervision Ordinance, ISO)**

Pursuant to article 4 paragraph 2, article 15 paragraph 2, article 16 paragraph 2, article 17 paragraph 2, article 20 paragraph 2, article 39 paragraph 1, article 40 paragraph 4, article 41 paragraph 3, article 48 paragraph 2, and article 67 of the Law of 6 December 1995 on Supervision of Insurance Undertakings (Insurance Supervision Act; ISA), Liechtenstein Law Gazette LGBl. 1996 No. 23¹, the Government hereby issues the following Ordinance:

I. Scope of application of insurance supervision

Article 1

Provision of direct insurance subject to supervision

1) Direct insurance is provided in the Principality of Liechtenstein if risks situated in Liechtenstein are covered or if risks situated in another State are covered from Liechtenstein.²

2) In individual cases, the supervisory authority shall decide on mandatory insurance supervision.

¹ LR 961.01

² Article 1, paragraph 1 amended by LGBl. 2003 No. 95.

Article 2¹*Reinsurance*

With respect to undertakings that solely offer reinsurance, only articles 6, 7, 11, 57 to 64, and 67 to 72d shall apply. In applying these articles, the supervisory authority shall observe the special characteristics of reinsurance.

Article 3²*Co-insurance*

Insurance undertakings whose head office is in another Contracting Party to the EEA Agreement shall not be subject to insurance supervision, to the extent that they participate by way of co-insurance in insurance contracts concluded in Liechtenstein that cover large risks according to Annex 3 of the Insurance Supervision Act, with the exception of liability for damage arising from nuclear energy or pharmaceuticals.

Article 4

Tontines and capital redemption operations

1) Tontines and capital redemption operations shall only fall within the scope of application of insurance supervision legislation if they are offered by insurance undertakings that have received a license for another class of life insurance; in this case, they shall be considered equivalent to life insurance.

2) "Tontines" shall encompass the formation of associations in which participants unite to jointly capitalize their contributions and to distribute the accumulated assets among the survivors or the legal successors of the deceased.

3) "Capital redemption operations" shall mean operations based on a mathematical procedure according to which certain commitments are assumed, the duration and amount of which are precisely specified, in return for one-time or regularly recurring payments fixed in advance.

¹ Article 2 amended by LGBl. 2003 No. 95.

² Article 3 amended by LGBl. 1999 No. 250.

Article 5

Assistance to tourists

Insurance undertakings meeting the following conditions shall not be subject to insurance supervision:

- a) the insurance does not engage in any insurance activities other than assistance to tourists;
- b) this activity is geographically limited and consists solely of benefits in kind;
- c) the annual amount of income from this field of activity does not exceed 400,000 francs.

II. Assumption of business activities

Article 6

License application

1) The license application and the accompanying materials must be submitted in German. The supervisory authority may allow certified translations.

2) In describing the purpose and organization of the undertaking, the provisions on the impermissibility of activities alien to insurance must be observed.

3) The information concerning the solvency of the undertaking must in particular refer to the requirements and conditions laid down in detail in articles 12 to 28.

4) The annual account statement must be reviewed by a recognized audit office.

5) Contracts or other agreements concerning outsourcing of functions must be submitted in their entirety.

Article 7

Professional qualifications of the general management

To assess the professional qualifications of the general management, it shall be required that at least one member of the general management have sufficient theoretical and practical knowledge of insurance matters as well as management experience. This shall be regularly assumed if three years of management activity in an insurance undertaking of comparable size and type of business can be demonstrated. If the undertaking is to engage solely in self-insurance as reinsurance, then the supervisory authority may grant exemptions from these requirements.

Article 8

Responsible actuary for life insurance

1) Each undertaking offering life insurance must appoint a responsible actuary. The responsible actuary must be reliable and have the requisite expertise. The requisite expertise shall presuppose sufficient knowledge of actuarial mathematics and professional experience; professional experience shall be regularly assumed if at least three years of activity as an actuarial mathematician can be demonstrated.

2) Prior to his appointment, the name of the prospective actuary must be given to the supervisory authority, along with the facts relevant to assessing his reliability and expertise as set out in paragraph 1. If reasonable doubts exist with respect to the requirements for an appointment, then the supervisory authority may demand that a different person be appointed. If the insurance undertaking does not comply with this demand or if reasonable doubts arise with respect to the requirements for an appointment of the second person as well, then the supervisory authority may appoint the responsible actuary itself.

3) If circumstances become known after the appointment that would have stood in the way of an appointment, or if the responsible actuary does not properly fulfill the responsibilities entrusted to him, then the supervisory authority may demand that another responsible actuary be appointed. Paragraph 2, sentence 3 shall apply *mutatis mutandis*.

4) The supervisory authority must be notified immediately if the responsible actuary leaves his position.

5) The general management of an insurance undertaking shall be required to provide the responsible actuary with all requisite information and to submit

the actuarial certification referred to in article 9(b) to the supervisory authority.

Article 9

Duties of the responsible actuary

The responsible actuary shall be entrusted with the following duties:

- a) He must ensure that the calculation of the premiums and the life insurance provision complies with the applicable requirements and actuarial principles. In this regard, he must review the financial situation of the insurance undertaking primarily with respect to whether ongoing fulfillment of the commitments arising from the insurance contracts is guaranteed at all times and whether the undertaking maintains sufficient resources at least in the amount of the solvency margin.
- b) He must annually certify under the balance sheet that the required provisions have been formed (actuarial certification). He shall explain in a report to the general management of the undertaking which calculation approaches and other assumptions were used as a basis for the certification.
- c) As soon as he realizes in the course of fulfilling the duties entrusted to him that he may not be able to provide the certification set out in subparagraph (b) or only with reservations, then he must immediately inform the general management and, if the general management does not remedy the complaint without delay, also the supervisory authority.
- d) In the case of insurance contracts providing for participation in profits, he must submit proposals for an appropriate participation in profits to the general management.

Article 10

Motor vehicle liability insurance

- 1) If an insurance undertaking intends to offer the class of insurance of motor vehicle liability, then it must demonstrate its membership in the Liechtenstein Bureau of Insurance and the National Guarantee Fund.
- 2) The provisions of road traffic legislation shall govern the details.

Article 11

Granting and scope of license

- 1) The license shall be granted separately for each class of insurance or jointly for several classes of insurance.
- 2) Each license for a class of insurance shall refer to the entire class, unless, according to its business plan, an insurance undertaking intends to cover only part of the risks of this class of insurance.
- 3) The license may also be granted jointly for several classes of insurance with a collective designation as set out in Annex 1 of the Insurance Supervision Act.
- 4) The license granted for one or more classes of insurance shall also encompass the coverage of ancillary risks from other classes, if the conditions set out in Annex 1 are fulfilled.

III. Capital resources of insurance undertakings**A. Capital requirements for non-life insurance**

Article 12

Solvency margin

- 1) Insurance undertakings must demonstrate own funds free of any foreseeable liabilities at least in the amount of the solvency margin. Own funds shall only be allowable for covering the solvency margin to the extent that they exceed the intangible assets accounted for in the balance sheet.
- 2) The following own funds shall be allowable for covering the solvency margin:
 - a) the paid-up capital;
 - b) the reserves, with the exception of the reserve for own shares or units; any loss brought forward or net loss must be deducted;
 - c) any profit brought forward after deduction of dividends to be paid;
 - d) the equalization reserve, subject to article 38, paragraph 3.¹

¹ Article 12, paragraph 2 amended by LGBl. 2005 No. 92.

3) In cases of doubt, the supervisory authority shall decide on the allowability of own funds according to paragraph 2.²

4) Capital that has been paid-up on the basis of subordinated debt may be allowed up to at most 25% of the solvency margin and at most 25% of the total allowable own funds if:

- a) it only has to be paid after satisfaction of all non-subordinated creditors in the event of bankruptcy or liquidation of the insurance undertaking;
- b) it has been made available to the insurance undertaking for at least five years, the last of which has not yet begun, or with a five-year period of notice;
- c) it can only become due before the agreed repayment deadline in the event the insurance undertaking is dissolved; and
- d) the underlying contract cannot be amended without the approval of the supervisory authority.³

5) Additionally, the following may be allowed as own funds upon application of the insurance undertaking and with the approval of the supervisory authority, provided that supporting materials are presented:

- a) hidden net reserves arising out of the valuation of the assets, in so far as such hidden net reserves are not of an exceptional nature;
- b) one half of the unpaid part of the subscribed capital, as soon as the paid-up part reaches 25% of the subscribed capital, up to at most 50% of the solvency margin and at most 50% of the total allowable own funds;
- c) in the case of cooperatives, half of the difference between the highest possible further margins to which members of the cooperative can be obligated in the current business year and the actually demanded further margins up to at most 50% of the solvency margin and at most 50% of the total allowable own funds.⁴

² Article 12, paragraph 3 amended by LGBl. 2005 No. 92.

³ Article 12, paragraph 4 amended by LGBl. 2005 No. 92.

⁴ Article 12, paragraph 5 inserted by LGBl. 2005 No. 92.

6) The own funds according to paragraphs 2 and 4, and with the approval of the supervisory authority also the own funds according to paragraph 5(a) shall be allowable for covering the guarantee fund.¹

Article 13

Calculation of the solvency margin

1) The solvency margin shall either be calculated on the basis of the annual premium income (premium basis) or on the basis of the average claims burden over the last three business years (claims basis). The higher of the two calculation results shall apply.

2) In the case of an insurance undertaking that essentially only covers credit, storm, hail, or frost risks, the average claims burden shall be calculated over the last seven business years.

3) If the calculated solvency margin is lower than in the preceding year, then the solvency margin must be at least as high as the result of multiplying the solvency margin of the previous year with the quotient between the gross amount of the provision for claims outstanding at the end of the last business year and the gross amount of this provision at the beginning of the last business year; this quotient may at most amount to 1.0.²

Article 14³

Premium basis

1) Gross premiums written in the last business year shall be used to calculate the premium basis. If gross premiums earned are higher, then they shall be used as the starting amount. In determining the starting amount, the premiums for risks belonging to one of the insurance classes 11 to 13 shall be increased by 50%.

2) 18% of the first 80 million francs of this starting amount and 16% of the amount in excess of 80 million francs shall be calculated and added together.

3) The premium basis shall result from multiplying the sum calculated in this way by the quotient resulting for each insurance undertaking over the last three business years from the ratio between the claims incurred, net of

¹ Article 12, paragraph 6 inserted by LGBl. 2005 No. 92.

² Article 12, paragraph 3 inserted by LGBl. 2005 No. 92.

³ Article 14 amended by LGBl. 2005 No. 92.

reinsurance, and the gross amount of the claims incurred; this quotient must be at least 0.5.

Article 15¹

Claims basis

1) The gross amounts of claims incurred during the time period referred to in article 13, paragraph 1, sentence 1 and paragraph 2 shall be used to calculate the claims basis. In determining the starting amount, the gross amounts of claims incurred for risks belonging to one of the insurance classes 11 to 13 shall be increased by 50%.

2) 26% of the first 56 million francs of the resulting annual average and 23% of the amount in excess of 56 million francs shall be calculated and added together.

3) The claims basis shall result from multiplying the sum calculated in this way by the quotient resulting for each insurance undertaking over the last three business years from the ratio between the claims incurred, net of reinsurance, and the gross amount of the claims incurred; this quotient must be at least 0.5.

Article 16

Health insurance

The percentages according to article 14, paragraph 2 and article 15, paragraph 2 shall be reduced to one third for health insurance policies provided along the lines of life insurance if

- a) the premiums paid are calculated on the basis of sickness tables according to the mathematical method applied in insurance,
- b) a provision is set up for increasing age,
- c) an appropriate safety margin is charged;
- d) the insurance undertaking may cancel the contract before the end of the third year of insurance at the latest, and

¹ Article 15 amended by LGBl. 2005 No. 92.

- e) the contract provides for the possibility of increasing premiums or reducing premiums even for current contracts.

Article 17

Guarantee fund

- 1) One third of the solvency margin shall constitute the guarantee fund.
- 2) The minimum guarantee fund must amount to 3.2 million francs. If the insurance undertaking covers all or some of the risks included in classes 10 to 15, then the minimum guarantee fund must amount to 4.8 million francs.¹
- 3) Repealed²
- 4) Repealed³
- 5) Repealed⁴

Article 18

Organization fund

- 1) Upon assumption of business activities by an insurance undertaking, the organization fund shall, as a rule, amount to between 20% and 50% of the minimum capital according to article 14 of the Insurance Supervision Act.
- 2) The organization fund must be established with assets realizable on short notice.
- 3) At the earliest three years after its establishment or reestablishment and only with the written approval of the supervisory authority may the organization fund be used for purposes other than those specified in the Act.
- 4) If a loss is indicated in the annual account statement, then the supervisory authority may demand that the organization fund be increased or reestablished.

¹ Article 17, paragraph 2 amended by LGBl. 2005 No. 92.

² Article 17, paragraph 3 repealed by LGBl. 2005 No. 92.

³ Article 17, paragraph 4 repealed by LGBl. 2005 No. 92.

⁴ Article 17, paragraph 5 repealed by LGBl. 2005 No. 92.

B. Capital requirements for life insurance

Article 19

Solvency margin

1) Insurance undertakings must demonstrate own funds free of any foreseeable liabilities at least in the amount of the solvency margin. Own funds shall only be allowable for covering the solvency margin to the extent that they exceed the intangible assets accounted for in the balance sheet.

2) The following own funds shall be allowable for covering the solvency margin:

- a) the paid-up capital;
- b) the reserves, with the exception of the reserve for own shares or units; any loss brought forward or net loss must be deducted;
- c) any profit brought forward after deduction of dividends to be paid;
- d) provisions for future participation in profit, to the extent they have not already been assigned to the policyholders;
- e) any fund for future appropriations.¹

3) In cases of doubt, the supervisory authority shall decide on the allowability of own funds according to paragraph 2.²

4) Capital that has been paid-up on the basis of subordinated debt may be allowed up to at most 25% of the solvency margin and at most 25% of the total allowable own funds if:

- a) it only has to be paid after satisfaction of all non-subordinated creditors in the event of bankruptcy or liquidation of the insurance undertaking;
 - b) it has been made available to the insurance undertaking for at least five years, the last of which has not yet begun, or with a five-year period of notice;
 - c) it can only become due before the agreed repayment deadline in the event the insurance undertaking is dissolved; and
- d) the underlying contract cannot be amended without the approval of the supervisory authority.¹

¹ Article 19, paragraph 2 amended by LGBl. 2005 No. 92.

² Article 19, paragraph 3 amended by LGBl. 2005 No. 92.

5) Additionally, the following may be allowed as own funds upon application of the insurance undertaking and with the approval of the supervisory authority, provided that supporting materials are presented:

- a) hidden net reserves arising out of the valuation of the assets, in so far as such hidden net reserves are not of an exceptional nature;
- b) one half of the unpaid part of the subscribed capital, as soon as the paid-up part reaches 25% of the subscribed capital, up to at most 50% of the solvency margin and at most 50% of the total allowable own funds;
- c) if the life insurance provision has not been zillmerized or has been zillmerized with less than the acquisition cost rate calculated into the premiums, the difference between the life insurance provision and the life insurance provision zillmerized with the acquisition cost rate calculated into the premiums; this difference may not, however, exceed 3.5% of the difference between the insurance sum and the life insurance provision for all contracts for which zillmerizing is possible;
- d) until 31 December 2009, 50% of the future profits up to at most 25% of the solvency margin and at most 25% of the total allowable own funds, where the profits are determined as follows:
 - aa) An estimated annual profit shall be determined first. This annual profit must be documented with an actuarial report and may not take the reserves described in subparagraph (a) into account or exceed the arithmetical average of the profits made over the last five years.
 - bb) The annual profit determined in this way shall be multiplied by a factor corresponding to the average period left to run on all policies; this factor may not exceed 6.²
- 6) The own funds according to paragraphs 2 and 4, and with the approval of the supervisory authority also the own funds according to paragraph 5(a), are allowable for covering the guarantee fund.³

Article 20

Calculation of the solvency margin for insurance classes (without supplementary insurances) and 2

- 1) The solvency margin shall correspond to the sum of the first result (paragraph 2) and the second result (paragraph 3).

¹ Article 19, paragraph 4 amended by LGBl. 2005 No. 92.

² Article 19, paragraph 5 amended by LGBl. 2005 No. 92.

³ Article 19, paragraph 6 amended by LGBl. 2005 No. 92.

2) The first result shall be calculated by taking 4% of the gross amount of the mathematical provisions, multiplied by the quotient of the mathematical provisions minus the reinsurers' amount by the gross amount of the mathematical provisions for the last business year; this quotient must be at least 0.85.

3) The second result shall be calculated as follows:

- a) Each capital at risk minus the reinsurers' amount shall, for the last business year, be divided by the gross amount of that capital at risk. The resulting quotient shall be deemed the reinsurance factor. This factor must be at least 0.5. The entire capital payable on death minus the mathematical provisions of the principal risk shall be considered the capital at risk. Contracts with negative capital at risk shall not be taken into account, also not for the following calculations.
- b) The capital at risk of insurance policies payable on death with a total term of up to three years shall be multiplied in sequence by a rate of 0.1% and the reinsurance factor according to subparagraph (a).
- c) The capital at risk of insurance policies payable on death with a total term of over three years to five years shall be multiplied in sequence by a rate of 0.15% and the reinsurance factor according to subparagraph (a).
- d) In the case of other insurance policies, the capital at risk shall be multiplied in sequence by a rate of 0.3% and the reinsurance factor according to subparagraph (a).
- e) The second result shall be the sum of the amounts calculated according to subparagraphs (b), (c), and (d).

Article 21

Calculation of the solvency margin for insurance class 3 (without supplementary insurances)

- 1) The solvency margin shall correspond to the sum of the first result (paragraph 2) and the second result (paragraph 3).
- 2) The first result shall be calculated as follows:
 - a) 4% of the gross amount of the mathematical provisions for insurances for which the insurance undertaking bears an investment risk, multiplied by the quotient of the mathematical provisions minus the reinsurers' amount

by the gross amount of the mathematical provisions for these insurances for the last business year; this quotient must be at least 0.85.

- b) 1% of the gross amount of the mathematical provisions for insurances for which the insurance undertaking does not bear any investment risk and for which the allocations for covering the administrative costs are contractually fixed for over five years, multiplied by the quotient of the mathematical provisions minus the reinsurers' amount by the gross amount of the mathematical provisions for these insurances for the last business year; this quotient must be at least 0.85.
- c) In the case of insurances for which the insurance undertaking does not bear any insurance risk and for which the allocations for covering the administrative costs are not contractually fixed for over five years, the net administrative expenses attributable to them in the last business year shall be determined; 25% of this amount shall be taken.
- d) The first result shall be the sum of the amounts calculated according to subparagraphs (a) to (c).¹

3) The second result shall be calculated by taking 0.3% of the capital at risk, to the extent the insurance undertaking assumes a mortality risk, multiplied by the quotient of the capital at risk minus the reinsurers' amount by the gross amount of the capital at risk for the last business year; this quotient must be at least 0.5. Article 20, paragraph 3(a), sentence 4 shall apply *mutatis mutandis*.

Article 22¹

Calculation of the solvency margin for supplementary insurances

The solvency margin for the supplementary insurances of insurance classes 1 and 3 shall be calculated in accordance with articles 13 to 15.

Article 23

Calculation of the solvency margin for insurance class 4

The solvency margin for health insurance shall be calculated in accordance with article 16.

¹ Article 21, paragraph 2 amended by LGBl. 2005 No. 92.

¹ Article 22 amended by LGBl. 2005 No. 92.

Article 24

Calculation of the solvency margin for insurance class 5

In the case of tontines, the solvency margin shall correspond to 1% of the assets of the associations.

Article 25

Calculation of the solvency margin for insurance class 6

In the case of capital redemption operations, the solvency margin shall correspond to 4% of the gross amount of the mathematical provisions for these operations, multiplied by the quotient of the mathematical provisions minus the reinsurers' amount by the gross amount of the mathematical provisions for these operations for the last business year; this quotient must be at least 0.85.

Article 26

Calculation of the solvency margin for the entire business

The solvency margin for the entire business of an insurance undertaking shall be calculated by adding the solvency margins for the individual classes of insurance and for the supplementary insurances.

Article 27

Guarantee fund

- 1) One third of the solvency margin shall constitute the guarantee fund.
- 2) The minimum guarantee fund must amount to 4.8 million francs.¹

Article 28

Organization fund

1) Upon assumption of business activities by an insurance undertaking, the organization fund shall, as a rule, amount to between 20% and 50% of the minimum capital according to article 14 of the Insurance Supervision Act.

¹ Article 27, paragraph 2 amended by LGBl. 2005 No. 92.

2) The organization fund must be established with assets realizable on short notice.

3) At the earliest three years after its establishment or reestablishment and only with the written approval of the supervisory authority may the organization fund be used for purposes other than those specified in the Act.

4) If a loss is indicated in the annual account statement, then the supervisory authority may demand that the organization fund be increased or reestablished.

IV. Technical provisions

A. Non-life insurance

Article 29

Formation and valuation of technical provisions

1) Insurance undertakings must form technical provisions. These provisions must ensure that the insurance undertakings are able to fulfill all of the commitments arising from their insurance contracts within the scope of what can reasonably be foreseen.

2) The formation and valuation of the technical provisions shall be determined in detail according to the provisions contained in Annex 4.

Article 30

Cover and matching

1) Every insurance undertaking shall be required to cover the technical provisions for all its business activities with matching assets according to Annex 2.

2) With respect to business activities within the scope of the EEA Agreement, the assets prescribed by paragraph 1 must be situated in one or more Contracting Parties to the EEA Agreement. In justified cases, the supervisory authority may grant exemptions from this locational requirement.

Article 31

Principles of capital investment and notification requirement

1) In the case of assets covering technical provisions, the type of the insurance activities engaged in and the structure of the undertaking must be taken into account in such a way that as much security and profitability as possible is achieved while maintaining liquidity of the insurance undertaking at all times and an appropriate mix and diversification of assets.

2) The insurance undertakings shall report to the supervisory authority on 31 March, 30 June, 30 September, and 31 December of each year on the amount of the technical provisions and the assets serving to cover them.¹

Article 32

Valuation of technical provisions during the fiscal year

The supervisory authority may at any time order a valuation of the technical provisions, in particular if the event of unusual expansion of business activities.

Article 33

Permissible assets

Of the values listed on the asset side in Annex 4, section 2, the following shall be permissible for covering technical provisions:

¹ Article 31, paragraph 2 amended by LGBl. 2003 No. 95.

- a) Investments (B) with the exception of other financial investments (B III 7); securities not traded on a regulated market, but only to the extent that they can be sold on short notice;
- b) Debtors arising out of direct insurance operations (D I) and debtors arising out of reinsurance operations (D II); but not those with due dates three months or more ago;
- c) Cash at bank and in hand, post cheque balances, cheques (E II);
- d) Accrued interest and rent (F I).

Article 34

Limits

1) The following limits shall apply to the assets permissible for covering technical provisions:

- a) 30% for land and buildings (Annex 4, 3(a)) and holdings in real estate companies (companies, the business purpose of which is solely to buy, sell, rent out, and lease its own real estate), but at most 10% for a single piece of real estate; several legally separate pieces of real estate shall be considered together if they constitute an economic unit;
- b) 40% for holdings, investment fund units, and other variable-interest securities;
- c) subject to subparagraph (d), 5% for investments according to subparagraph (b) and other securities and loans of all types that concern the same undertaking or the same debtor; this limit shall be increased to 10% if a total of not more than 40% of the technical provisions are affected by the increase;
- d) 5% for non-secured loans to debtors other than banks, insurance undertakings, and securities firms whose head office is in a Contracting Party to the EEA Agreement, but at most 1% for such loans to a single debtor;
- e) 10% for securities that are not traded on a regulated market;
- f) 3% for cash balances.

2) In the case of paragraph 1(c), the upper limit per undertaking shall be 40% if the loans are issued by a bank whose head office is in a Contracting Party to the EEA Agreement that is subject to special State supervision by law. In particular, the sums resulting from the issue of the loans must be

invested in assets which guarantee that demands arising from the loans are covered over the course of the entire term of the loans and which are used preferentially to repay the capital and to pay the proportionate interest in the event the issuer defaults.

Article 35

Exceptions

- 1) The supervisory authority may also permit other assets to cover the technical provisions than those set out in article 33, provided that they are equivalent with respect to risk, earnings, and liquidity.
- 2) The supervisory authority may fix lower limits than those set out in article 34 if the security of claims of the insured persons so requires.
- 3) The supervisory authority may make its decisions contingent upon requirements and conditions; in this regard, it shall in particular take into account the expertise and organization of an insurance undertaking.

Article 36

Custody of the assets

In individual cases, the supervisory authority may require an insurance undertaking to provide for separate custody of the assets designated to cover the technical provisions.

Article 37

Valuation of the assets

- 1) The allowability of the assets for covering the technical provisions shall, subject to paragraphs 2 and 3, be based on their valuation for purposes of the annual account statement (article 64, Annex 4).
- 2) Debts arising through the purchase of assets shall be deducted when valuing the assets.

3) When valuing debt claims, counterclaims that may be offset shall be deducted.

Article 38

Equalization reserve for credit insurance

1) Insurance undertakings offering credit insurance (insurance class 14) must form a equalization reserve for the purpose of equalizing an actuarial loss arising in the business year or a disproportionately high claims ratio resulting in the business year in this insurance class.

2) The equalization reserve shall be calculated according to one of the four equivalent methods contained in Annex 3.

3) The equalization reserve shall not be counted toward the solvency margin up to the amount of the sum calculated in accordance with one of the methods referred to in paragraph 2.

4) Insurance undertakings need not form an equalization reserve if the gross premiums written arising from credit insurance

- a) constitute less than 4% of the total gross premiums written and
- b) amount to less than 4 million francs.

B. Life insurance

Article 39

Formation and valuation of technical provisions

1) Insurance undertakings must form technical provisions. These provisions must ensure that the insurance undertakings are able to fulfill all of the commitments arising from their insurance contracts within the scope of what can reasonably be foreseen.

2) The formation and valuation of the technical provisions shall be determined in detail according to the provisions contained in Annex 4.

Article 40

Cover and matching

1) Every insurance undertaking shall be required to cover the technical provisions for all its business activities with matching assets according to Annex 2.

2) With respect to business activities within the scope of the EEA Agreement, the assets prescribed by paragraph 1 must be situated in one or more Contracting Parties to the EEA Agreement. In justified cases, the supervisory authority may grant exemptions from this locational requirement.

Article 41

Principles of investment and notification requirement

1) In the case of assets covering technical provisions, the type of the insurance activities engaged in and the structure of the undertaking must be taken into account in such a way that as much security and profitability as possible is achieved while maintaining liquidity of the insurance undertaking at all times and an appropriate mix and diversification of assets.

2) The insurance undertakings shall report to the supervisory authority on 31 March, 30 June, 30 September, and 31 December of each year on the amount of the technical provisions and the assets serving to cover them.¹

Article 42

Valuation of technical provisions during the fiscal year

The supervisory authority may at any time order a valuation of the technical provisions, in particular if the event of unusual expansion of business activities.

Article 43

Permissible assets

1) Of the values listed on the asset side in Annex 4, section 2, the following shall be permissible for covering technical provisions (Annex 4, section 2, D on the liability side)

- a) Investments (B) with the exception of other financial investments (B III 7); securities not traded on a regulated market, but only to the extent that they can be sold on short notice;

¹ Article 41, paragraph 2 amended by LGBl. 2003 No. 95.

- b) Debtors arising out of direct insurance operations (D I) and debtors arising out of reinsurance operations (D II); but not those with due dates three months or more ago;
- c) Cash at bank and in hand, post cheque balances, cheques (E II);
- d) Accrued interest and rent (F I).

2) With respect to technical provisions for life insurance policies where the investment risk is borne by the policyholders (Annex 4, section 2, E on the liability side), the following shall apply:

- a) If the benefits arising from a contract are directly linked to the value of units of an investment fund or another special fund, then the technical provisions for these benefits must, to the extent possible, be covered by the respective units or, if no units are formed, by the respective assets.
- b) If the benefits arising from a contract are directly linked to a share index or a reference value other than those enumerated in subparagraph (a), then the technical provisions for these benefits must, to the extent possible, be covered either by the units that represent the reference value or, if no units are formed, by assets with appropriate security and realizability that correspond as precisely as possible to those values on which the special reference value relies.

Article 44

Limits

1) Article 34 shall apply with respect to the limits to the assets permissible for covering technical provisions.

2) Paragraph 1 shall not apply to the extent that article 43, paragraph 2 is to be applied.

Article 45

Exceptions

1) The supervisory authority may also permit other assets to cover the technical provisions than those set out in article 43, provided that they are equivalent with respect to risk, earnings, and liquidity.

2) The supervisory authority may fix lower limits than those set out in article 44 if the security of claims of the insured persons so requires.

3) The supervisory authority may make its decisions contingent upon requirements and conditions; in this regard, it shall in particular take into account the expertise and organization of an insurance undertaking.

Article 46

Custody of the assets

In individual cases, the supervisory authority may require an insurance undertaking to provide for separate custody of the assets designated to cover the technical provisions.

Article 47

Valuation of the assets

1) The allowability of the assets for covering the technical provisions shall, subject to paragraphs 2 and 3, be based on their valuation for purposes of the annual account statement (article 64, Annex 4).

2) Debts arising through the purchase of assets shall be deducted when valuing the assets.

3) When valuing debt claims, counterclaims that may be offset shall be deducted.

V. Domestic activities of foreign insurance undertakings

A. Insurance undertakings whose head office is in a Contracting Party to the EEA Agreement

Article 48

Motor vehicle liability insurance

If an insurance undertaking intends to offer the class of insurance of motor vehicle liability, then article 10 shall apply *mutatis mutandis*.

Article 49

Representative for processing claims

1) The domestic representative of the insurance undertaking to be appointed in the case of cross-border provision of motor vehicle liability insurance shall be responsible for the following:

- a) collecting all necessary information concerning claims;
- b) representing the insurance undertaking vis-à-vis claimants; in this regard, the representative must be granted the necessary competences, including the power to pay corresponding amounts of money;
- c) representing the insurance undertaking, including the right of substitution, before domestic courts and authorities with respect to the claims of claimants;
- d) representing the insurance undertaking before domestic courts and authorities with respect to the existence and validity of an insurance policy for motor vehicle liability.

2) The appointment of such a representative shall not constitute the opening of a branch or agency of the insurance undertaking. Moreover, the representative may not engage in any insurance activities for the insurance undertaking or broker any insurance contracts.

B. Third-State insurance undertakings¹

Article 50

License application

Articles 6 to 10 shall apply to the license application and the accompanying materials accordingly.

¹ Title preceding article 50 amended by LGBl. 2003 No. 95.

Article 51

Special supporting materials

The following shall be submitted together with the license application:

- a) a scheme of operations and the information and documents required with respect to the domestic branch or agency, including the articles of association of the insurance undertaking and a certified extract from the public or commercial registry of the head-office State;²
- b) a certification by the competent supervisory authority of the head-office State that the insurance undertaking may in its own name acquire rights, enter into obligations, and sue and be sued in court in its head-office State, as well as which classes of insurance the insurance undertaking is authorized to offer and which types of risk it actually covers;³
- c) the balance sheet and the profit and loss statement for each of the three last business years; if the insurance undertaking has not been in existence for three years, then it must only submit these materials for the already concluded business years;
- d) evidence and records concerning the necessary capital resources;
- e) a certification on the entry of the branch or agency and the general agent in the domestic public registry in accordance with the provisions of the Law on Persons and Companies (PGR).

Article 52

Granting of license

Article 11 shall apply *mutatis mutandis* to the granting and the scope of the license.

Article 53

Capital resources

1) Third-State insurance undertakings must form own funds at least in the amount of a solvency margin calculated according to their scope of business in the Principality of Liechtenstein.¹

² Article 51(a) amended by LGBl. 2003 No. 95.

³ Article 51(b) amended by LGBl. 2003 No. 95.

¹ Article 53, paragraph 1 amended by LGBl. 2003 No. 95.

2) One third of the solvency margin shall constitute the guarantee fund. The minimum guarantee fund must amount to:

- a) for non-life insurance, half of the minimum guarantee fund according to article 17, paragraph 2;
- b) for life insurance, 2.4 million francs.²

3) The surety provided pursuant to article 54 shall be counted toward the minimum guarantee fund.³

4) The assets corresponding to the solvency margin and the organization fund must be situated in Liechtenstein in the amount of the guarantee fund and the remainder in one or more Contracting Parties to the EEA Agreement.⁴

5) The provisions of this Ordinance concerning the capital requirements for domestic insurance undertakings shall apply *mutatis mutandis*.

Article 54

Surety

1) Upon the assumption of business activities, third-State insurance undertakings must deposit a surety in Liechtenstein corresponding to one quarter of the minimum amount prescribed by article 53, paragraph 2.¹

2) The surety must be deposited at a Liechtenstein bank in bonds of this bank. These assets shall remain blocked, and they may not be disposed of without approval by the supervisory authority.

Article 55²

Technical provisions

1) Third-State insurance undertakings must form technical provisions in Liechtenstein for their entire domestic business; articles 29 to 47 shall be applied *mutatis mutandis*.

² Article 53, paragraph 2 amended by LGBl. 2005 No. 92.

³ Article 53, paragraph 3 amended by LGBl. 2005 No. 92.

⁴ Article 53, paragraph 4 amended by LGBl. 2005 No. 92.

¹ Article 54, paragraph 1 amended by LGBl. 2005 No. 92.

² Article 55 amended by LGBl. 2003 No. 95.

2) Third-State insurance undertakings may only dispose of assets earmarked for covering technical provisions for life insurance with the approval of the supervisory authority.

Article 56³

Location of assets for covering technical provisions

Third-State insurance undertakings must keep the assets earmarked for covering the technical provisions for domestic business in Liechtenstein, unless they are demands for payment vis-à-vis reinsurers.

VI. Supervision of the business activities of insurance undertakings

A. Supervision in general

Article 57

Principle

1) The supervisory authority shall supervise the entire business activity of the insurance undertakings. In this regard, the supervisory authority shall require insurance undertakings to comply with appropriate internal review procedures. These procedures must cover the information provided for the purpose of supplementary supervision in accordance with article 7 of the Insurance Supervision Act.¹

2) Foreign insurance undertakings shall be supervised in accordance with insurance supervision legislation with respect to their domestic activities.

3) Domestic branches of insurance undertakings whose head office is in another Contracting Party to the EEA Agreement may be audited on site by the competent authority of the home State or by persons mandated by this

³ Article 56 amended by LGBl. 2005 No. 92

¹ Article 57, paragraph 1 amended by LGBl. 2003 No. 95.

authority with respect to the information necessary for financial supervision, as soon as the domestic supervisory authority has been informed in writing. The domestic supervisory authority may participate in this audit.²

Article 58

Notification of the identity of shareholders and partners

At least once a year, domestic insurance undertakings shall notify the supervisory authority of the identity of shareholders or partners with qualifying holdings and of the amount of the holdings.

Article 59

Holdings in insurance undertakings

1) Every natural or legal person intending to acquire a direct or indirect qualifying holding in an insurance undertaking must, prior to acquiring the holding, inform the supervisory authority and indicate the amount of the holding.

2) Moreover, the supervisory authority must be informed if a natural or legal person intends to increase a qualifying holding in an insurance undertaking in such a way that the thresholds of 20%, 33%, or 50% of the voting rights or the capital would be reached or exceeded, or if the insurance undertaking is to become a subsidiary or if controlling influence over it is to be exercised.¹

3) The information requirements set out in paragraphs 1 and 2 shall apply *mutatis mutandis* in the event that a qualifying holding is relinquished or reduced to the same extent or if the insurance undertaking is no longer to be a subsidiary or no controlling influence over it is to be exercised.²

Article 60³

Holdings by insurance undertakings in other insurance undertakings

² Article 57, paragraph 3 inserted by LGBl. 1999 No. 250.

¹ Article 59, paragraph 2 amended by LGBl. 2003 No. 95.

² Article 59, paragraph 3 amended by LGBl. 2003 No. 95.

³ Article 60 amended by LGBl. 2003 No. 95.

Insurance undertakings whose head office is in the Principality of Liechtenstein shall inform the supervisory authority of the acquisition and relinquishment of holdings in other insurance undertakings pursuant to which one of the thresholds referred to in article 59 is crossed in either direction or the other insurance undertaking becomes a subsidiary or is no longer a subsidiary or controlling influence is exercised or no longer exercised over it.

Article 61

Competences of the supervisory authority

The supervisory authority shall be entitled to bar or reverse qualifying holdings or changes to them if the persons with such a holding or with the intention to acquire such a holding do not fulfill the requirements in the interest of solid and prudent management of the insurance undertaking.

Article 62¹

Holdings in undertakings alien to insurance

1) Qualifying holdings by insurance undertakings in undertakings alien to insurance, including changes to such holdings, shall be notified to the supervisory authority in advance of the time such a holding is acquired.

2) The supervisory authority may bar or reverse the holding or make it contingent upon requirements and conditions, if the insurance undertaking should appear endangered by the holding.

Article 63²

Outsourcing of functions

- 1) Outsourcing of functions shall only be permissible if:
- a) the provisions concerning bookkeeping, secrecy, and data protection are complied with;
 - b) the books are kept in Liechtenstein; and
 - c) audits as well as the right to information and the audit powers of the supervisory authority are in no way hampered or curtailed.

¹ Article 62 amended by LGBl. 2003 No. 95.

² Article 63 amended by LGBl. 2003 No. 95.

2) To the extent that it is important for an evaluation of the business activities of an insurance undertaking, third persons shall also be required to provide information and submit documents with respect to contracts or other agreements concerning the outsourcing of functions.

3) The supervisory authority may issue the necessary orders vis-à-vis such third persons in connection with the outsourcing of functions.

B. Accounting, reporting, and audits¹

Article 64²

Accounting and reporting

1) The provisions set out in Annex 4 and the requirements of the PGR, supplemented by the guidelines issued by the supervisory authority, shall apply to the compilation of the business report and the consolidated business report as well as reporting to the supervisory authority.

2) The annual account statement and the consolidated annual account statement shall be published in printed form and made available to anyone upon request. Self-insurances (captives) shall be exempt from the publication requirement.

Article 65

Notification of foreign business

1) Together with the business report, each domestic insurance undertaking must notify the supervisory authority of the gross premiums written, broken down by each Contracting Party to the EEA Agreement and each class of insurance, for business conducted through establishments and separately for business conducted through cross-border provision of services.

2) In the case of non-life insurance, additional notification must be provided of claims payments and commissions, without deduction of reinsurance, broken down by each Contracting Party to the EEA Agreement and each class of insurance, as well as the frequency and average claims

¹ Title preceding article 64 amended by LGBl. 2003 No. 95.

² Article 64 amended by LGBl. 2003 No. 95.

payments made in the insurance class of motor vehicle liability, excluding the liability of the carrier.³

3) The supervisory authority shall in turn communicate this information to the competent authorities of the Contracting Parties to the EEA Agreement, upon their request.

4) The information pursuant to paragraphs 1 and 2 shall also be communicated with respect to business conducted in third States.¹

Article 66²

Accounting and reporting by third-State insurance undertakings

1) Third-state insurance undertakings shall keep separate account statements and submit separate reports in accordance with article 64 with respect to domestic business activities. The separate business report (annual account statement and annual report) shall be published.

2) Upon request, each policyholder shall be provided with the annual account statement and the annual report of the main establishment of the third-State insurance undertaking in German.

3) All accounts and reports compiled in the head-office State of the third-State insurance undertaking, namely the annual account statement, the annual report, the report to the supervisory authority of the head-office State, and statements and reports of the audit office, shall be submitted to the supervisory authority; these documents shall be submitted in their original language and in German.

Article 67³

External revision

The legally prescribed external revision may also be conducted by the audit office pursuant to the PGR, provided that this audit office fulfills the special conditions laid out in the following articles.

³ Article 65, paragraph 2 amended by LGBl. 1999 No. 250.

¹ Article 65, paragraph 4 inserted by LGBl. 1999 No. 250.

² Article 66 amended by LGBl. 2003 No. 95.

³ Article 67 amended by LGBl. 2005 No. 92.

Article 68

Recognition of audit offices

1) A license issued by the supervisory authority shall be required to work as an insurance audit office; such a license shall be granted if the preconditions described in this Ordinance are fulfilled.¹

2) The supervisory authority shall withdraw the license from the audit office if the preconditions for exercising audit activities are no longer fulfilled or if the audit office seriously breaches its duties.²

Article 69

Preconditions for licensing

A license shall only be issued to trust and audit companies if

- a) they are limited companies with paid-up share capital of at least 200,000 francs,
- b) the organization of their business guarantees the appropriate, expert, and permanent fulfillment of the audit responsibilities, and
- c) the senior auditors enjoy a good reputation as business people and have proven knowledge of insurance auditing.

Article 70

Independence

1) The audit office may neither accept administrative or accounting assignments from the insurance undertaking to be audited nor may it assume other responsibilities that are incompatible with its audit mandate.

2) The fees received for an audit mandate may on average not exceed 10% of the total annual fee revenue of the audit office. An audit mandate for an insurance group shall be considered a single audit mandate.

¹ Article 68, paragraph 1 amended by LGBl. 2004 No. 302.

² Article 68, paragraph 2 amended by LGBl. 2004 No. 302.

Article 71

Special duties of the audit office

- 1) The audit offices shall be required to:
 - a) notify the supervisory authority of every change to the articles of association of the company and to the rules as well as every change to the composition of its organs and of the senior auditors reported to the supervisory authority;¹
 - b) entrust the management of insurance audits only to auditors who have been reported to the supervisory authority and who fulfill the required preconditions;²
 - c) report the head of the mandate and the senior auditor to the supervisory authority prior to begin of the audit;
 - d) submit their business report to the supervisory authority each year.
- 2) The supervisory authority may demand information concerning the reasons for demission of members of the general management and of the senior auditors reported to the supervisory authority.³

Article 72

Audit report

- 1) The audit report shall clearly show whether the provisions governing the business activities of insurance undertakings have been complied with and whether the preconditions for granting their license are permanently and continuously fulfilled.
- 2) The audit office must independently evaluate the business report, the reporting to the supervisory authority and, if such a report has been compiled, the consolidated business report; for this purpose, the insurance undertaking must make the requisite materials available. Reports from internal audits shall also be taken into account.⁴
- 3) The audit office must explain whether the business report and the reporting to the supervisory authority have been compiled in accordance with the requirements, and whether it has received all the necessary information and materials from the insurance undertaking. This shall also apply to the

¹ Article 71, paragraph 1(a) amended by LGBl. 2004 No. 302.

² Article 71, paragraph 1(b) amended by LGBl. 2004 No. 302.

³ Article 71, paragraph 2 amended by LGBl. 2004 No. 302.

⁴ Article 72, paragraph 2 amended by LGBl. 2003 No. 95.

consolidated business report, if such a report has been compiled; if no such report has been compiled, then the audit office must explain whether a consolidated business report should have been compiled.¹

4) The audit report shall be signed by the senior auditor and by the audit office.

C. Supplementary supervision of insurance undertakings belonging to a group of undertakings²

Article 72a

Scope of application; agreements with foreign supervisory authorities³

1) The provisions of this section shall apply to insurance undertakings that are subject to supplementary supervision pursuant to article 7. If this depends on whether a controlling influence is being exercised, then the supervisory authority shall decide.⁴

2) If at least two insurance undertakings subject to supplementary supervision belong to the same group of undertakings and fulfill the preconditions described in article 7, paragraph 2, sentence 1 of the Insurance Supervision Act, then article 72c shall only apply to one of these undertakings, namely the undertaking that is at the higher or highest level within the group of undertakings; the supervisory authority shall decide among several undertakings at the same level. It shall reject the exemption if it does not regard the distribution of the allowable own funds among the respective undertakings to be appropriate.⁵

3) An insurance undertaking subject to supplementary supervision shall also be exempt from application of article 72c if it is included in own-funds monitoring within the scope of article 72c in another Contracting Party to the EEA Agreement and the supervisory authority has agreed with the competent supervisory authority of this State that the latter shall monitor the own funds of the group. Paragraph 2, sentence 2 shall apply *mutatis mutandis*.⁶

¹ Article 72, paragraph 3 amended by LGBl. 2003 No. 95.

² Title preceding article 72a amended by LGBl. 2005 No. 92.

³ Article 72a, heading inserted by LGBl. 2003 No. 95.

⁴ Article 72a, paragraph 1 amended by LGBl. 2005 No. 92.

⁵ Article 72a, paragraph 2 inserted by LGBl. 2003 No. 95.

⁶ Article 72a, paragraph 3 inserted by LGBl. 2003 No. 95.

4) Agreements pursuant to paragraph 3 may also be concluded if an insurance undertaking subject to supplementary supervision and one or more other insurance undertakings whose head office is in another Contracting Party or in several other Contracting Parties to the EEA Agreement have the same insurance holding company, the same reinsurance undertaking, the same third-State insurance undertaking, or the same other undertaking that is not an insurance undertaking whose head office is in a Contracting Party to the EEA Agreement as a parent undertaking or an undertaking that exercises a controlling influence on them. The supervisory authorities shall decide whether a controlling influence is being exercised.¹

5) Even if no agreement is concluded pursuant to paragraph 4, the supervisory authorities shall ensure that the monitoring of the own funds of the group is uniform, if several insurance undertakings with head offices in different Contracting Parties to the EEA Agreement have the same insurance holding company, the same reinsurance undertaking, or the same third-State insurance undertaking as a parent undertaking or as an undertaking that exercises a controlling influence on them. Paragraph 4, sentence 2 shall apply *mutatis mutandis*.²

Article 72b³

Supervision of intra-group transactions

1) Intra-group transactions shall comprise transactions between the insurance undertaking subject to supplementary supervision and

- a) every undertaking irrespective of head-office State in which it holds a participation or, directly or indirectly, at least 20% of the capital or voting rights, that is its subsidiary or a subsidiary of one of its subsidiaries, or over which it or one of its subsidiaries exercises a controlling influence;
- b) every undertaking irrespective of head-office State that holds a participation in it or, directly or indirectly, at least 20% of its capital or voting rights, that is its parent undertaking, or that exercises a controlling influence over it;
- c) every undertaking irrespective of head-office State except for the insurance undertaking subject to supplementary supervision itself with which an undertaking described in subparagraph (b) is related in one of the ways described in subparagraph (a);

¹ Article 72a, paragraph 4 inserted by LGBl. 2003 No. 95.

² Article 72a, paragraph 5 inserted by LGBl. 2003 No. 95.

³ Article 72b inserted by LGBl. 2003 No. 95.

d) every natural person holding a participation or, directly or indirectly, at least 20% of the capital or voting rights in an insurance undertaking subject to supplementary supervision or one of the undertakings described in subparagraphs (a) to (c).

2) The supervisory authority shall decide whether a controlling influence is being exercised within the meaning of paragraph 1.

3) In its report to the supervisory authority, the insurance undertaking subject to supplementary supervision shall also report on the most important transactions falling within the scope of paragraph 1, namely loans, guarantees and off-balance-sheet transactions, capital subscriptions and payments, including participation capital and subordinated debt, investments, reinsurance operations, and agreements to share costs.

Article 72c

Monitoring of the own funds of a group¹

1) If the conditions described in article 7, paragraph 2 of the Insurance Supervision Act are met, then the insurance undertaking subject to supplementary supervision shall, in accordance with article 72a and without prejudice to the provisions in Chapter III, determine the group solvency margin and the allowable own funds of the group and include them in its report to the supervisory authority. The group shall be deemed to encompass the insurance undertaking subject to supplementary supervision and the circle of undertakings described in article 72b, paragraph 1(a) to (c), to the extent that they are insurance undertakings, reinsurance undertakings, or insurance holding companies.²

2) To the extent that the undertakings referred to in paragraph 1, sentence 2 are included in a consolidated annual account statement, the group solvency margin and the allowable own funds of the group shall be determined on the basis of this annual account statement. For the rest, the following shall be calculated:

a) the group solvency margin, by adding the solvency margin of the superordinate undertaking and the proportion of the solvency margin of the subordinate undertaking corresponding to the capital shares of the superordinate undertaking in the subordinate undertaking;

¹ Article 72c, heading inserted by LGBl. 2003 No. 95.

² Article 72c, paragraph 1 amended by LGBl. 2005 No. 92.

b) the allowable own funds of the group, by adding the allowable own funds of the superordinate undertaking and the proportion of the allowable own funds of the subordinate undertaking corresponding to the capital shares of the superordinate undertaking in the subordinate undertaking and subtracting the book value of the capital shares in the subordinate undertaking held by the superordinate undertaking.¹

2a) If the capital shares in the subordinate undertaking referred to in paragraph 2 are held indirectly in whole or in part, then the proportion of the solvency margin of the subordinate undertaking corresponding to these indirectly held capital shares, the proportion of the allowable own funds of this undertaking corresponding to them, and their book value determined taking into account the relevant successive interests shall be included in the calculations.²

3) The provisions of Chapter III, taking into account the following paragraphs, shall apply *mutatis mutandis* to the determination of the group solvency margin and the allowable own funds of the group.³

4) Third-State insurance undertakings shall be treated like domestic insurance undertakings. Reinsurance undertakings shall be treated like domestic insurance undertakings irrespective of their head-office State; if greater difficulties should arise in the application of articles 20 to 26, then the supervisory authority may allow the solvency margin for life insurance to be calculated in accordance with article 14. Insurance holding companies that are not insurance undertakings or reinsurance undertakings shall, irrespective of their head-office State and their position as controlling company or intermediate company, be treated like domestic insurance undertakings; their solvency margin shall be set at zero.⁴

5) Unless this does not already result from the application of paragraphs 2 and 2a, the allowable own funds of the group shall be reduced by the book value of the assets of undertakings in the group that represent the financing of allowable own funds of another undertaking in the group. Allowable own funds of undertakings in the group resulting from reciprocal financing with another undertaking in the group shall not be counted as part of the allowable own funds of the group; reciprocal financing obtains in particular if an undertaking holds capital shares in another undertaking or grants loans to another undertaking that in turn holds, directly or indirectly, capital shares in the former undertaking, including participation capital and subordinated debt. Subscribed capital shares of undertakings in the group that have not yet been

¹ Article 72c, paragraph 2 amended by LGBl. 2005 No. 92.

² Article 72c, paragraph 2a inserted by LGBl. 2005 No. 92.

³ Article 72c, paragraph 3 amended by LGBl. 2005 No. 92.

⁴ Article 72c, paragraph 4 inserted by LGBl. 2003 No. 95.

paid-up and that constitute a potential liability for another undertaking in the group shall not be taken into consideration.¹

6) Without prejudice to paragraph 5, allowable own funds for a subordinate undertaking pursuant to article 12, paragraph 5(b) or article 19, paragraph 2(d) and (e) or paragraph 5(b) and (d) shall only be allowable for the group to the extent that they do not in their entirety exceed the solvency margin of the respective subordinate undertaking. The supervisory authority may include other allowable own funds for the subordinate undertaking in this restriction, if it does not regard them as suitable for covering the solvency margin of the superordinate undertaking.²

7) If, for whatever reasons, the necessary information concerning a subordinate undertaking is not available to the supervisory authority, then the allowable own funds of the group shall be reduced by the book value of the capital shares in this undertaking held by the superordinate undertaking. In this case, hidden reserves existing with respect to these capital shares may not be taken into account as allowable own funds.³

8) When comparing the group solvency margin and the allowable own funds of the group, own-funds deficits of subordinate undertakings shall, notwithstanding paragraph 2, always be taken into account in their full amount, unless the supervisory authority allows them to be taken into account merely proportionately because the liability of the superordinate undertaking is limited to its capital share.⁴

Article 72d¹

¹ Article 72c, paragraph 5 amended by LGBI. 2005 No. 92.

² Article 72c, paragraph 6 amended by LGBI. 2005 No. 92.

³ Article 72c, paragraph 7 inserted by LGBI. 2003 No. 95.

⁴ Article 72c, paragraph 8 inserted by LGBI. 2003 No. 95.

¹ Article 72d inserted by LGBI. 2003 No. 95.

Common provisions

1) The supervisory authority may exempt an undertaking belonging to the circle of undertakings described in article 72b, paragraph 1(a) to (c) from inclusion under supplementary supervision if the inclusion would only be of negligible interest with respect to the objectives of supplementary supervision or if it would be inappropriate or misleading.

2) If an insurance undertaking subject to supplementary supervision does not or does not completely fulfill its reporting obligations pursuant to article 72b, paragraph 3 and article 72c, paragraph 1, sentence 1 despite warning, then the supervisory authority may turn directly to the other affected undertakings for purposes of obtaining this information. It may only conduct on-site verification of this information at these undertakings in Liechtenstein or with the approval of the competent foreign supervisory authority; for this purpose, it may avail itself of an auditor or other expert.

3) If the head office of at least one of the insurance undertakings belonging to the circle of undertakings described in article 72b, paragraph 1(a) to (c) is in another Contracting Party to the EEA Agreement, then the supervisory authority shall, without being requested, communicate to the respective competent foreign supervisory authority the information concerning supplementary supervision that it deems to be significant for this supervisory authority. The supervisory authority shall grant requests by supervisory authorities of other Contracting Parties to the EEA Agreement for transfer of information that enables or facilitates supplementary supervision. This shall also apply to requests by these authorities concerning the verification of important such information. The supervisory authority may conduct such verifications itself or allow the requesting authority or an auditor or other expert to conduct it. If the supervisory authority does not conduct such a verification itself, it may participate therein.

4) If the circle of undertakings described in article 72b, paragraph 1(a) to (c) encompasses at least one financial services undertaking whose head office is in one of the Contracting Parties to the EEA Agreement that is not an insurance undertaking, then the supervisory authority shall work closely together with the supervisory authorities responsible for this undertaking and make all information available to them that is suitable to facilitate their work.

5) If the information pursuant to article 72b, paragraph 3 and article 72c, paragraph 1, sentence 1 shows that the own funds of the insurance undertaking subject to supplementary supervision are insufficient or are in danger of becoming insufficient, then the supervisory authority shall take appropriate measures vis-à-vis this insurance undertaking. This shall apply in

particular if the allowable own funds of this insurance undertaking and the undertakings subordinate to it determined in accordance with article 72c fall below the solvency margin of this insurance undertaking and the undertakings subordinate to it determined in accordance with article 72c.

D. Special powers of the supervisory authority vis-à-vis insurance undertakings in difficulties¹

Article 72e²

Plan for improving the financial situation

1) If circumstances justify the assumption that the rights of policyholders are in danger, then the supervisory authority may demand that the insurance undertaking submit a plan for improving its financial situation.

2) The plan for improving the financial situation must at least contain the following information for the next three business years:

- a) a precise statement of the estimated income and expenditures arising from insurance business concluded itself, accepted for reinsurance, and provided for reinsurance;
- b) the overall reinsurance strategy;
- c) estimates of expenses for insurance operations, especially commissions and general running administrative costs;
- d) a balance sheet forecast;
- e) estimates of the financial means for covering insurance commitments and the solvency margin.

3) If an insurance undertaking must submit a plan for improving its financial situation in accordance with paragraphs 1 and 2, then the supervisory authority shall not issue any certifications pursuant to article 25, paragraph 2(b), article 27, paragraph 2(b), or article 52, paragraph 2, sentence 1 of the Insurance Supervision Act as long as the rights of the policyholders appear to be in danger.

¹ Title preceding article 72e inserted by LGBl. 2005 No. 92.

² Article 72e inserted by LGBl. 2005 No. 92.

Article 72f¹*Tightening of capital requirements*

1) If the rights of the policyholders are in danger because the financial situation of an insurance undertaking is deteriorating, then the supervisory authority may – for purposes of ensuring fulfillment of the solvency requirements in the near future – demand a higher solvency margin from the insurance undertaking than provided for in Chapter III. The plan for improving the financial situation pursuant to article 72e shall be used as the basis for determining the higher solvency margin.

2) The supervisory authority may limit the reduction of the solvency margin due to reinsurance pursuant to article 14, paragraph 3, article 15, paragraph 3, and articles 20 to 23 and 25 if the reinsurance contracts do not provide for any or only insignificant transfer of risk or if the type or quality of the reinsurance contracts has changed substantially since the end of the last business year.

3) The supervisory authority may devalue all of the own funds allowable for covering the solvency margin. This shall be the case especially if the market values upon which they are based have changed substantially since the end of the last business year.

IX. Transitional and final provisions

Article 73

Allowability of sureties

Sureties already paid shall be counted toward the surety to be deposited pursuant to article 54.

¹ Article 72f inserted by LGBl. 2005 No. 92.

Article 74

Repeal of existing law

The Ordinance of 15 September 1970 on the Sureties to be Paid by Insurance Undertakings, LGBl. 1970 No. 27, is hereby repealed.

Article 75

Entry into force

This Ordinance shall enter into force on the day of its publication.

The Government
signed *Dr. Mario Frick*
Prime Minister

Annex 1**Coverage of ancillary risks in non-life insurance (article 11, paragraph 4)**

1. An undertaking obtaining a license for a principal risk belonging to one class or a group of classes may also insure risks included in another class without a license being necessary for them if they:
 - a) are connected with the principal risk,
 - b) concern the object which is covered against the principal risk, and
 - c) are covered by the contract insuring the principal risk.
2. The risks included in classes 14, 15, and 17 may not, however, be regarded as risks ancillary to other classes.
3. However, the risk included in class 17 (legal expenses insurance) may be regarded as a risk ancillary to class 18, if the conditions set out in point 1 are fulfilled and the principal risk only concerns the assistance granted to persons getting into difficulties while traveling or while away from their residence or permanent abode.
4. Legal expenses insurance may also be regarded as an ancillary risk under the conditions set out in point 1 if it relates to dispute or demands that arise from the use of ships at sea or are connected to such use.
5. Except for the cases referred to in points 1 to 4, a risk belonging to a particular insurance class may not be taken over by another insurance class.

**Matching assets in non-life insurance and life insurance
(article 30, paragraph 1, and article 40, paragraph 1)**

1. The currency in which the commitments of an insurance contract are expressed shall be determined by the following rules:
 - a) If the coverage provided by a contract is expressed in terms of a particular currency, then the commitments of the insurance undertaking shall be considered expressed in this currency.
 - b) If the coverage provided by a contract is not expressed in any currency, then the obligations of the insurance undertaking shall be considered satisfiable in the currency of the country in which the risk is situated. However, the insurance undertaking may, in cases that justify such a choice, choose the currency in which the premium is expressed. This may be the case if it is already probable at the time the contract is concluded that a claim will be processed not in the currency of the country in which the risk is situated, but rather in the currency in which the premium is expressed.
 - c) The currency that an insurance undertaking considers, based on experience, to be the most probable for satisfaction, or, if no such experience exists, the currency of the country in which the undertaking is established, may be used as the basis in the case of the following risks, unless special circumstances countervail:
 - aa) in the case of contracts covering risks classified under the insurance branches 4, 5, 6, 7, 11, 12, 13 (only manufacturer liability);
 - bb) in the case of contracts covering risks classified under other insurance classes for which, depending on the type of the risks, the coverage must be in another currency than the currency that would result from application of the aforementioned procedure.

- d) If an insurance undertaking is notified of a claim and if the claim is to be processed in a particular currency different from the currency resulting from application of the above rules, then the commitments of the insurance undertaking shall be deemed expressed in this currency, especially if the currency in which the compensation to be paid by the insurance undertaking has been determined pursuant to a judicial decision or an agreement between the insurance undertaking and the policyholder.
 - e) If a claim is determined in a currency known to the insurance undertaking in advance that, however, does not result from application of the abovementioned rules, then the insurance undertakings may consider their commitments to be expressed in this currency.
2. Technical provisions need not be invested in assets of the same currency in which the commitments exist if
- a) the currency is not a currency of a Contracting Party to the EEA Agreement and the respective currency is not suitable for investment, especially if it is subject to transfer restrictions, or
 - b) in applying the rules applicable according to point 1, assets would have to be kept in a particular currency, and these assets do not amount to more than 7% of the assets existing in other currencies. The resulting amount may not, however, exceed the following sums:
 - for Greek drachmae, Irish pounds, and Portuguese escudos until 31 December 1998, two million ECU;
 - for Belgian francs, Luxembourg francs, or Spanish pesetas until 31 December 1996, two million ECU.
3. The insurance undertakings may keep non-matching assets for covering an amount of at most 20% of their commitment in a particular currency.

Methods of calculating the equalization reserve for credit insurance (article 38, paragraph 2)

Method No. 1

The equalization reserve shall in each financial year receive 75% of any technical surplus arising on credit insurance business, subject to a limit of 12% of net premiums or contributions until the reserve has reached 150% of the highest annual amount of net premiums or contributions received during the previous five financial years.

Method No. 2

1. The equalization reserve shall be 134% of the average of the premiums written and received for own account during the previous five business years.
2. The reserve shall in each business year receive 75% of any technical surplus arising in credit insurance until the reserve is at least equal to the minimum calculated in accordance with point 1.

Method No. 3

The equalization reserve shall be calculated as follows:

1. All calculations shall relate to income and expenditure for the insurer's own account.
2. An amount in respect of any claims shortfall for each business year shall be placed to the equalization reserve until it has reached, or is restored to, the required amount. There shall be deemed to be a claims shortfall if the claims ratio for a business year is lower than the average claims ratio for the reference period. The amount in respect of the claims shortfall shall be arrived at by multiplying the difference between the two ratios by the earned premiums for the business year.
3. The required amount shall be equal to six times the standard deviation of the claims ratio in the reference period from the average claims ratio, multiplied by the earned premiums for the business year.

4. Where claims for any business year are in excess, an amount in respect thereof shall be taken from the equalization reserve. Claims shall be deemed to be in excess if the claims ratio for the financial year is higher than the average claims ratio over the reference period. The amount in respect of the excess claims shall be arrived at by multiplying the difference between the two ratios by the earned premiums for the financial year.
5. Irrespective of claims experience, 3.5% of the required amount of the equalization reserve shall be first placed to that reserve each financial year until its required amount has been reached or restored.
6. The length of the reference period shall be not less than 15 years and not more than 30 years. Upon notification to the supervisory authority, no equalization reserve need be formed if no underwriting loss has been noted during the reference period.
7. The required amount of the equalization reserve and the amount to be taken from it may be reduced if the average claims ratio for the reference period in conjunction with the expenses ratio shows that the premiums include a safety margin.

Method No. 4

The equalization reserve shall be calculated as follows:

1. All calculations shall relate to income and expenditure for the insurer's own account.
2. An amount in respect of any claims shortfall for each business year shall be placed to the equalization reserve until it has reached the maximum required amount. There shall be deemed to be a claims shortfall if the claims ratio for a business year is lower than the average claims ratio for the reference period. The amount in respect of the claims shortfall shall be arrived at by multiplying the difference between the two ratios by the earned premiums for the financial year.
3. The maximum required amount shall be equal to six times the standard deviation of the claims ratio in the reference period from the average claims ratio, multiplied by the earned premiums for the business year.
4. Where claims for any business year are in excess, an amount in respect thereof shall be taken from the equalization reserve until it has reached the minimum amount required. Claims shall be deemed to be in excess if the claims ratio for the financial year is higher than the average claims

ratio. The amount in respect of the excess claims shall be arrived at by multiplying the difference between the two ratios by the earned premiums for the business year.

5. The minimum required amount shall be equal to three times the standard deviation of the claims ratio in the reference period from the average claims ratio multiplied by the earned premiums for the business year.
6. The length of the reference period shall be not less than 15 years and not more than 30 years. Upon notification to the supervisory authority, no equalization reserve need be formed if no underwriting loss has been noted during the reference period.
7. Both required amounts of the equalization reserve and the amount to be placed to it or the amount to be taken from it may be reduced if the average claims ratio for the reference period in conjunction with the expenses ratio show that the premiums include a safety margin and that safety margin is more than one-and-a-half times the standard deviation of the claims ratio in the reference period. In such a case the amounts in question shall be multiplied by the quotient or one-and-a-half times the standard deviation and the safety margin.

Accounting
(articles 13, 29, 37, 39, 47, and 64)

1. *Relationship between external form and economic content of reinsurance contracts*
 - a) Reinsurance contracts may in no case be treated like co-insurance contracts.
 - b) Premium and claims portfolios invoiced shall not be taken into account to the extent that no actual portfolio changes have taken place; reinsurance contracts shall to this extent be treated as continuously existing contracts.

2. *Layout of the balance sheet*

The balance sheet shall be compiled in account form. The following items shall be entered in this regard:

Assets

- A. Intangible investment values
 - I. Formation expenses
 - II. Goodwill
 - III. Expenses for the acquisition of insurance portfolios
 - IV. Other immaterial investment values
 - B. Investments
 - I. Land and buildings
 - II. Investments in affiliated undertakings and participating interests
 1. Shares in affiliated undertakings
 2. Debt securities issued by, and loans to, affiliated undertakings
3. Participating interests

¹ Annex 4 amended by LGBI. 2003 No. 95.

4. Debt securities issued by, and loans to, undertakings with which an insurance undertaking is linked by virtue of a participating interest

III. Other financial investments

1. Shares and other variable-yield securities and units in unit trusts
2. Debt securities and other fixed-income securities
3. Participation in investment pools
4. Loans guaranteed by mortgages
5. Other loans
6. Deposits with banks
7. Other financial investments

IV. Deposits with ceding undertakings

- C. Investments for the benefit of life insurance policyholders who bear the investment risk

D. Other debtors

I. Debtors arising out of direct insurance operations

1. policyholders
 - a) affiliated undertakings
 - b) undertakings linked by virtue of a participating interest
 - c) other policyholders
2. insurance mediators
 - a) affiliated undertakings
 - b) undertakings linked by virtue of a participating interest
 - c) other insurance mediators

- II. Debtors arising out of reinsurance operations
 - 1. affiliated undertakings
 - 2. undertakings linked by virtue of a participating interest
 - 3. other debtors
- III. Other debtors
 - 1. affiliated undertakings
 - 2. undertakings linked by virtue of a participating interest
 - 3. other debtors
- IV. Subscribed capital called but not paid
- E. Other assets
 - I. Tangible assets (except land and buildings) and stocks
 - II. Cash at bank and in hand, post cheque balances, cheques
 - III. Own shares or units – with an indication of their nominal value or their accounting par value (for no-par-value shares)
 - IV. Other assets
- F. Prepayments and accrued income
 - I. Accrued interest and rent
 - II. Accrued disagio amounts
 - III. Other prepayments and accrued income

Liabilities

- A. Capital and reserves
 - I. Capital called
 - 1. subscribed capital
 - 2. reduced by: capital not called
 - 3. capital called, of which paid
 - II. Organization fund
 - III. Capital reserves

- IV. Retained earnings
 - 1. Legal reserve
 - 2. Reserve for own shares or units
 - 3. Reserve required by articles of association
 - 4. Equalization reserve
 - 5. Other reserves
- V. Profit or loss brought forward
- VI. Profit or loss for the business year
- B. Subordinated liabilities
- C. Fund for future appropriations
- D. Technical provisions
 - I. Provision for unearned premiums
 - 1. gross amount
 - 2. reduced by: reinsurers' amount
 - II. Life insurance provision
 - 1. gross amount
 - 2. reduced by: reinsurers' amount
 - III. Claims outstanding
 - 1. gross amount
 - 2. reduced by: reinsurers' amount
 - IV. Provision for bonuses and rebates
 - 1. gross amount
 - 2. reduced by: reinsurers' amount
 - V. Equalization provision
 - VI. Other technical provisions
 - 1. gross amount
 - 2. reduced by: reinsurers' amount
- E. Technical provisions for life insurance policies where the investment risk is borne by the policyholders
 - 1. gross amount
 - 2. reduced by: reinsurers' amount

- F. Provisions for other risks and charges
 - I. Provisions for pensions and similar obligations
 - II. Provisions for taxation
 - III. Other provisions
- G. Deposits received from reinsurers
- H. Other creditors
 - I. Creditors arising out of direct insurance operations
 - 1. affiliated undertakings
 - 2. undertakings linked by virtue of a participating interest
 - 3. other creditors
 - II. Creditors arising out of reinsurance operations
 - 1. affiliated undertakings
 - 2. undertakings linked by virtue of a participating interest
 - 3. other debtors
 - III. Debenture loans
 - 1. affiliated undertakings, of which convertible
 - 2. undertakings linked by virtue of a participating interest, of which convertible
 - 3. other debtors, of which convertible
 - IV. Amounts owed to banks
 - 1. affiliated undertakings
 - 2. undertakings linked by virtue of a participating interest
 - 3. other debtors
 - V. Other creditors
 - 1. tax
 - 2. social security
 - 3. affiliated undertakings

4. undertakings linked by virtue of a participating interest
 5. other creditors
- I. Accruals and deferred income
3. *Accounting provisions relating to investments*
- a) The item "Land and buildings" shall comprise land, rights to land, rights to land equivalents, and buildings, including buildings on third-party land, buildings under construction, and payments made toward land, rights to land, rights to land equivalents, and buildings.
 - b) The item "Debt securities and fixed-income securities" shall only comprise negotiable securities.
 - c) Securities bearing interest the rate of which varies in line with specific factors, for example the interest rate on the inter-bank market or on the Euromarket, shall also be regarded as debt securities and other fixed-income securities.
 - d) The item "Participation in investment pools" shall comprise shares held by an undertaking in joint investments constituted by several undertakings, the management of which has been entrusted to one of those undertakings.
 - e) Loans guaranteed by mortgage shall be disclosed as such even where they are also secured by insurance policies.
 - f) Loans to policyholders for which the policy is the main security shall be included under "Other loans".
 - g) The item "Deposits with banks" shall only comprise sums the withdrawal of which is subject to a time restriction. Sums deposited with no such restriction shall be disclosed under "Cash at bank and in hand, post cheque balances, cheques" even if they bear interest.
 - h) Securities deposited with ceding undertakings or third parties which remain the property of the reinsurer shall be entered in the latter's accounts as an investment, under the appropriate item.

4. *Deposits*
 - a) Deposits shall be disclosed in the amount of the guarantees deposited with ceding undertakings or third parties or retained by ceding undertakings. Any expected permanent depreciations of value shall be disclosed, in order to assess the deposits at the lower value they should be assigned at the close of the business year.
 - b) Deposits may not be combined with other amounts owed or set off against amounts owed to the ceding insurer.
5. *Special valuation provisions for particular investments*
 - a) The following provisions shall apply to the valuation of debt securities and other fixed-income securities that do not belong to the investments for the benefit of life insurance policyholders who bear the investment risk: Where the purchase price exceeds the amount repayable at maturity, the amount of the difference shall be written off. It is permissible, however, for the amount of the difference to be written off in installments over the entire period remaining until repayment; in this case, the difference must be disclosed separately in the balance sheet or in the notes on the accounts. Where such securities are sold before maturity and the proceeds are used to purchase other such securities, then the difference between the proceeds of sale and their book value may be spread uniformly over the period remaining until the maturity of the sold securities. These provisions shall not affect the obligation to show any expected permanent depreciations of value, in order to fix the securities at the lower value they should be assigned at the close of the business year.
 - b) Investments for the benefit of life insurance policyholders who bear the investment risk shall be assessed at the current value according to point 6 or 7.
6. *Current value for land and buildings*
 - a) In the case of land and buildings, the market value at the close of the business year according to b) and c), if applicable reduced according to d) and e), shall be assessed as the current value.
 - b) Market value shall mean the price at which the land and buildings could be sold under private contract between a willing seller and an

arm's length buyer on the date of valuation, it being assumed that the property is publicly exposed to the market, that market conditions permit orderly disposal, and that a normal period, having regard to the nature of the property, is available for the negotiation of the sale.

- c) The market value shall be determined through separate valuations of each land and buildings item, carried out at least every five years according to methods generally recognized or recognized by the insurance supervisory authority. Subject to d) and e), the determined estimate shall be maintained until the next determination of market value.
 - d) Where the value of any land and buildings item has diminished since the preceding valuation under b) and c), an appropriate write-off shall be made. If no further depreciation requires any further write-off, then the corrected value shall be maintained until the next determination of market value under b) and c), subject to e).
 - e) Where on the date on which the annual account statement or the consolidated annual account statement is drawn up, land and buildings have been sold or are to be sold within the short term, the value arrived at in accordance with b) to d) shall be reduced by the actual or estimated realization costs.
 - f) Where it is impossible to determine the market value of a land and buildings item, the value arrived at on the basis of the principle of purchase price or production cost shall be deemed to be the current value.
7. *Current value for other investments*
- a) In the case of investments other than land and buildings, the likely realizable value, taking into account the principle of prudence, shall be assessed as the current value, subject to b) to d). This shall not apply to shares in affiliated undertakings and participating interests to which the equity method applies.
 - b) Where investments are officially listed on an official stock exchange, the current value shall be the value on the balance-sheet date or, when the balance-sheet date is not a stock-exchange trading day, on the last stock-exchange trading day before that date.
 - c) Where a market exists for investments other than those referred to in b), the current value shall be the average price at which such

investments were traded on the balance-sheet date or, when the balance-sheet date is not a trading day, on the last trading day before that date.

- d) Where on the date on which the annual account statement or the consolidated annual account statement is drawn up, investments such as referred to in b) or c) have been sold or are to be sold within the short term, the value according to b) or c) shall be reduced by the actual or estimated realization costs.
8. *Accrual and deferral*
- a) The item "Accrued interest and rent" shall comprise those items that represent interest and rent that have been earned up to the balance-sheet date but that will only become receivable after this date.
 - b) For non-life insurance, the deferral of costs of acquiring insurance policies shall only be permissible in the form of a reduction of the provision for unearned premiums.
 - c) For life insurance, the deferral of costs of acquiring insurance policies shall only be permissible in the form of zillmerizing the life insurance provision.
9. *Accounting rules relating to mixed items between own capital and borrowed capital*
- a) Where it has been contractually agreed that, in the event of liquidation or bankruptcy, liabilities, whether or not represented by certificates, are to be repaid only after the claims of all other creditors have been met, the liabilities in question shall be disclosed under the item "Subordinated liabilities".
 - b) The item "Fund for future appropriations" shall comprise amounts the distribution of which between the policyholders and the owners had not yet been determined by the balance-sheet date.
10. *Accounting rules relating to technical provisions*
- a) The item "Technical provisions for life insurance policies where the investment risk is borne by the policyholders" shall comprise technical provisions to cover liabilities relating to investment in the context of life insurance policies the value or the return on which is determined by reference to an index or by reference to investments for which the policyholder bears the risk. If additional technical provisions are formed for such life insurance policies to cover death risks, operating expenses, benefits payable at the maturity date, or other risks, then they shall be disclosed under the item "Life insurance provisions".
 - b) The item "Technical provisions for life insurance policies where the investment risk is borne by the policyholders" shall also comprise technical provisions for obligations vis-à-vis the members of a tontine.

- c) Aging reserves for health insurance policies shall be disclosed under the item "Life insurance provision".
- d) The item "Life insurance provision" shall also comprise bonuses already declared.
- e) The item "Provision for bonuses and rebates" shall comprise bonuses and other amounts intended for future distribution to policyholders or contract beneficiaries that have not yet been credited to individual policyholders but also do not belong to the item "Fund for future appropriations".
- f) The item "Equalization provision" shall comprise amounts set aside in compliance with legal or administrative requirements to equalize fluctuations in loss ratios in future years or to provide for special risks.
- g) Provisions for unexpired risks arising from the insurance portfolio shall be disclosed under the item "Other technical provisions".

11. Valuation of technical provisions in general

- a) The amount of technical provisions must be such that an undertaking can meet any liabilities arising out of insurance contracts as far as can reasonably be foreseen.
- b) If policies accepted for reinsurance are included in the profit and loss account or the consolidated profit and loss account with delay, then the technical provisions determined for a cut-off date prior to the balance-sheet date shall be increased to the extent necessary for the fulfillment of the requirement described in a) with respect to the affected reinsurance contracts.

- c) The reinsurers' amounts shall comprise the actual or estimated values that, under contractual reinsurance arrangements, are deducted from the gross amounts of technical provisions. As regards the provision for unearned premiums, however, the reinsurers' amounts shall be valued

according to point 12, if the resulting amounts are lower than according to the provisions of the reinsurance contract in question; this shall not apply if, at the time the annual account statement or the consolidated annual account statement is compiled, the rescission of the reinsurance contract has already been determined by the balance-sheet date.

12. Valuation of the provision for unearned premiums

- a) The provision for unearned premiums shall comprise the share of premiums written falling within the period after the balance-sheet date.
- b) The provision for unearned premiums shall in principle be computed separately for each insurance contract. The use of statistical methods shall be permissible, and in particular proportional and flat-rate methods, where they may be expected to give approximately the same results as individual calculations.
- c) In classes of insurance where the assumption of a temporal correlation between risk experience and premium is not appropriate, calculation methods shall be applied that take account of the differing pattern of risk over time.

13. Valuation of the life insurance provision

- a) The life insurance provision shall comprise the actuarially estimated value of an insurance undertaking's liabilities including bonuses already declared and after deducting the actuarial value of future premiums.
 - b) The computation shall be made annually by an actuary or other specialist in this field on the basis of recognized actuarial methods. The interest rates used may not exceed the maximum interest rates determined by the supervisory authority.
 - c) The life insurance provision shall in principle be computed separately for each life insurance contract. Statistical or mathematical methods may be used where they may be expected to give approximately the same results as individual calculations.
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- d) The aging reserve for health insurance contracts may be determined with statistical or mathematical methods where they may be expected to give approximately the same results as individual calculations.

16. Valuation of the provision for unexpired risks arising from the insurance portfolio

A provision for unexpired risks arising from the insurance portfolio shall be formed in the amount of the positive differences for own account that result for delimitable partial insurance portfolios or for the entire insurance portfolio from the following comparison with respect to risks to be borne after the balance-sheet date on the basis of contracts concluded prior to this date: expenses likely to arise for claims, premium refunds, and insurance operations reduced by unearned premiums and any future premiums receivable.

17. Deposits received

- a) In the balance sheet of an undertaking ceding reinsurance, this item shall comprise amounts deposited by or withheld from other insurance undertakings under reinsurance contracts. Where an undertaking ceding reinsurance has received as a deposit securities that have been transferred to its ownership, this item shall comprise the amount owed by the ceding undertaking by virtue of the deposit.
- b) Deposits received may not be merged with other amounts owed to or by the other undertakings in question.

18. General provisions for the profit and loss account

- a) The profit and loss account shall be compiled in report form. The items enumerated in point 19 shall be disclosed. Non-life insurance accepted for reinsurance shall be included in the technical account for non-life insurance, and life insurance accepted for reinsurance shall be included in the technical account for life insurance. Insurance undertakings that do not conclude life insurance policies themselves but only accept life insurance for reinsurance may include these transactions in the technical account for non-life insurance.

- b) In the case of co-insurance, the profit and loss account shall only include the insurance undertaking's portions of the total amounts of the income and charges.

- c) Reinsurance acceptances may be included in the profit and loss account with up to one year delay. Other than the exceptional case of a change to the time period by which the inclusion of such transactions is delayed, the income and charges for twelve months shall always be included in the profit and loss account.

19. Layout of the profit and loss account

- I. Technical account for non-life insurance
1. Earned premiums, net of reinsurance
 - a) Gross premiums written
 - b) Outward reinsurance premiums
 - c) Change in the gross provision for unearned premiums
 - d) Change in the provision for unearned premiums, reinsurers' share
 2. Allocated investment return (transferred from the non-technical account, item 6)
 3. Other technical income, net of reinsurance
 4. Claims incurred, net of reinsurance
 - a) Claims paid
 - aa) gross amount
 - bb) reinsurers' share
 - b) Change in the provision for claims
 - aa) gross amount
 - bb) reinsurers' share
 5. Changes in other technical provisions, net of reinsurance, not shown under other headings
 6. Bonuses and rebates, net of reinsurance

7. Net operating expenses

- a) Acquisition costs
- b) Administrative expenses
- c) Reinsurance commissions and profit participation
- 8. Other technical charges, net of reinsurance
- 9. Change in the equalization provision
- 10. Balance on the technical account for non-life insurance
- II. Technical account for life insurance
 - 1. Earned premiums, net of reinsurance
 - a) Gross premiums written
 - b) Outward reinsurance premiums
 - c) Change in the gross provision for unearned premiums
 - d) Change in the provision for unearned premiums, reinsurers' share
 - 2. Investment income
 - a) Current income from participating interests, with a separate indication of that derived from affiliated undertakings
 - b) Current income from land and buildings
 - c) Current income from other investments, with a separate indication of that derived from affiliated undertakings
 - d) Value re-adjustments on investments
 - e) Gains on the realization of investments
 - 3. Unrealized gains on investments
 - 4. Other technical income, net of reinsurance
 - 5. Claims incurred, net of reinsurance
 - a) Claims paid
 - aa) gross amount
 - bb) reinsurers' share

- b) Change in the provision for claims
 - aa) gross amount

- bb) reinsurers' share
- 6. Change in other technical provisions, net of reinsurance, not shown under other headings
 - a) Change in life insurance provision
 - aa) gross amount
 - bb) reinsurers' share
 - b) Change in other technical provisions
- 7. Bonuses and rebates, net of reinsurance
- 8. Net operating expenses
 - a) Acquisition costs
 - b) Administrative expenses
 - c) Reinsurance commissions and profit participation
- 9. Investment charges
 - a) Investment management charges and interest charges
 - b) Value adjustments on investments
 - c) Losses on the realization of investments
- 10. Unrealized losses on investments
- 11. Other technical charges, net of reinsurance
- 12. Allocated investment return transferred to the non-technical account (item 4)
- 13. Allocations to or withdrawals from the fund for future appropriations
- 14. Balance on the technical account for life insurance

III. Non-technical account

1. Balance on the technical account for non-life insurance
2. Balance on the technical account for life insurance

3. Investment income
 - a) Current income from participating interests, with a separate indication of that derived from affiliated undertakings
 - b) Current income from land and buildings
 - c) Current income from other investments, with a separate indication of that derived from affiliated undertakings
 - d) Value re-adjustments on investments
 - e) Gains on the realization of investments
 4. Allocated investment return transferred from the life insurance technical account (item 12)
 5. Investment charges
 - a) Investment management charges and interest charges
 - b) Value adjustments on investments
 - c) Losses on the realization of investments
 6. Allocated investment return (transferred to the non-life insurance technical account, item 2)
 7. Other income from ordinary activities
 8. Other charges from ordinary activities
 9. Profit or loss on ordinary activities
 10. Extraordinary income
 11. Extraordinary charges
 12. Extraordinary profit or loss
 13. Taxes on income and profit
 14. Other taxes
 15. Annual profit/annual loss
-
20. *Gross premiums written*
 - a) The item "Gross premiums written" shall comprise all premiums due during the business year regardless of the fact that such amounts may relate in whole or in part to periods after the balance-sheet date.

- b) These premiums shall also include:
 - aa) premiums yet to be written, where the premium calculation can be done only at the end of the business year
 - bb) single premiums, including annuity premiums; the inclusion of single premiums resulting from bonus and rebate provisions shall be permissible;
 - cc) additional premiums in the case of half-yearly, quarterly, or monthly payments from policyholders for expenses borne by the insurance undertaking;
 - dd) reinsurance premiums due from ceding and retroceding insurance undertakings, including portfolio entries that are paid upon conclusion or change of insurance contracts accepted for reinsurance.
- c) The following shall be deducted from the premiums referred to in a):
 - aa) portfolio withdrawals credited to ceding and retroceding insurance undertakings that are paid upon changing or terminating insurance business accepted for reinsurance;
 - bb) cancellations of premiums charged to the business year.
- d) Taxes or charges levied with premiums or on premiums may not be included in the item "Gross premiums written".

21. Outward reinsurance premiums

- a) The item "Outward reinsurance premiums" shall comprise all premiums paid or payable in the business year in respect of

outward reinsurance contracts entered into by an insurance undertaking.

- b) These premiums shall also include portfolio entries payable on the conclusion or amendment of outward reinsurance contracts.
- c) Portfolio withdrawals payable upon changing or terminating outward reinsurance contracts shall be deducted from the premiums referred to in a).

22. *Claims incurred*

- a) The item groups "Claims incurred, net of reinsurance" shall comprise the payments made in the business year for claims including annuity payments and surrender payments as well as external and internal claims management expenses. Entries and withdrawals of loss provisions shall be taken into account in the same way as for portfolio entries and withdrawals as governed by points 20 and 21. Sums recoverable on the basis of subrogation and salvage within the meaning of point 14(e) that the insurance undertaking has received in the business year shall be deducted from the gross amount of the payments for claims.
- b) The item groups "Change in the provision for claims" shall comprise the difference between the provision for claims at the end of the business year and the provision for claims at the beginning of the business year, taking into account the difference between the amount owed on the basis of subrogation and salvage within the meaning of point 14(e) at the end of the business year and the beginning of the business year. The calculation of the difference shall also take into account the provisions for claims incurred but not yet reported in the business year and for non-life insurance benefits to be paid in the form of annuities.

23. *Bonuses and rebates*

- a) The items "Bonuses and rebates" shall comprise the payments for bonuses and rebates made to policyholders and other beneficiaries in the business year and provisions for this purpose at the end of the business year, minus the provisions for this purpose at the beginning of the business year, always net of reinsurers' shares. Payments within the meaning of the preceding sentence shall also encompass the corresponding increase of other technical provisions and offsetting of future premiums.
- b) Bonuses shall comprise premium rebates resulting from surplus or profit on business as a whole or a section of business; rebates shall comprise premium rebates resulting from the experience of individual contracts.

24. *Operating costs*

- a) Direct costs attributable to the conclusion of individual insurance contracts and other expenses arising from the conclusion of insurance contracts shall be disclosed in the items "Acquisition costs". These shall include acquisition commissions, renewal commissions, and advertising expenses.
- b) Staff costs, depreciation provisions in respect of office furniture and equipment, and other office expenses shall be divided among the items "Claims incurred, net of reinsurance", "Acquisition costs", "Administrative expenses", "Investment management charges and interest charges", and "Other charges from ordinary activities", to the extent that they arise from ordinary activities. In this regard, the items "Acquisition costs" should be assigned the costs of processing proposals, the cost of drawing up the insurance document, the issuing of policies, and including the insurance contract in the portfolio; the items "Administrative expenses" shall in particular include the costs arising from premium collection, portfolio administration, handling of bonuses and rebates, and handling of reinsurance.
- c) The items "Administrative expenses" shall also include collection and portfolio management commissions.

25. *Investment income and charges*

- a) If an insurance undertaking only compiles a technical account for non-life insurance according to point 18(a), but not a technical account for life insurance, then it shall disclose all income and charges in connection with investments in the corresponding items of the non-technical account.
- b) If an insurance undertaking only compiles a technical account for life insurance according to point 18(a), but not a technical account for non-life insurance, then it shall disclose all income and charges in connection with investments in the corresponding items of the technical account for life insurance.
- c) If an insurance undertaking compiles both a technical account for non-life insurance and a technical account for life insurance according to point 18(a), then it shall disclose in the corresponding items of the latter account the income and charges relating to investments that are directly connected with life insurance and the remaining income and charges relating to investments in the corresponding items of the non-technical account. Income and charges directly connected with life insurance shall in any event comprise the income and investments relating to separately kept investments that are intended to cover the technical provisions for life insurance. In this case, the consolidated profit and loss account may also include all income and charges relating to investments in the corresponding items of the non-technical account.
- d) It shall be permissible to transfer part of the investment income disclosed in the technical account for life insurance to the non-technical account; the transferred amount shall be disclosed in the items "Allocated investment return transferred to the non-technical account" and "Allocated investment return transferred from the life insurance technical account". It shall also be permissible to transfer part of the investment income disclosed in the non-technical account to the technical account for non-life insurance; the transferred amount shall be disclosed in the items "Allocated investment return". A direct transfer of investment income from the technical account for life insurance to the technical account for non-life insurance shall not be permissible. When applying the last sentence of c), it shall also be permissible to transfer part of the investment income to the technical account for life insurance; the transferred amount shall be disclosed in the corresponding item.

26. *Unrealized gains and losses on investments*

- a) The items "Unrealized gains on investments" and "Unrealized losses on investments" shall comprise the changes to the difference

between the valuation of investments for the benefit of life insurance policyholders who bear the investment risk at the current value according to point 5(b) and their valuation according to the provisions applicable to other investments.

- b) Write-ups and write-offs affecting other investments may not be included in the item referred to in a), but must be disclosed in the items "Value re-adjustments on investments" and "Value adjustments on investments".

27. *Assets analysis*

The balance sheet or the notes on the accounts shall also include the experience of the individual items of immaterial investment values, land and buildings, and the individual items of investments in affiliated undertakings and participating interests. In this regard, starting with the balance sheet values at the beginning of the business year, the accruals, reductions, transfers, write-ups, and write-offs of the business year shall be disclosed separately.

28. *Other notes on the account concerning the balance sheet*

- a) The notes on the account shall also include:
 - aa) the balance sheet value of land and buildings that the insurance undertaking uses itself;
 - bb) the amount of the loans to policyholders for which the policy is the main security;
- cc) a precise breakdown of "Other loans", if the "Other loans" not secured by policies are material;
- dd) the acquisition costs deducted from the gross amount of the provision for unearned premiums;
- ee) the zillmer deductions taken from the gross amount of the life insurance provision;
- ff) a summary of the most important computation bases for the life insurance provision;

- gg) the amounts owed on the basis of subrogation and salvage within the meaning of point 14(e) deducted from the provision for claims, if they are material;
- hh) the amount of the provision for unexpired risks arising from the insurance portfolio, if it is material;
- b) If the investments disclosed in the items "Other investments" are material, they must be explained in more detail in the notes on the account. The same shall apply to the assets disclosed in the item "Other assets", if they are material.
- c) The notes on the account shall make reference to the equalization reserve.
- d) The notes on the account shall indicate the values of investments for the benefit of life insurance policyholders who bear the investment risk determined on the basis of the purchase or production costs and the current values of other investments. Points 6 and 7 shall apply to the determination of current values. The valuation method used to determine the current values shall be indicated for all investments; the reason for the use of the valuation method chosen in each case shall also be indicated for all investments, with the exception of land and buildings. The current values for land and buildings shall be broken down by the years in which their market values were most recently determined.

29. *Notes on the account concerning the sections of business*

- a) As regards non-life insurance, the notes on the accounts shall disclose gross premiums written, gross premiums earned, gross claims charges, gross operating expenses, and the reinsurance balance. These amounts shall be shown broken down between direct insurance and reinsurance acceptances, if reinsurance acceptances amount to 10% or more of gross premiums written, and then within direct insurance into the following groups of classes:

- aa) accident and health;
- bb) motor, third-party liability;
- cc) motor, other classes;
- dd) marine, aviation and transport;
- ee) fire and other damage to property;
- ff) third-party liability;
- gg) credit and suretyship;
- hh) legal expenses;
- ii) assistance to tourists;
- kk) miscellaneous.

The breakdown into classes and groups of classes within direct insurance shall not be required where the amount of the gross premiums written in a class or group of classes does not exceed 10 million euros; however, the amounts relating to the three classes or groups of classes shall be disclosed in any case.

- b) As regards life insurance, the notes on the accounts shall disclose gross premiums written, broken down between direct insurance and reinsurance acceptances, if reinsurance acceptances amount to 10% or more of gross premiums written; moreover, the reinsurance balance shall be indicated in one sum. The gross premiums written in direct insurance shall be broken down as follows, if the following individual amounts listed exceed 10% of the total gross premiums written in direct insurance:

- aa) individual premiums and premiums under group contracts;
- bb) periodic premiums and single premiums;
- cc) premiums from non-bonus contracts, premiums from bonus contracts, and premiums from contracts where the investment risk is borne by policyholders.
- c) The gross premiums written in direct insurance shall be broken down in the notes on the account according to their regional origin into the following three partial amounts, subject to the next sentence: Liechtenstein, other Member States of the European Economic Area, and other States. Partial amounts that do not

exceed 5% of the total amount of the gross premiums written need not be indicated, however.

- d) Insurance undertakings that only accept business for insurance need only break down the gross premiums written into non-life insurance and life insurance, instead of providing the information according to a) and b).
- e) The reinsurance balance within the meaning of a) and b) shall mean the reinsurers' share in the technical balance of the section of business in question, including any associated reinsurers' shares in items that are not included in this balance.

30. Other notes on the account concerning the profit and loss account

- a) The notes on the account shall also include:
 - aa) the magnitude of the reinsurance acceptances included with delay in the profit and loss account according to point 18(c), with the respective amount of the time delay and a justification of the method used; if the method changes, the effect on the asset, financial, and income situation shall be shown separately;
 - bb) the breakdown of the costs for bonuses and rebates, net of reinsurance, by bonuses and by rebates, if one of these two amounts is material;
 - cc) commissions of all kinds for direct insurance written in the business year.

- b) If the difference between the amount of the provision for claims at the beginning of the business year and the sum of the amounts paid during the business year for claims incurred in previous business years plus the amount of the provision for such outstanding claims at the end of the business year is substantial, then the difference shall be explained in the notes on the account according to type and amount.
- c) If an insurance undertaking makes use of point 25(d), then the reason and calculation basis for every transfer shall be explained in the notes on the account.