

Liechtenstein Law Gazette

Year 1996

No. 23

published on 22 February 1996

Law
of 6 December 1995
on the Supervision of
Insurance Undertakings
(Insurance Supervision Act; ISA)

I hereby grant my consent to the following Resolution adopted by Parliament:

I. Object, scope and terminology

Article 1

Object

This Act circumscribes the organization and content of insurance supervision and in particular aims to protect insured persons and confidence in the Liechtenstein insurance and financial system.

Article 2

Scope; principle

1) The following shall be subject to insurance supervision in accordance with this Act:

- a) undertakings that provide direct insurance or reinsurance in the Principality of Liechtenstein or from the Principality of Liechtenstein (insurance undertakings);

b) special purpose vehicles in accordance with article 6a.¹

2) The supervisory authority shall have the authority to exempt individual undertakings from supervision in whole or in part, as long as no need for supervision exists in the individual case and the interests of the insured persons are not endangered by this exemption.

3) This Act shall be subject to special rules provided for in international treaties.

Article 3

Non-life insurance

1) Liability insurance and insurance against damage to property and assets shall be divided into separate classes; a list of these classes is contained in Annex 1.

2) The applicable special enactments shall apply to compulsory building insurance.

3) This Act shall be subject to special laws and ordinances applicable to compulsory motor vehicle liability insurance.

Article 4

Life insurance

1) Life insurance shall in particular encompass insurance on survival, insurance on death, mixed insurance policies, and insurance policies supplementary to life insurance.

2) An ordinance shall govern the delineation between life insurance and in particular the business activities that may not be provided in the form of life insurance.

3) The division of classes of insurance is included in Annex 2.

¹ Article 2, paragraph 1 amended by LGBl. 2009 No. 328.

Article 5²*Reinsurance*

1) Reinsurance encompasses the independent activity of undertakings consisting in accepting risks ceded by an undertaking providing direct insurance or by another reinsurance undertaking.

2) Reinsurance also includes the insurance of risks of an institution for occupational retirement provision as defined in the Pension Funds Act.

3) In the case of the association of insurance undertakings known as Lloyd's, reinsurance also encompasses the activity consisting in accepting risks ceded by any member of Lloyd's, by an insurance undertaking not belonging to that association.

4) Supervision shall not cover undertakings whose head office is situated outside the Contracting Parties to the EEA Agreement that only provide reinsurance in the Principality of Liechtenstein, provided that they are subject to supervision equivalent to that in Liechtenstein in their home country and that they do not set up an establishment in the Principality of Liechtenstein.

5) The following articles shall not apply to reinsurance: articles 3, 4, 8 to 10, 18c, 18d, 21, 24 to 27, 28 to 30, 34, 45, 48 to 50, 52, 53 and 59a to 59x.

Article 6

Self-insurance (captive)

1) Self-insurance may be provided as direct insurance or reinsurance.

2) Insurance undertakings may simultaneously provide self-insurance and the insurance of third parties.

3) In individual cases, self-insurance may be exempted from supervision in accordance with article 2, paragraph 2.

Article 6a³*Special purpose vehicles*

1) The following articles shall apply *mutatis mutandis* to special purpose vehicles: articles 12 to 14, 17 to 18b, 18e, 19, 23 to 23b, 35 to 37, 37b, 38 to 42, 44, 46, 47, 51, 55, 57 to 58, 60 to 61a, 63 and 64. Article 13a shall apply

² Article 5 amended by LGBI. 2009 No. 328

³ Article 6a inserted by LGBI. 2009 No. 328.

with the proviso that special purpose vehicles may also be established in the form of a trust enterprise.

2) Special purpose vehicles must always ensure the permanent ability to fulfill reinsurance contracts. For this purpose, the time value of the capital investments of a special purpose vehicle must at all times exceed the claims risk arising from reinsurance contracts; this may also be ensured by way of adequate hedging instruments.

3) The supervisory authority shall decide on fulfillment of the requirements set out in paragraph 2 and on whether a hedging instrument is to be deemed adequate. Moreover, it shall issue requirements concerning the minimum provisions that must be included in every reinsurance contract concluded with an insurance undertaking.

Article 7

Insurance undertakings belonging to an insurance group⁴

1) An insurance undertaking shall be subject to supplementary supervision if:⁵

- a) it maintains a participation in another undertaking, irrespective of the latter's head-office State, that provides direct insurance or reinsurance, or if it directly or indirectly holds at least 20% of the capital or voting rights, or if it has such an undertaking as a subsidiary or exercises a dominant influence over such an undertaking; or⁶
- b) it is the participating undertaking of at least one insurance undertaking or of a third-State insurance undertaking; or⁷
- c) it is the subsidiary of another undertaking, or another undertaking exercises a dominant influence over it.⁸

2) Supplementary supervision shall extend to intra-group business and the own funds of the group, the latter in the case of paragraph 1(c) only if the

⁴ Article 7 heading amended by LGBl. 2002 No. 157.

⁵ Article 7, paragraph 1 introductory sentence amended by LGBl. 2002 No. 157.

⁶ Article 7, paragraph 1(a) amended by LGBl. 2002 No. 157

⁷ Article 7, paragraph 1(b) amended by LGBl. 2009 No. 328.

⁸ Article 7, paragraph 1(c) inserted by LGBl. 2009 No. 328.

other undertaking is an insurance holding company or a third-State insurance undertaking. In the case of inclusion of an insurance holding company, evidence must be provided of the professional qualifications and personal integrity of the governing bodies for managing such a company. The Government shall regulate the details of supplementary supervision by ordinance.⁹

3) The placement of the other undertakings listed in paragraph 1 under supplementary supervision does not entail the placement of such undertakings within the scope of this Act.¹⁰

Article 8

Health insurance

1) With respect to health insurance, the legislation on health insurance shall be observed, the provisions of which necessarily apply to all health insurance contracts.

2) This article shall be subject to the provisions of this Act on the taking-up and pursuit of business activities by insurance undertakings.

Article 9

Accident insurance

1) Insurance undertakings intending to provide accident insurance (against industrial injuries, non-industrial injuries, occupational diseases) shall also be subject to the legislation on compulsory accident insurance.

2) To the extent that the legislation on compulsory accident insurance contains provisions that deviate from this Act and do not merely apply to voluntary accident insurance, such provisions shall take precedence.

⁹ Article 7, paragraph 2 amended by LGBl. 2009 No. 328.

¹⁰ Article 7, paragraph 3 amended by LGBl. 2002 No. 157.

Article 10

*Occupational retirement provision*¹¹

1) Occupational old age, disability, and survivors' insurance shall not fall within the scope of this Act; the relevant special legislation shall apply to such insurance.

2) This article is subject to the provisions set out in pension funds legislation with respect to insurance undertakings providing direct life insurance and occupational retirement provision.¹²

Article 11¹³*Definitions and terminology*

1) For the purposes of this Act, the following definitions shall apply:

1. "host State" means the State in which an insurance undertaking has an establishment or provides services;
2. "participating undertaking" means a parent undertaking or another undertaking which holds a participation or an undertaking linked with another undertaking by a relationship that requires consolidated accounting;
3. "direct insurance undertaking" means an undertaking providing direct insurance;
4. "third-State reinsurance undertaking" means an undertaking providing direct insurance or reinsurance and whose head office is not in a Contracting Party to the EEA Agreement;
5. "close links" means links between at least two natural or legal persons through a control relationship, through direct holding, or through holding by way of a control relationship of at least 20% of the capital or the voting rights of an undertaking. Close links between at least two natural or legal persons shall also be considered to exist if these persons are permanently linked with the same person through a control relationship;

¹¹ Article 10 heading amended by LGBl. 2007 No. 14.

¹² Article 10, paragraph 2 amended by LGBl. 2007 No. 14.

¹³ Article 11 amended by LGBl. 2009 No. 328.

6. "financial sector" means a sector within the meaning of the Financial Conglomerates Act;
7. "captive reinsurance undertaking" means a reinsurance undertaking owned either by an undertaking in the financial sector other than an insurance undertaking or a group of insurance undertakings within the meaning of article 7 or by an undertaking not in the financial sector, the purpose of which is to provide reinsurance cover exclusively for the risks of the undertaking or undertakings to which it belongs or of an undertaking or undertakings of the group of which it is a member.
8. "mixed-activity insurance holding company" means a parent undertaking, other than an insurance undertaking, a third-State insurance undertaking, an insurance holding company or a mixed financial holding company within the meaning of the Financial Conglomerates Act, which includes at least one insurance undertaking among its subsidiary undertakings.
9. "large risks" means risks enumerated in Annex 3;
10. "home State" means a State in which the head office of the insurance undertaking is situated;
11. "control relationship" means a link between a parent undertaking or a superordinate undertaking and a subsidiary undertaking or a subordinate undertaking or a similar link between a natural or legal person and an undertaking. Every subordinate undertaking of a subordinate undertaking shall also be considered a subordinate undertaking of the superordinate undertaking at the top of these undertakings;
12. "winding-up proceedings" means collective proceedings involving the realization of the assets of an insurance undertaking and the distribution of the proceeds among the creditors, shareholders or members as appropriate, which necessarily involve any intervention by an administrative or judicial authority. These include proceedings terminated by a composition agreement in bankruptcy (articles 88 and 89 of the Bankruptcy Code) or other analogous measure.
13. "parent undertaking" means a parent undertaking within the meaning of the accounting rules of the Law on Persons and Companies (PGR) and every undertaking exercising a dominant influence on another undertaking;
14. "establishment" means the head office, a branch or an agency of an insurance undertaking. An office run like a permanent agency by the undertaking's own staff or by an independent third party mandated by the undertaking shall be considered equivalent to a branch or agency;

15. "qualifying holding" means a direct or indirect holding in an undertaking which represents 10% or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of that undertaking;
16. "finite reinsurance" means reinsurance under which the explicit maximum loss potential, expressed as the maximum economic risk transferred, arising both from a significant underwriting risk and timing risk transfer, exceeds the premium over the lifetime of the contract by a limited but significant amount, together with at least one of the following features:
 - a) explicit and material consideration of the time value of money;
 - b) contractual provisions to moderate the balance of economic experience between the parties over time to achieve the target risk transfer;
17. "reinsurance undertaking" means an undertaking providing risk insurance;
18. "reorganization measures" means all measures involving any intervention by an administrative or judicial authority which are intended to preserve or restore the financial situation of an insurance undertaking and which affect pre-existing rights of parties other than the insurance undertaking itself, including but not limited to measures involving the possibility of a suspension of payments, suspension of enforcement measures or reduction of claims;
19. "State of the provision of services" means the State in which the risk is situated that is covered by an insurance undertaking established in another State;
20. "State of the establishment" means the State in which the insurance undertaking is established that covers the risk;
21. "State in which the risk is situated" means
 - a) the State in which the property is situated, where the insurance relates either to buildings or to buildings and their contents, in so far as the contents are covered by the same insurance policy;

- b) the State of registration, where the insurance relates to vehicles of any type;
 - c) the State where the policyholder took out the policy in the case of policies of a duration of four months or less covering travel or holiday risks (whatever the class concerned);
 - d) in all other cases, the State in which the policyholder habitually resides or, if the policyholder is a legal person, the State of that policyholder's establishment to which the contract relates;
22. "State of the commitment" means the State in which the policyholder habitually resides or, if the policyholder is a legal person, the State of that policyholder's establishment to which the contract relates;
23. "subsidiary undertaking" means a subsidiary undertaking within the meaning of the accounting rules of the Law on Persons and Companies (PGR) and every undertaking on which a parent undertaking exercises a dominant influence. Every subsidiary undertaking of a subsidiary undertaking shall also be considered a subsidiary undertaking of the parent undertaking at the top of these undertakings;
24. "superordinate undertaking" means a parent undertaking or another undertaking exercising a dominant influence on another undertaking;
25. "subordinate undertaking" means a subsidiary undertaking or another undertaking on which a dominant influence is exercised;
26. "related undertaking" means a subsidiary undertaking or another undertaking in which a participation is held, or an undertaking linked with another undertaking by a relationship that requires consolidated accounting;
27. "insurance claims" means all claims to which policyholders, insured persons, beneficiaries, or injured third parties with a direct right of action against the insurance undertaking are entitled vis-à-vis the insurance undertaking pursuant to an insurance contract, including claims for repayment of the premium if a contract has not been formed prior to adjudication in bankruptcy;

28. "insurance holding company" means a parent undertaking whose main business is to acquire and hold participations in subsidiary undertakings, where those subsidiary undertakings are exclusively or mainly direct insurance undertakings, reinsurance undertakings or third-State insurance undertakings, at least one of such subsidiary undertakings being an insurance undertaking that is not a mixed-activity financial holding company within the meaning of the Financial Conglomerates Act;
 29. "Contracting Party to the EEA Agreement" means a State for which the Agreement on the European Economic Area has entered into force;
 30. "competent authorities" means the national authorities vested by law with supervisory powers over insurance undertakings;
 31. "special purpose vehicle" means any undertaking, whether incorporated or not, other than an existing insurance undertaking, which assumes risks from insurance or reinsurance undertakings and which fully funds its exposure to such risks through the proceeds of a debt issuance or some other financing mechanism where the repayment rights of the providers of such debt or other financing mechanism are subordinated to the reinsurance obligations of such a vehicle;
- 2) The designations of persons and functions used in this Act shall be interpreted to refer to both female and male genders.

II. Taking-up and preconditions of business activities¹⁴

A. Licensing requirement and license application¹⁵

Article 12

Licensing requirement

1) Insurance undertakings subject to supervision shall require a license by the supervisory authority for the taking-up of business activity in each of their classes of insurance.¹⁶

2) Insurance undertakings whose head office is situated in another Contracting Party to the EEA Agreement shall not require a license, provided that they fulfill the special conditions under articles 28 to 30; this paragraph shall be subject to special legislation applicable to individual classes of compulsory insurance.¹⁷

Article 13¹⁸

License application and business plan

1) Insurance undertakings intending to obtain a license for taking up business activities must submit an application to the supervisory authority together with their business plan.

2) The business plan must contain the following information and records:

- a) the articles of association;
- b) the organization and the local field of activity of the undertaking, where applicable also of the insurance group or the financial conglomerate to which the undertaking belongs;

¹⁴ Title preceding article 12 amended by LGBl. 2009 No. 328.

¹⁵ Title preceding article 12 inserted by LGBl. 2009 No. 328.

¹⁶ Article 12, paragraph 1 amended by LGBl. 2009 No. 328.

¹⁷ Article 12, paragraph 2 amended by LGBl. 2002 No. 157.

¹⁸ Article 13 amended by LGBl. 2009 No. 328.

- c) the annual financial statement of the last three business years or the opening balance sheet as well as, where applicable, the consolidated business report;
- d) information on financial resources, especially statements for the first three business years concerning the financial resources available to cover commitments and the solvency margin;
- e) the identity and the amount of the holdings of direct and indirect shareholders, members or partners who, as natural or legal persons, have a qualifying holding in the undertaking or are otherwise beneficial owners thereof;
- f) the names of the persons entrusted with ultimate oversight (board of supervision or directors) and general management as well as all other organs, including the persons responsible for supervision and controlling;
- g) the name of the responsible actuary of an insurance undertaking;
- h) the names of the external auditing office and the persons responsible for the mandate and, if the undertaking is part of an insurance group or financial conglomerate, the organization of the mandate of the external auditing office of the insurance group or the financial conglomerate;
- i) the contracts or other arrangements by which the business activity or parts thereof are to be transferred to third parties (outsourcing of functions);
- k) the planned classes of insurance and the type of risks that the insurance undertaking intends to cover;
- l) the envisaged reinsurance and, in the case of reinsurance undertakings, the type of reinsurance contracts that the undertaking plans to conclude with ceding undertakings, and the basic features of the retrocession (retrocession plan);
- m) the envisaged organization and procedure for assessing, limiting and monitoring risks (risk management);
- n) the projected balance sheets and projected income statements for the first three business years, especially estimates with respect to commission expenses and other administrative costs, anticipated premium and contribution income, anticipated expenditures for insurance claims, and the anticipated liquidity situation;
- o) the expected costs for building up the insurance undertaking;

- p) the declaration of membership in the National Bureau of Insurance and the National Guarantee Fund and simultaneous announcement of the claims settlement representative;
- q) information concerning the resources for fulfillment of tourist assistance benefits;
- r) upon demand of the supervisory authority, other information and records necessary for evaluating the application.

3) If an insurance undertaking already in possession of a license for a class of insurance applies for a license for an additional class of insurance, it need only submit the records and information referred to in paragraph 2 if the approved records and information are to be amended.

B. Preconditions for licensing¹⁹

Article 13a²⁰

Legal form, head office, purpose and organization

1) Insurance undertakings must have the legal form of a company limited by shares, a European Company (SE), a cooperative society, or a European Cooperative Society (SCE). Both the head office set out in the articles of association and the main administrative office of the undertaking must be in the Principality of Liechtenstein.

2) The purpose and organization of the undertaking shall be limited to insurance activities and directly related business activities.

¹⁹ Title preceding article 13a inserted by LGBl. 2009 No. 328.

²⁰ Article 13a inserted by LGBl. 2009 No. 328.

Article 14²¹*Minimum capital*

1) An insurance undertaking whose head office is situated in the Principality of Liechtenstein must in any event have minimum capital that guarantees permanent fulfillment of the undertaking's commitments. The minimum capital may be paid up in Swiss francs or the equivalent in euros or US dollars.

2) On a case-by-case basis, the supervisory authority shall determine the necessary minimum capital, which must be fully paid up and which it determines taking into account in particular the classes of insurance to be provided and the quality of risk management.

Article 15

*Own funds*²²

1) Insurance undertakings must always maintain own funds free of any foreseeable liabilities at least in the amount of the solvency margin. One third of the solvency margin shall be considered the guarantee fund.¹

2) The Government shall determine the allowable own funds and shall issue requirements concerning the amount and calculation of:

- a) the solvency margin, taking into account the entire business;
- b) the guarantee fund, which shall correspond to a specified fraction of the solvency margin and which may not fall below the minimum guarantee fund;²
- c) the minimum guarantee fund, taking into account the capital needs of the respective class of insurance.

Article 16

Technical provisions

1) Insurance undertakings shall be required to form sufficient technical provisions for their entire business.

²¹ Article 14 amended by LGBl. 2009 No. 328.

²² Article 15 heading amended by LGBl. 2009 No. 328.

¹ Article 15, paragraph 1 amended by LGBl. 2002 No. 157.

² Article 15, paragraph 2(b) amended by LGBl. 2002 No. 157.

2) The Government shall issue requirements concerning the type and amount of the provisions and the associated investments.

Article 17

Organization fund

1) In addition to minimum capital, an insurance undertaking must maintain an organization fund to cover the costs of formation and development or an exceptional expansion of business.

2) The Government shall issue supplemental requirements concerning the amount, the creation, the duration, and the reestablishment of the organization fund.

3) On a case-by-case basis, the supervisory authority shall determine the amount of the organization fund; in exceptional cases, it may grant an exemption to the obligation to create an organization fund.

Article 18²³

Demands on governing bodies

1) Members of the board of supervision or of the board of directors and of the general management must have the professional qualifications and personal integrity to meet the demands on the leadership of an insurance undertaking.

2) At least one member of the board of supervision or of the board of directors and of the general management must have Liechtenstein citizenship or the citizenship of a Contracting Party to the EEA Agreement or of Switzerland or be granted treatment equal to such persons pursuant to an international agreement. With respect to the member of the general management, the supervisory authority may approve exceptions in special cases.

3) The members of the board of supervision or of the board of directors and of the general management must have a residence that allows them to actually and impeccably fulfill their function and their responsibilities.

²³ Article 18 amended by LGBl. 2009 No. 328.

4) The persons referred to in paragraph 2 must have sufficient powers to represent the insurance undertaking before administrative authorities or courts.

5) In the case of a branch or agency of a third-State insurance undertaking, it suffices if the general agent's residence is in Liechtenstein and if he has the powers required by paragraph 4.

6) The Government shall provide further details by ordinance.

Article 18a²⁴

Demands on partners with qualifying holdings

Shareholders, members or partners with qualifying holdings in the undertaking must meet the demands expected in the interest of sound and prudent management of an insurance undertaking.

Article 18b²⁵

Responsible actuary

1) Insurance undertakings must appoint a responsible actuary responsible for actuarial matters.

2) The responsible actuary must have the professional qualifications and personal integrity necessary to meet the demands of his position.

3) The Government shall provide further details by ordinance.

Article 18c²⁶

Membership in the National Bureau of Insurance and the National Guarantee Fund

Where an insurance undertaking intends to provide the class of insurance of motor vehicle liability, it must join the National Bureau of Insurance and the National Guarantee Fund. At the same time, it must announce the name and address of the claims settlement representative designated in every other State of the European Economic Area in accordance with article 75b of the Road Traffic Act.

²⁴ Article 18a amended by LGBl. 2009 No. 328.

²⁵ Article 18b inserted by LGBl. 2009 No. 328.

²⁶ Article 18c inserted by LGBl. 2009 No. 328.

Article 18d²⁷*Tourist assistance*

If an undertaking has applied for a license for the class of insurance of tourist assistance, the undertaking must have the requisite resources to fulfill assistance benefits.

Article 18e²⁸*Outsourcing of functions*

1) Where outsourcing of functions is envisaged, the main administrative office of the undertaking, including accounting, must remain in the Principality of Liechtenstein.

2) The outsourcing of functions must comply with the requirements and directives enacted by the Government and the supervisory authority.

Article 19²⁹*Risk management*

1) An insurance undertaking must be organized in such a way that it is able to assess, limit and monitor all significant risks.

2) The supervisory authority shall issue requirements concerning the type of risks to be assessed and the monitoring of such risks by the insurance undertaking.

²⁷ Article 18d inserted by LGBl. 2009 No. 328.

²⁸ Article 18e inserted by LGBl. 2009 No. 328.

²⁹ Article 19 amended by LGBl. 2009 No. 328.

Article 20

Activities alien to insurance

- 1) Activities alien to insurance shall be impermissible.³⁰
- 2) Qualifying holdings by insurance undertakings in undertakings alien to insurance must be reported to the supervisory authority. The Government shall regulate the details by ordinance.³¹

Article 21

Separation of classes

- 1) Insurance undertakings providing direct life insurance may not provide other classes of insurance, except for supplementary insurance for accidental death, sickness, and disability, and health and disability insurance.
- 2) An insurance undertaking providing legal expenses insurance along with other classes of insurance must transfer the processing of benefits relating to legal expenses insurance to another undertaking (claims management undertaking). The transfer shall be deemed an outsourcing of functions. The claims management undertaking may not offer other classes of insurance in addition to legal expenses insurance and may not perform other processing of benefits in other classes of insurance.
- 3) Article 23b shall apply *mutatis mutandis* to the general management of the claims management undertaking referred to in paragraph 2. Its members may not simultaneously work for an insurance undertaking that offers classes of insurance other than legal expenses insurance.³²

³⁰ Article 20, paragraph 1 amended by LGBl. 2009 No. 328.

³¹ Article 20, paragraph 2 amended by LGBl. 2002 No. 157.

³² Article 21, paragraph 3 amended by LGBl. 2009 No. 328.

Article 21a³³*Company name*

The terms "insurance", "reinsurance", "insurer", and "reinsurer" or "assurance", alone or in combination with other words or as an abbreviation, as well as equivalent foreign-language terms may be used in the company name, for designation of the purpose of the business, or for advertising purposes only in the case of undertakings that have received a license for operating direct insurance or reinsurance. Insurance intermediaries may only use such terms if they are used in conjunction with terms clearly indicating insurance mediation activities.

Article 22³⁴*Mediation activities*

Insurance undertakings may not make use of services by insurance intermediaries subject to the Insurance Mediation Act who do not have the required FMA license.

C. License³⁵Article 23³⁶*Granting of license*

1) The license shall be granted if the insurance undertaking meets the legal requirements and the business plan can be approved. The license may be granted with conditions.

2) In direct insurance, the license is granted separately for each class of insurance or jointly for several classes of insurance.

³³ Article 21a amended by LGBl. 2009 No. 328.

³⁴ Article 22 amended by LGBl. 2006 No. 128.

³⁵ Title preceding article 23 inserted by LGBl. 2009 No. 328.

³⁶ Article 23 amended by LGBl. 2009 No. 328.

3) In reinsurance, the license is granted for activities of non-life reinsurance, life reinsurance, or for all types of reinsurance.

4) The license for direct insurance also authorizes the undertaking to engage in reinsurance activities in the approved classes of insurance.

5) For insurance undertakings whose head office is situated in the Principality of Liechtenstein, the license extends to the territory of the Contracting Parties to the EEA Agreement.

6) The supervisory authority shall publish the licenses granted.

Article 23a³⁷

Consultation of other authorities

1) Before granting the insurance undertaking a license, the supervisory authority shall consult the competent authorities of other affected Contracting Parties to the EEA Agreement if the insurance undertaking:

- a) is a subsidiary undertaking of an insurance undertaking licensed in another Contracting Party;
- b) is a subsidiary undertaking of the parent undertaking of an insurance undertaking licensed in another Contracting Party; or
- c) is controlled by the same natural or legal person as an insurance undertaking licensed in another Contracting Party.

2) The authority of an affected Contracting Party to the EEA Agreement responsible for the supervision of banks and investment firms shall be consulted before granting a license to an insurance undertaking which:

- a) is a subsidiary of a bank or investment firm licensed in a Contracting Party;
- b) is a subsidiary of the parent undertaking of a bank or investment firm licensed in a Contracting Party;
- c) is controlled by the same natural or legal person as a bank or investment firm licensed in a Contracting Party.

³⁷ Article 23a inserted by LGBl. 2009 No. 328.

3) The supervisory authority shall consult the competent authorities of the other Contracting Parties to the EEA Agreement especially if they are verifying the suitability of the shareholders and the reputation and experience of the general manager of another undertaking in the same group. It shall transmit to the competent authorities of the other Contracting Parties to the EEA Agreement all information concerning the suitability of the shareholders and the reputation and experience of the general manager which is relevant to the other competent authorities when granting licenses and in the course of ongoing supervision of business activities.

Article 23b³⁸

Denial of license

1) The license for business activities may be denied if an undertaking does not meet the legal requirements and does not meet the conditions made by the supervisory authority.

2) The license may also be denied if the supervisory authority would be impeded in the proper fulfillment of its responsibilities by legal or administrative provisions of a third country supervising at least one natural or legal person closely linked to the insurance undertaking, or if would be impeded therein by difficulties in applying such provisions.

3) Where close links exist between an insurance undertaking and another natural or legal person, the license may be denied if these close links interfere with the proper fulfillment of its responsibilities.

³⁸ Article 23 amended by LGBl. 2009 No. 328.

III. Foreign activities of domestic insurance undertakings³⁹

A. Insurance activities in Contracting Parties to the EEA Agreement⁴⁰

1. Formation of an establishment⁴¹

Article 24⁴²

Preconditions

1) If an insurance undertaking whose head office is in the Principality of Liechtenstein intends to form an establishment in another Contracting Party to the EEA Agreement, it must notify this to the supervisory authority.

2) The notice pursuant to paragraph 1 must include:

- a) the designation of the Contracting State to the EEA Agreement where the establishment is to be formed;
- b) information on which classes of insurance are to be offered and which risks of a class of insurance are to be covered, with designation of the insurance coverage;
- c) estimates for the first three business years with respect to commission expenses and other administrative costs, anticipated premium and contribution income, anticipated expenditures for insurance claims, and the anticipated liquidity situation;
- d) statements for the first three business years concerning the financial resources available to cover commitments and the solvency margin;
- e) anticipated costs for the development of the administration and the insurance agent network, as well as the resources available for these purposes (organization fund);
- f) information on the organizational structure of the establishment;

³⁹ Title preceding article 24 amended by LGBl. 2009 No. 328.

⁴⁰ Title preceding article 24 amended by LGBl. 2009 No. 328.

⁴¹ Title preceding article 24 inserted by LGBl. 2009 No. 328.

⁴² Article 24 amended by LGBl. 2009 No. 328.

- g) name of the general agent to whom sufficient powers have been delegated;
- h) name and address of the establishment;
- i) a declaration according to which the undertaking has obtained membership in the national insurance bureau and the national guarantee fund of the other State, if it intends to offer the insurance class of motor vehicle liability.

Article 25

*Procedure*⁴³

1) Within three months of receipt of the information referred to in article 24, the supervisory authority shall review the legal permissibility of the intended formation, the appropriateness of the administrative structures, the financial situation of the undertaking, and fulfillment of the preconditions specified in article 18 concerning the general agent and the general management responsible for the establishment.⁴⁴

2) If there is no cause for concern, the supervisory authority shall forward the following to the supervisory authority of the other State and simultaneously notify the insurance undertaking:

- a) these materials;
- b) certification that the insurance undertaking has own funds in the amount of the solvency margin.

3) The insurance undertaking must notify the supervisory authority of changes to the information provided in accordance with article 24, paragraph 2, at the latest one month before the intended implementation of the changes.⁴⁵

⁴³ Article 25 heading amended by LGBl. 2009 No. 328.

⁴⁴ Article 25, paragraph 1 amended by LGBl. 2009 No. 328.

⁴⁵ Article 25, paragraph 3 amended by LGBl. 2009 No. 328.

2. Cross-border provision of services⁴⁶

Article 26

*Preconditions*⁴⁷

1) If an insurance undertaking intends to engage in cross-border provision of services, it must notify the supervisory authority with a designation of the respective Contracting Party to the EEA Agreement. At the same time, it must communicate which classes of insurance it intends to offer abroad and which risks it intends to cover.

2) If the undertaking intends to offer health insurance, it must additionally provide information according to article 28, paragraph 2.⁴⁸

3) Cross-border provision of services shall fall within the scope of this Act if an insurance undertaking whose head office is situated in the Principality of Liechtenstein or another Contracting Party to the EEA Agreement covers direct insurance risks from its head office or its establishment in a Contracting Party to the EEA Agreement, these risks are situated in another Contracting Party to the EEA Agreement, and the undertaking does not make use of an establishment in that Contracting Party.

Article 27

*Procedure*⁴⁹

1) Within one month of receipt of the information specified in article 26, the supervisory authority shall review the lawfulness of the intended taking-up of cross-border provision of services.

2) If there is no cause for concern, the supervisory authority shall forward the following to the supervisory authority of the other State and simultaneously notify the insurance undertaking:

- a) the requisite materials;
- b) certification that the insurance undertaking maintains the necessary solvency margin for all of its activities and that it may operate in the respective State;

⁴⁶ Title preceding article 26 inserted by LGBl. 2009 No. 328.

⁴⁷ Article 26 heading amended by LGBl. 2009 No. 328.

⁴⁸ Article 26, paragraph 2 amended by LGBl. 2009 No. 328.

⁴⁹ Article 27 heading amended by LGBl. 2009 No. 328.

c) certification of the classes of insurance the undertaking may offer and which risks it may cover.

3) The insurance undertaking may take up cross-border business activities as soon as it has received the notice referred to in paragraph 2.⁵⁰

3. Reinsurance⁵¹

Article 27a⁵²

Cross-border business activities

Reinsurance undertakings whose head office is situated in the Principality of Liechtenstein may pursue reinsurance activities in another Contracting Party to the EEA Agreement within the framework of formation of an establishment or cross-border provision of services.

B. Insurance activities outside Contracting Parties to the EEA Agreement¹

Article 27b²

Business activities in third States

1) If an insurance undertaking whose head office is situated in the Principality of Liechtenstein intends to take up or expand business activities outside the Contracting Parties to the EEA Agreement, it must demonstrate to the supervisory authority that it is licensed in the respective country or does not need a license; it must also identify which classes of insurance it intends to offer. Article 59 shall apply *mutatis mutandis*.

2) The supervisory authority may set out details in special provisions.

⁵⁰ Article 27, paragraph 3 inserted by LGBl. 2009 No. 328.

⁵¹ Title preceding article 27a inserted by LGBl. 2009 No. 328.

⁵² Article 27a amended by LGBl. 2009 No. 328.

¹ Title preceding article 27b inserted by LGBl. 2009 No. 328.

² Article 27b inserted by LGBl. 2009 No. 328.

IV. Domestic activities of foreign insurance undertakings⁵³

A. Insurance undertakings whose head office is situated in a Contracting Party to the EEA Agreement⁵⁴

1. Formation of an establishment⁵⁵

Article 28⁵⁶

Preconditions

1) Insurance undertakings whose head office is situated in another Contracting Party to the EEA Agreement (home State) may form an establishment in the Principality of Liechtenstein if the supervisory authority of the home State provides the following to the domestic supervisory authority:

- a) confirmation that the insurance undertaking is licensed to engage in insurance business in the home State and that its legal form is permissible in the head-office State;
- b) confirmation that the undertaking is authorized to form an establishment in the Principality of Liechtenstein;
- c) an activity plan, in which in particular the planned business activities and the organization of the establishment are specified;
- d) name and address of the establishment;
- e) name of the general agent of the establishment to whom sufficient powers have been delegated; in the case of Lloyd's, demonstration of the authorization of the general agent to be sued and to enter into obligations in this capacity on behalf of the participating individual insurers;
- f) confirmation that the insurance undertaking maintains the necessary resources pursuant to article 15;

⁵³ Title preceding article 28 amended by LGBl. 2009 No. 328.

⁵⁴ Title preceding article 28 amended by LGBl. 2009 No. 328.

⁵⁵ Title preceding article 28 inserted by LGBl. 2009 No. 328.

⁵⁶ Article 28 amended by LGBl. 2009 No. 328.

g) declaration that the insurance undertaking has become a member of the National Bureau of Insurance and the National Guarantee Fund, if it intends to engage in the insurance class of motor vehicle liability.

3) If health insurance or compulsory insurance is to be offered, the supervisory authority must also be furnished with the general and special insurance conditions prior to their use.

Article 29⁵⁷

Procedure

1) If the competent authority of the home State does not raise any objections to the intended establishment of the insurance undertaking, it shall communicate the information required by article 28, paragraph 1 to the domestic supervisory authority within three months of submission of the application by the insurance undertaking. The supervisory authority shall then be allocated an additional two months after receipt of this communication to announce any additional conditions to the competent authority of the home State and the insurance undertaking that must be fulfilled prior to taking-up of business activities by the establishment.

2) The branch may take up business activities in Liechtenstein as soon as the deadlines specified in paragraph 1 have expired and the supervisory authority has not imposed any additional conditions.

3) Changes to the information required by article 28, paragraph 1 must be communicated in writing to the supervisory authority and to the competent authority of the home State at least one month prior to their implementation.

⁵⁷ Article 29 amended by LGBl. 2009 No. 328.

2. Cross-border provision of services⁵⁸

Article 30

*Preconditions*⁵⁹

1) Insurance undertakings whose head office is situated in another Contracting Party to the EEA Agreement (home State) may engage in cross-border provision of services in the Principality of Liechtenstein if the supervisory authority of the home State provides the following to the domestic supervisory authority:⁶⁰

- a) certification that the insurance undertaking maintains the necessary solvency margin for all of its activities and that it may operate outside the head-office State/State of the establishment;
- b) certification of the classes of insurance the undertaking may offer;
- c) an enumeration of the type and nature of the risks the undertaking intends to cover in Liechtenstein.

2) The insurance undertaking may take up business activities from the point in time at which the domestic supervisory authority is demonstrably in possession of the materials specified in paragraph 1.

3) If health insurance or compulsory insurance is to be offered, the supervisory authority must also be furnished with the general and special insurance conditions prior to their use.

3. Reinsurance⁶¹

Article 30a⁶²

Cross-border business activities

Reinsurance undertakings whose head office is situated in another Contracting Party to the EEA Agreement may pursue reinsurance activities in the Principality of Liechtenstein within the framework of formation of an establishment or cross-border provision of services if they have received a license in their home State for reinsurance.

⁵⁸ Title preceding article 30 inserted by LGBl. 2009 No. 328.

⁵⁹ Article 30 heading amended by LGBl. 2009 No. 328.

⁶⁰ Article 30, paragraph 1 amended by LGBl. 2009 No. 328.

⁶¹ Title preceding article 30a inserted by LGBl. 2009 No. 328.

⁶² Article 30a inserted by LGBl. 2009 No. 328.

B. Insurance undertakings whose head office is situated outside the Contracting Parties to the EEA Agreement⁶³

Article 31

Licensing requirement

1) Third-State insurance undertakings shall require a license pursuant to this Act for the taking-up of insurance activities in Liechtenstein, subject to article 5, paragraph 4.¹

2) In addition, the special provisions under articles 32 to 34 shall apply to such insurance undertakings, complemented by the remaining provisions of this Act *mutatis mutandis*.

Article 32

Special preconditions

1) A third-State insurance undertaking may only be licensed to engage in insurance activities in Liechtenstein if it fulfills the following additional preconditions:¹

- a) it must be authorized to engage in insurance activities according to the law of its head-office State;²
- b) it must form an agency or branch in the Principality of Liechtenstein and appoint a general agent to manage it, whose appointment shall require approval by the supervisory authority;
- c) it must commit itself to keep separate books on business activities in Liechtenstein at the place of business of the agency or branch, and to keep all relevant business documents available;

⁶³ Title preceding article 31 amended by LGBl. 2009 No. 328.

¹ Article 31, paragraph 1 amended by LGBl. 2009 No. 328.

¹ Article 32, paragraph 1, introductory sentence amended by LGBl. 2002 No. 157.

² Article 32, paragraph 1(a) amended by LGBl. 2002 No. 157.

- d) it must maintain minimum capital at its head office as specified in article 14 and demonstrate a solvency margin in accordance with article 15, calculated according to the scope of business activities in the Principality of Liechtenstein;
- e) it must maintain an organization fund in the Principality of Liechtenstein pursuant to article 17 and have corresponding assets available;
- f) it must have assets available in the Principality of Liechtenstein in the amount of at least half of the minimum guarantee fund;
- g) it must deposit one quarter of the amount calculated according to subparagraph (f) as a surety.

2) If health insurance or compulsory insurance is to be offered, the supervisory authority must also be furnished with the general and special insurance conditions prior to their use.

Article 33¹

Granting and denial of license

The license shall be granted if the third-State insurance undertaking fulfills the legal requirements; articles 23 and 23b shall apply *mutatis mutandis*, the license valid only for Liechtenstein.

Article 34

License in several Contracting Parties to the EEA Agreement

1) Third-State insurance undertakings that have applied for or received a license for insurance activities in several Contracting Parties to the EEA Agreement may request that the following advantages be granted; these may only be granted jointly:²

- a) calculation of the solvency margin on the basis of the entire business activity in the territory of the Contracting Parties to the EEA Agreement, taking only the business of the agencies and branches into account that are located in this territory;

¹ Article 33 amended by LGBl. 2009 No. 328.

² Article 34, paragraph 1, introductory sentence amended by LGBl. 2002 No. 157.

- b) deposit of the surety pursuant to article 32, paragraph 1(g) only in one Contracting Party to the EEA Agreement;
- c) location of the assets forming the object of the guarantee fund in any one of the Contracting Parties to the EEA Agreement in which insurance activities are conducted.

2) The request for granting of the advantages specified in paragraph 1 must be submitted to all the competent authorities of Contracting Parties to the EEA Agreement in which a license has been applied for or received. These authorities shall agree on the ultimately responsible authority, once this authority has declared itself willing to monitor solvency for the entire business activity of the agencies and branches located in the Contracting Parties to the EEA Agreement.

3) Upon the request of one or more of the affected States, the advantages granted in accordance with this article shall be simultaneously rescinded by all of these States.

V. Supervision of the business activities of insurance undertakings

A. Ongoing supervision in general

Article 35⁶⁴

Responsibilities of the supervisory authority

- 1) The supervisory authority shall supervise the entire business activity of the insurance undertaking.
- 2) The supervisory authority shall monitor that:
 - a) insurance supervision legislation and the orders issued on that basis are complied with;

⁶⁴ Article 35 amended by LGBl. 2009 No. 328.

- b) the solvency of the insurance undertakings is maintained, required technical provisions are formed as required, and assets are properly administered and invested;
- c) the approved business plan is complied with;
- d) insured persons are protected from abuse;
- e) claims settlement as set out in the provisions of the Road Traffic Act concerning motor vehicle liability insurance is properly executed;
- f) insurance undertakings comply with reasonable internal control procedures.

3) The supervisory authority may make use of third parties to ensure and fulfill the responsibilities set out in paragraph 2. The mandated third parties shall be relieved of their confidentiality obligations with respect to the supervisory authority. The costs involved in the use of third parties shall be borne by the insurance undertaking concerned.

Article 36⁶⁵

Amendments to the business plan

1) Amended parts of the business plan may be used by the insurance undertakings only once the supervisory authority has agreed to them.

2) The supervisory authority may demand that a business plan be amended prior to the conclusion of new insurance contracts. If it appears necessary in order to preserve the interests of the insured persons, the supervisory authority may amend or cancel a business plan with effect for existing or not yet concluded insurance relationships.

3) Amendments to the business plan must also be submitted for approval which arise from mergers, demergers and other structural changes of insurance undertakings.

⁶⁵ Article 36 amended by LGBl. 2009 No. 328.

Article 36a⁶⁶*Notification and presentation requirements*

1) Amendments to the business plan must be notified immediately to the supervisory authority and shall be subject to its approval. This notification must occur prior to a public announcement.

2) Upon request, an insurance undertaking must present to the supervisory authority the general and special insurance conditions as well as the rates, forms and other documents used.

3) If health insurance or compulsory insurance is provided, the supervisory authority must also be furnished with the general and special insurance conditions prior to their use.

4) The supervisory authority may demand that notices and information concerning business activities in the Principality of Liechtenstein be furnished in German.

Article 36b⁶⁷*Risk management and internal control procedure*

1) By means of an adequate risk management and internal control procedures, insurance undertakings must ensure that:

- a) the undertaking has a proper organization and administration, including adequate accounting procedures;
- b) risk potentials and individual risks are recognized, evaluated and treated in a timely manner; and
- c) measures to prevent or hedge substantial risks and accumulations of risks are seized.

2) In particular, risk management must include:

- a) the determination and regular review by the general management of the strategies and measures relating to all risks assumed;

⁶⁶ Article 36a inserted by LGBl. 2009 No. 328.

⁶⁷ Article 36b inserted by LGBl. 2009 No. 328.

- b) a hedging policy which takes account of the effects of the business strategy and ensures adequate capital resources;
- c) suitable procedures to ensure that risk monitoring is integrated into the business organization;
- d) identification, monitoring and quantification of all significant risks;
- e) an internal reporting system for the determination, evaluation and control of risks and risk concentrations as well as the associated business processes.

3) Insurance undertakings shall keep track of risk management in a documentation that must be updated continuously. The Government shall set out details by ordinance.

Article 36c⁶⁸

Responsibilities of the responsible actuary

- 1) The responsible actuary shall:
 - a) ensure that the calculation of premiums and actuarial provisions comply with the applicable requirements and actuarial principles. For this purpose, he must review the financial situation of the insurance undertaking especially with regard to whether permanent fulfillment of the commitments arising from the insurance and reinsurance contracts is guaranteed at all times and whether the undertaking has sufficient resources at least in the amount of the solvency margin;
 - b) annually confirm under the balance sheet that the required provisions have been formed (actuarial certification). In a report to the general management of the undertaking, it must explain which calculation approaches and other assumptions form the basis of the certification;
 - c) inform the general management and, if the general management does not remedy the defects without delay, immediately inform the supervisory authority as soon as, in the course of fulfillment of the responsibilities assigned to him, he recognizes that the certification pursuant to subparagraph (b) cannot be made or only with restrictions;

⁶⁸ Article 36c inserted by LGBl. 2009 No. 328.

d) with respect to the insurance contracts with a claim to profit participation, present proposals to the general management concerning appropriate profit participation.

2) The supervisory authority shall issue requirements concerning the responsibilities of the responsible actuary and concerning the content of the reports.

Article 37¹

Plan for improving the financial situation

1) Where facts justify the assumption that the commitments arising from the direct insurance and reinsurance contracts are threatened, the supervisory authority may demand that an insurance undertaking furnish a plan for improving its financial situation (financial reorganization plan). The same shall apply where facts justify the assumption that the rights of policyholders are threatened.

2) The financial reorganization plan shall as a rule contain the following information for the next three business years:

- a) a precise statement of the estimated income and expenses for insurance business concluded by the insurance undertaking itself, for insurance business accepted for reinsurance, and for insurance business ceded for reinsurance;
- b) the reinsurance policy overall, and in the case of reinsurances, evidence and information on retrocession;
- c) estimates of expenses for insurance operations, especially commissions and ongoing general administrative expenses;
- d) a balance sheet forecast;
- e) estimates of financial resources for covering insurance commitments and the solvency margin.

3) Where an insurance undertaking must furnish a financial reorganization plan in accordance with paragraphs 1 and 2, the supervisory authority shall not issue certifications in accordance with article 25, paragraph 2(b), article 27, paragraph 2(b) or article 52, paragraph 2, sentence 1 until the rights of policyholders no longer appear threatened.

¹ Article 37 amended by LGBI. 2009 No. 328.

Article 37a⁶⁹*Failure to meet solvency margin and guarantee fund*

1) Where the allowable own funds of an insurance undertaking are in danger of no longer meeting the solvency margin or if they are lower than the solvency margin and the interests of insured parties thereby appear to be threatened, the undertaking must upon request furnish the supervisory authority with a financial reorganization plan for approval in accordance with article 37, paragraph 2.

2) Where the solvency margin no longer meets the required guarantee fund, an insurance undertaking must upon request furnish the supervision authority with a plan for short-term acquisition of the requisite own funds (short-term financing plan) for approval.

Article 37b⁷⁰*Further deterioration of the financial situation of an insurance undertaking*

1) Where the financial circumstances of an insurance undertaking are in danger of deteriorating further, the supervisory authority may, without prejudice to its other powers, limit or prohibit free disposal of the assets of the undertaking. The same shall apply *mutatis mutandis* if an insurance undertaking fails to form sufficient technical provisions or if its provisions are insufficiently covered or it otherwise fails to meet the legal and official requirements concerning capital resources and capital investment. Orders concerning free disposal of assets of an insurance undertaking may also be issued with respect to third parties.

2) In the case of further deterioration of the financial circumstances, the supervisory authority shall have the power to demand a higher solvency margin than normal from the insurance undertaking. When determining the higher solvency margin, the financial reorganization plan in accordance with article 37 shall be used as a basis.

⁶⁹ Article 37a inserted by LGBI. 2009 No. 328.

⁷⁰ Article 37b inserted by LGBI. 2009 No. 328.

3) The supervisory authority may limit an otherwise permissible reduction of the solvency margin due to reinsurance if:

- a) the reinsurance contracts do not provide risk transfer or only insignificant risk transfer;
- b) the type or quality of the reinsurance contracts has changed substantially since the end of the last business year;

4) The supervisory authority may depreciate all own funds allowable for covering the solvency margin. This shall apply in particular if the underlying market values have changed substantially since the end of the last business year.

5) Where the supervisory authority issues orders in accordance with paragraph 1, it shall inform the competent supervisory authorities of those Contracting Parties to the EEA Agreement in which the insurance undertaking operates of all the measures taken; to the extent necessary, the foreign authorities shall be requested to provide assistance in enforcing the measures.

Article 37c⁷¹

Supplementary supervision of insurance undertakings

Where an insurance undertaking is subject to supplementary supervision in accordance with article 7, the results thereof shall be taken into account in determining the preconditions for application of articles 37 to 37b.

Article 38

Supervision of holdings

If an insurance undertaking whose head office is situated in the Principality of Liechtenstein participates in another undertaking that is not subject to insurance supervision, and if the type and scope of the holding could pose a danger to the insurance undertaking, then the supervisory authority may prohibit the insurance undertaking from continuing the holding or may subject the holding to specific conditions.

⁷¹ Article 37c inserted by LGBl. 2009 No. 328.

Article 38a⁷²*Qualifying holdings*

1) Every agreed direct or indirect acquisition and every agreed direct or indirect increase or sale of a qualifying holding in an insurance undertaking must be notified to the supervisory authority.

2) The Government shall set out the details concerning the evaluation procedure and the material evaluation by ordinance.

Article 39

*Accounting and reporting*¹

1) Insurance undertakings whose head office is situated in the Principality of Liechtenstein must compile their business report (annual account statement, consisting of balance sheet, income statement, and notes, as well as the annual report) and, if applicable, their consolidated business report each year as of 31 December. They must submit these to the supervisory authority by 30 April, together with a report on the completed business year. Business reports and the report to the supervisory authority must comply with the requirements and directives issued by the Government and the supervisory authority.²

2) In addition to the report specified in paragraph 1, the supervisory authority may order submission of a quarterly report. Paragraph 1, third sentence shall apply *mutatis mutandis* to this report.³

3) For third-State insurance undertakings required to keep separate books pursuant to article 32, paragraph 1(c), paragraphs 1 and 2 shall apply *mutatis mutandis*.⁴

4) In the case of insurance undertakings exclusively offering reinsurance, the submission deadline specified in paragraph 1 may be extended until 30 June upon application.⁵

⁷² Article 38a inserted by LGBl. 2009 No. 328.

¹ Article 39 heading amended by LGBl. 2002 No. 157.

² Article 39, paragraph 1 amended by LGBl. 2009 No. 328.

³ Article 39, paragraph 2 amended by LGBl. 2002 No. 157.

⁴ Article 39, paragraph 3 amended by LGBl. 2009 No. 328.

⁵ Article 39, paragraph 4 amended by LGBl. 2002 No. 157.

5) The annual account statement, the consolidated annual account statement, and the audit report must be disclosed by the insurance undertaking. The Government shall regulate the details by ordinance.⁶

Article 40

External audit requirement

1) Insurance undertakings must have their business activity audited each year by an auditing office independent of the insurance undertaking and recognized by the supervisory authority. They must provide the auditing office with all information and records necessary for a proper audit.¹

2) In particular, the obligations of the insurance undertaking vis-à-vis the auditing office shall include:

- a) keeping materials available that are necessary for determining and assessing assets and liabilities;
- b) granting access to their books, receipts, business correspondence, and the minutes of the board of directors and the general management;
- c) submitting the reports of the internal audit.

3) In the case of third-State investment undertakings with an agency or branch in the Principality of Liechtenstein, the audit at the place of business of the main establishment shall be recognized if it meets the requirements contained in this Act and if the audit also covers the agency or branch in Liechtenstein. This paragraph shall be subject to article 41, paragraph 2.²

4) The Government shall specify details concerning the recognition of auditing offices by ordinance.

⁶ Article 39, paragraph 5 amended by LGBl. 2002 No. 157.

¹ Article 40, paragraph 1 amended by LGBl. 2009 No. 328.

² Article 40, paragraph 3 amended by LGBl. 2002 No. 157.

Article 41

*Responsibilities of the auditing offices*⁷³

1) The auditing offices shall review whether:

- a) the business activities of the insurance undertaking comply with the legal requirements and the articles of association;
- b) the preconditions for licensing, including the actuarial requirements, are fulfilled on a continuous basis;
- c) the business report and the reporting to the supervisory authority comply with the legal requirements;
- d) the consolidated business report complies with these requirements.⁷⁴

2) The auditing offices shall prepare an audit report. The audit report shall be submitted simultaneously to the board of supervision or board of directors of the insurance undertaking, the auditing office pursuant to the provisions of the Law on Persons and Companies, and the supervisory authority.⁷⁵

3) The auditing offices shall be required to notify the supervisory authority immediately of all facts and decisions by the undertaking of which they learn in the course of fulfillment of their responsibilities and which:

- a) could constitute a violation of legal or administrative requirements governing the taking-up and pursuit of business activities by insurance undertakings;
- b) could interfere with the continuation of the business activities of an insurance undertaking;
- c) could entail rejection of certification of proper accounting or could entail reservations in this regard; or
- d) concern fact patterns likely to threaten the solvency of the insurance undertaking or the interests of the insured parties.⁷⁶

⁷³ Article 41 heading amended by 2002 No. 157.

⁷⁴ Article 41, paragraph 1 amended by LGBl. 2002 No. 157.

⁷⁵ Article 41, paragraph 2 amended by LGBl. 2009 No. 328.

⁷⁶ Article 41, paragraph 3 amended by LGBl. 2009 No. 328.

4) At the same time, the board of supervision or the board of directors and the auditing office pursuant to the provisions of the Law on Persons and Companies shall be informed. The notification requirement shall also apply to persons gaining knowledge of such circumstances when performing audits of undertakings with a close link to the audited insurance undertaking.⁷⁷

5) Whoever submits notifications pursuant to paragraphs 3 and 4 in good faith shall be released from associated liability.⁷⁸

6) The supervisory authority may assign additional mandates to the auditing office and may order special audits. The costs arising therefrom shall be borne by the insurance undertaking.⁷⁹

7) The supervisory authority shall issue requirements concerning the responsibilities of the auditing office and the content of the audit report.⁸⁰

8) The Government shall set out further details by ordinance.⁸¹

Article 42

Information requirement and audit powers

1) The insurance undertakings must provide the supervisory authority with all required information and with access to account books and business documents. The supervisory authority may also perform its work on site; the arising costs shall be borne by the insurance undertaking.⁸²

2) At any time, the supervisory authority may review the business conduct and financial situation of an insurance undertaking with respect to whether the business reports, the consolidated business reports, and reports to the supervisory authority correspond to the facts and whether own funds and provisions reach the prescribed amounts and are invested and managed in accordance with regulations.⁸³

⁷⁷ Article 41, paragraph 4 amended by LGBl. 2009 No. 328.

⁷⁸ Article 41, paragraph 5 amended by LGBl. 2009 No. 328.

⁷⁹ Article 41, paragraph 6 inserted by LGBl. 2009 No. 328.

⁸⁰ Article 41, paragraph 7 inserted by LGBl. 2009 No. 328.

⁸¹ Article 41, paragraph 8 inserted by LGBl. 2009 No. 328.

⁸² Article 42, paragraph 1 amended by LGBl. 2009 No. 328.

⁸³ Article 42, paragraph 2 amended by LGBl. 2002 No. 157.

3) Auditing offices and other third parties shall be required to submit information to the supervisory authority to the extent necessary for the supervisory activities of the authority.⁸⁴

Article 43⁸⁵

Repealed

Article 44

Insurance secrecy

1) The members of the organs of insurance undertakings and their employees, as well as other persons working on behalf of such companies, shall be required to maintain secrecy with respect to facts that are not publicly known and that have been entrusted to them or made accessible to them on the basis of business connections with clients. The secrecy requirement shall not be limited in time.

2) Repealed⁸⁶

3) Insurance secrecy shall be subject to the legal provisions concerning obligations to testify and to provide information vis-à-vis criminal courts and supervisory bodies as well as the provisions concerning cooperation with other supervisory authorities.¹

4) Policyholders may waive the confidentiality obligation; the declaration to this effect must be in writing and be submitted with knowledge of the circumstances of the specific case.²

Article 45

Information requirements vis-à-vis policyholders

Prior to conclusion and during the term of insurance contracts, specific information shall be communicated to policyholders for purposes of information and protection. The content and scope of these information requirements are governed by Annex 4.

⁸⁴ Article 42, paragraph 3 amended by LGBI. 2009 No. 328.

⁸⁵ Article 43 repealed by LGBI. 2009 No. 328.

⁸⁶ Article 44, paragraph 2 repealed by LGBI. 2002 No. 328.

¹ Article 44, paragraph 3 amended by LGBI. 2009 No. 328.

² Article 44, paragraph 4 amended by LGBI. 2009 No. 328.

Article 46⁸⁷*Supervision taxes and fees*

Supervision taxes and fees shall be governed by legislation pertaining to financial market supervision.

Article 47

Measures

1) For purposes of fulfilling its supervision and controlling responsibilities, the supervisory authority may enact the necessary measures.⁸⁸

2) In particular, the supervisory authority may take measures that are suitable and necessary to prevent or remedy grievances.

3) Unless the concerns of the insured persons can be safeguarded in another manner, the supervisory authority may, at the expense of the insurance undertaking, transfer powers in whole or in part that are vested in the organs of an undertaking by law or by the articles of association to a special mandatee suited to exercise these powers.⁸⁹

4) In particular, the supervisory authority may:

- a) limit or prohibit the free disposal of assets of the insurance undertaking;
- b) transfer the insurance portfolio and the associated tied assets to another insurance undertaking with the approval of that undertaking;
- c) order realization of the tied assets;
- d) demand dismissal of the persons entrusted with supreme oversight, supervision, controlling or general management or of the general agent as well as the responsible actuary and prohibit these person from engaging in any insurance activities for at most five years.⁹⁰

⁸⁷ Article 46 amended by LGBl. 2004 No. 188.

⁸⁸ Article 47, paragraph 1 amended by LGBl. 2009 No. 328.

⁸⁹ Article 47, paragraph 3 amended by LGBl. 2009 No. 328.

⁹⁰ Article 47, paragraph 4 inserted by LGBl. 2009 No. 328.

5) Where persons connected with the acquisition of holdings in the undertaking fail to comply with orders by the supervisory authority, the exercise of voting rights violating the measure ordered shall be invalid.⁹¹

6) The supervisory authority may not prohibit a reinsurance contract that an insurance undertaking concludes with an insurance undertaking licensed in a Contracting Parties to the EEA Agreement on grounds directly related to the financial soundness of the latter insurance undertaking.⁹²

Article 47a⁹³

Official secrecy

1) The organs entrusted with enforcement of this Act, any other persons consulted by such organs, as well as all representatives of the authorities shall be subject to official secrecy without limitation in time concerning the confidential information they gain knowledge of in the course of their official activities.

2) The information subject to official secrecy may not be forwarded, subject to special legal provisions.

3) Where bankruptcy proceedings have been initiated against an insurance undertaking by a court decision or where winding-up has been initiated, confidential information not referring to third parties may be forwarded in proceedings under civil or commercial law, provided that this is necessary for the proceedings in question.

⁹¹ Article 47, paragraph 5 inserted by LGBl. 2009 No. 328.

⁹² Article 47, paragraph 6 inserted by LGBl. 2009 No. 328.

⁹³ Article 47a inserted by LGBl. 2009 No. 328.

B. Special provisions governing cross-border provision of services

Article 48

Additional preconditions for motor vehicle liability insurance

1) If an insurance undertaking intends to offer motor vehicle liability insurance in the Principality of Liechtenstein by way of cross-border provision of services, it must:

- a) appoint a representative located in Liechtenstein responsible for processing claims;
- b) join the National Bureau of Insurance and the National Guarantee Fund and contribute to the funding of these institutions.¹

2) The Government shall enact the requisite implementing ordinances and shall in particular regulate the status, rights, and obligations of the representative referred to in paragraph 1.

Article 49

Information requirements vis-à-vis policyholders

Specific information shall be communicated to policyholders when engaging in cross-border provision of services; the content and scope of these information requirements are governed by Annex 4.

Article 50

Information requirements vis-à-vis the supervisory authorities

Changes with respect to the cross-border provision of services must be communicated to the competent authorities. In this regard, the procedures specified in articles 27 and 30 shall be observed.

¹ Article 48, paragraph 1(b) amended by LGBl. 2003 No. 137.

VI. Termination of business activities

Article 51

Principle

Supervision shall extend to the winding-up of an insurance undertaking and the processing of existing insurance policies if the business activities of the undertaking are prohibited or voluntarily discontinued or if the license for business operations is withdrawn.⁹⁴

Article 52

Voluntary transfer of the insurance portfolio

1) Every contract by which the insurance portfolio of an undertaking is to be transferred in whole or in part, along with the associated rights and duties, to another insurance undertaking subject to supervision shall require approval by the supervisory authorities responsible for the involved undertakings.

2) The receiving insurance undertaking must demonstrate that it possesses own funds in the amount of the solvency margin after the transfer. Article 19 shall apply *mutatis mutandis*. Approval shall be denied if the interests of the insured persons are not safeguarded.

3) Approval of the transfer of the portfolio shall be published at the expense of the involved undertakings.

Article 53

Rights of policyholders

1) After every transfer of a portfolio, policyholders shall have the right to cancel the insurance contract within three months of the transfer.

⁹⁴ Article 51 amended by LGBl. 2009 No. 328.

2) In the event of transfers of portfolios arising from the merger of undertakings and among insurance undertakings with close links, the supervisory authority may, upon application, exclude the right of cancellation.⁹⁵

3) The receiving insurance undertaking shall be required to inform the transferred policyholders individually of the completed transfer of the portfolio.⁹⁶

Article 54

Insurance contracts concluded through a foreign establishment or cross-border provision of services

1) If an insurance undertaking whose head office is situated in the Principality of Liechtenstein transfers in whole or in part a portfolio of insurance contracts that it has concluded in a Contracting Party to the EEA Agreement by way of an establishment or cross-border provision of services to an undertaking whose head office is situated in such a State, then only the approval of the domestic supervisory authority shall be required. Unless grounds for denial pursuant to article 52 exist, this approval shall be granted if:

- a) proof is given by means of a certification issued by the supervisory authority of the head-office State that the receiving undertaking possesses own funds in the amount of the solvency margin after the transfer,⁹⁷
- b) the supervisory authorities of the Contracting Parties in which the risks of the insurance portfolio are situated agree, and
- c) in the case of transfer of the insurance portfolio of an establishment, the supervisory authority of this State has been consulted.

2) Where the insurance portfolio is transferred by a reinsurance undertaking, only paragraph 1(a) shall be applicable.⁹⁸

⁹⁵ Article 53, paragraph 2 amended by LGBl. 2002 No. 157.

⁹⁶ Article 53, paragraph 3 inserted by LGBl. 2002 No. 157.

⁹⁷ Article 54, paragraph 1(a) amended by LGBl. 2002 No. 157.

⁹⁸ Article 54, paragraph 2 inserted by LGBl. 2009 No. 328.

Article 55⁹⁹*Withdrawal of license*

1) The supervisory authority may withdraw the license for engaging in individual classes of insurance or for all business activities if

- a) an insurance undertaking no longer fulfills the preconditions for granting of the license,
- b) the insurance undertaking gravely violates obligations arising from supervisory regulations, the business plan or official orders;
- c) such serious grievances arise that a continuation of business activities endangers the interests of the insured persons, or
- d) the insurance undertaking does not use the license for business activities within 12 months, expressly renounces the license, or has ceased business activities for more than six months;
- e) bankruptcy has been initiated with respect to the assets of the insurance undertaking.

2) The supervisory authority may withdraw the license in whole or in part if the insurance undertaking is unable to implement the measures provided in a financial reorganization plan or in a short-term financing plan within the fixed deadline.

3) If the license is withdrawn, the supervisory authority shall take all measures suited to safeguard the concerns of the insured persons. In particular, it may limit or prohibit free disposal of the assets of the undertaking and it may transfer management of the assets to suitable persons. The supervisory authority shall also inform the competent authorities of the other Contracting Parties to the EEA Agreement.

4) If the supervisory authority gains knowledge of facts that would justify withdrawal of the license, it may instead demand the dismissal of members of the board of supervision or board of directors or of general managers to whom the facts relate and it may also prohibit these persons from engaging in their business activities.

⁹⁹ Article 55 amended by LGBl. 2009 No. 328.

Article 56

Measures vis-à-vis insurance undertakings whose head office is situated in a Contracting Party to the EEA Agreement

1) If it is determined that an insurance undertaking from a Contracting Party to the EEA Agreement maintaining a branch or engaging in cross-border provision of services in the Principality of Liechtenstein is not complying with domestic legal requirements, then the supervisory authority shall call upon the undertaking to discontinue the irregularities. At the same time, the supervisory authority shall notify the competent authorities of the home State.¹⁰⁰

2) If the insurance undertaking does not take the necessary measures, then the competent authorities of the home State shall be informed and requested to take measures against the undertaking.¹⁰¹

3) If violations of domestic supervision legislation continue, the supervisory authority may prohibit the insurance undertaking from further business activities in Liechtenstein and may take all necessary measures.

Article 57

Renunciation of license

1) If an insurance undertaking renounces its license, the supervisory authority shall release it from supervision. Sureties paid shall be reimbursed as soon as all obligations arising from supervision law have been fulfilled.¹⁰²

2) If an insurance undertaking renouncing its license no longer fulfills the legal requirements, the supervisory authority may demand that the undertaking restore a lawful state of affairs despite the renunciation.

¹⁰⁰ Article 56, paragraph 1 amended by LGBl. 2009 No. 328.

¹⁰¹ Article 56, paragraph 2 amended by LGBl. 2002 No. 157.

¹⁰² Article 57, paragraph 1 amended by LGBl. 2004 No. 188.

Article 57a¹⁰³*Winding-up plan*

1) An insurance undertaking renouncing its license must submit a winding-up plan to the supervisory authority for approval.

2) The winding-up plan must contain information concerning:

- a) the winding-up of the financial commitments arising from the insurance contracts and any reinsurances;
- b) the resources made available for that purpose;
- c) the persons responsible for that task; and
- d) the planned liquidation of the undertaking.

3) The insurance undertaking renouncing its license may not conclude any new insurance contracts in the classes of insurance in question nor in reinsurance; existing reinsurance contracts may neither be extended nor expanded in terms of scope of coverage.

Article 58

Publication

1) If the license of an insurance undertaking is withdrawn, if the undertaking renounces its license, or if it fails to restore a lawful state of affairs in the event of a renunciation, then the insured persons shall be informed by means of publication.

2) The costs of publication shall be borne by the insurance undertaking.¹⁰⁴

Article 59³*Information requirement of foreign insurance undertakings*

Insurance undertakings whose head office is situated abroad operating in the Principality of Liechtenstein must notify the supervisory authority without delay if another State has withdrawn their license to engage in insurance activities.

¹⁰³ Article 57a inserted by LGBl. 2009 No. 328.

¹⁰⁴ Article 58, paragraph 2 inserted by LGBl. 2009 No. 328.

³ Article 59 amended by LGBl. 2002 No. 157.

Via. Reorganization and winding-up¹⁰⁵

A. Special provisions governing bankruptcy¹⁰⁶

Article 59a

Satisfaction of insurance claims¹⁰⁷

1) The assets covering technical provisions shall constitute a separate bankruptcy estate in accordance with article 45 of the Bankruptcy Code to satisfy insurance claims. The court shall order that the listing of assets dedicated to the separate estate be concluded immediately and submitted to the supervisory authority. The supervisory authority shall determine the separate estate for the time that bankruptcy is opened. Reflows and income from the assets dedicated to the separate estate and premiums for the insurance contracts included in the separate estate that are received after bankruptcy has been opened shall fall into this separate estate.¹⁰⁸

2) The list submitted pursuant to paragraph 1 may no longer be changed once bankruptcy has been opened. The estate trustee may make technical corrections to the listed asset values with the approval of the bankruptcy court.¹⁰⁹

3) If the proceeds from the conversion of the assets are lower than their valuation in the list submitted pursuant to paragraph 1, then the estate trustee must communicate this to the bankruptcy court and justify the deviation.¹¹⁰

4) To the extent that insurance claims from the separate estate are not fully satisfied, they shall belong to the first category of bankruptcy claims (article 48 of the Bankruptcy Code).¹¹¹

5) The insurance claims to be found in the account books of the insurance undertaking shall be deemed filed. The right of the creditor to file these claims as well shall not be affected. The filing of claims need not include an indication of ranking.¹¹²

¹⁰⁵ Title preceding article 59a inserted by LGBl. 2005 No. 14.

¹⁰⁶ Title preceding article 59a inserted by LGBl. 2005 No. 14.

¹⁰⁷ Article 59a heading inserted by LGBl. 2005 No. 14.

¹⁰⁸ Article 59a, paragraph 1 amended by LGBl. 2007 No. 14.

¹⁰⁹ Article 59a, paragraph 2 inserted by LGBl. 2005 No. 14.

¹¹⁰ Article 59a, paragraph 3 inserted by LGBl. 2005 No. 14.

¹¹¹ Article 59a, paragraph 4 inserted by LGBl. 2005 No. 14.

¹¹² Article 59a, paragraph 5 inserted by LGBl. 2005 No. 14.

B. Cross-border insolvency proceedings¹¹³

1. General provisions¹¹⁴

Article 59b

Scope of application¹¹⁵

1) Articles 59c through 59x shall be applied to insurance undertakings to which a license has been granted in a Contracting Party to the EEA Agreement.¹¹⁶

2) The provisions shall only be applied to insurance undertakings whose head office is outside the European Economic Area if they have at least one branch within the EEA.¹¹⁷

3) Articles 59k through 59x shall apply *mutatis mutandis* to insurance undertakings licensed in Switzerland.¹¹⁸

Article 59c¹¹⁹

International competence

The supervisory authority shall only have the competence to monitor own funds in accordance with article 37, paragraph 3, and the Court of Justice shall only have jurisdiction over bankruptcy protection and opening of bankruptcy if the insurance undertaking or third-State insurance undertaking has been granted a license in Liechtenstein for the taking-up of business activities.

¹¹³ Title preceding article 59b inserted by LGBl. 2005 No. 14.

¹¹⁴ Title preceding article 59b inserted by LGBl. 2005 No. 14.

¹¹⁵ Article 59b heading inserted by LGBl. 2005 No. 14.

¹¹⁶ Article 59b, paragraph 1 inserted by LGBl. 2005 No. 14.

¹¹⁷ Article 59b, paragraph 2 inserted by LGBl. 2005 No. 14.

¹¹⁸ Article 59b, paragraph 3 inserted by LGBl. 2006 No. 123.

¹¹⁹ Article 59c, paragraph 1 inserted by LGBl. 2005 No. 14.

Article 59d⁵*Information requirement and publication abroad*

1) The Court of Justice shall inform the supervisory authority without delay of a decision on bankruptcy protection or opening of bankruptcy and the specific consequences of these measures. The supervisory authority shall inform the supervisory authorities of the Contracting Parties to the EEA Agreement without delay of this decision and of a decision to monitor own funds in accordance with article 37, paragraph 3 and of their specific consequences.

2) The Court of Justice shall furthermore issue an edict without delay for publication of the bankruptcy protection or opening of bankruptcy in the Official Journal of the European Union. The publication shall also include the competent administrative or judicial authority and the appointed trustee or estate trustee and shall indicate that Liechtenstein law is applicable. For purposes of the publication, the relevant documentation shall be sent to the EFTA Secretariat in Brussels without delay and by the most appropriate route.

Article 59e¹*Delivery of the decision on bankruptcy protection and opening of bankruptcy*

1) A copy of the edict on bankruptcy protection and the opening of bankruptcy shall be sent to the creditors whose habitual abode, residence, or domicile is in another Contracting Party to the EEA Agreement, even if the conditions in article 1, paragraph 5 of the Bankruptcy Code are met. The edict shall be accompanied by instructions under the heading "Call for filing of a claim. Please observe deadlines!" translated into all official languages of the European Economic Area, indicating the court at which the claim must be filed and whether the preferred creditors or secured creditors must file their claims.

2) If the creditor is the holder of a bankruptcy claim, then the instructions must be given in the official language of the Contracting Party to the EEA Agreement that is the creditor's habitual abode, residence, or domicile. The instructions must also include information on the general consequences of the bankruptcy proceedings on the insurance contracts. In particular, the instructions must indicate the point in time after which insurance contracts or transactions no longer have legal effect and enumerate the rights and duties of the insured person with respect to the contract or transaction in question.

⁵ Article 59d inserted by LGBl. 2005 No. 14.

¹ Article 59e inserted by LGBl. 2005 No. 14.

Article 59f¹*Assertion of claims*

1) Every creditor whose residence, habitual abode, or domicile is in another Contracting Party to the EEA Agreement shall indicate in the filing the type, time of recognition, and the amount of the claim, and furthermore whether the creditor can assert priority, collateral security, or retention of title and which assets are the object of a security. The creditor shall include a copy of any receipts with the filing.

2) Every creditor whose residence, habitual abode, or domicile is in another Contracting Party to the EEA Agreement may file the claim in the official language of this State. In this event, the filing must be made under the heading "*Anmeldung einer Forderung*" (Filing of a Claim) in German.

3) The priority assigned to the insurance claims pursuant to article 59a and the ranking of this claim need not be indicated.

Article 59g²*Activities abroad*

1) Upon request of the trustee, the appointment certificate shall be issued to the trustee in one or more languages of the Contracting Parties to the EEA Agreement.

2) The trustee may appoint persons who support the trustee's activities abroad.

¹ Article 59f inserted by LGBl. 2005 No. 14.

² Article 59g inserted by LGBl. 2005 No. 14.

2. Bankruptcy¹

Article 59h²

Bankruptcy estate

The bankruptcy proceedings shall also extend to the real property of the insurance undertaking located in other Contracting Parties to the EEA Agreement.

Article 59i³

Informing of the creditors and the supervisory authority

1) The estate trustees shall regularly inform the supervisory authority and the creditors of the course of the bankruptcy proceedings.

2) Upon request, the supervisory authority shall provide information to the supervisory authority of another Contracting Party to the EEA Agreement on the course of the bankruptcy proceedings.

3. Recognition of foreign proceedings⁴

Article 59k⁵

Principle

1) The decision of a Contracting Party to the EEA Agreement on reorganization measures and the opening of proceedings for the winding-up of an insurance undertaking shall be recognized in Liechtenstein irrespective of the conditions contained in article 5, paragraph 2 of the Bankruptcy Code. The decision shall be effective in Liechtenstein as soon as the decision becomes effective in the State in which the proceedings are opened. This shall also apply when such a reorganization measure is not envisaged in Liechtenstein.

¹ Title preceding article 59h inserted by LGBl. 2005 No. 14.

² Article 59h inserted by LGBl. 2005 No. 14.

³ Article 59i inserted by LGBl. 2005 No. 14.

⁴ Title preceding article 59k inserted by LGBl. 2005 No. 14.

⁵ Article 59k inserted by LGBl. 2005 No. 14

2) The supervisory authority may announce the decision pursuant to paragraph 1 in Liechtenstein.

Article 59¹

Powers of foreign trustees and liquidators

1) Foreign trustees and liquidators may, without any additional formalities, exercise all powers in Liechtenstein that they have been accorded in the territory of the home Member State. The application of coercive measures or the right to adjudicate legal disputes or other conflicts shall be excluded.

2) When exercising their powers in Liechtenstein, the trustees and liquidators shall observe Liechtenstein law, in particular with respect to the way in which assets are realized and employees are informed.

3) The trustees and liquidators and the persons that represent them or otherwise support their work shall be subject to Liechtenstein insurance secrecy (article 44) and the associated penal provisions. Information falling within the scope of insurance secrecy need only be made accessible to the trustees and liquidators if:

- a) the information is connected to the reorganization measure or winding-up proceedings and is actually necessary for the realization thereof; and
- b) the trustee or liquidator, any representative and the administrative or judicial authorities responsible for their supervision in the home State are subject to a confidentiality requirement equivalent to Liechtenstein insurance secrecy.

4) The information obtained pursuant to paragraph 3 may only be used for execution of the reorganization measure or the winding-up proceedings.

5) The trustee and the liquidator shall provide evidence of their appointment by means of a certified copy of the decision by which they were appointed or by means of another certification issued by the administrative or judicial authority of the home Member State. A translation into German may be demanded.

¹ Article 59¹ inserted by LGBl. 2005 No. 14.

Article 59m¹*Comments*

1) Upon application of the trustee or liquidator or upon request of any administrative or judicial authority of the home Member State, the Court of Justice shall arrange for comments pursuant to article 12 of the Bankruptcy Code.

2) If the insurance undertaking has a branch or assets in Liechtenstein, then the trustee or the otherwise competent authority shall submit an application in accordance with paragraph 1.

Article 59n²*Information*

The supervisory authority may demand information on the course of the winding-up proceedings from the supervisory authorities of the home Member State.

4. Branches³Article 59o⁴*Coordination*

If an insurance undertaking whose head office is situated outside the European Economic Area maintains branches in at least two Contracting Parties to the EEA Agreement, then the competent administrative or judicial authorities and the trustees or liquidators should, if possible, coordinate their actions.

¹ Article 59m inserted by LGBl. 2005 No. 14.

² Article 59n inserted by LGBl. 2005 No. 14.

³ Title preceding article 59o inserted by LGBl. 2005 No. 14.

⁴ Article 59o inserted by LGBl. 2005 No. 14.

5. Applicable law¹

Article 59p²

Principle

1) Unless otherwise provided, the law of the State in which the proceedings are opened shall apply to the monitoring of own funds, bankruptcy protection, and bankruptcy proceedings.

2) In particular, the following shall be subject to the law of the State in which proceedings are opened:

- a) which assets belong to the estate and how the assets obtained by the insurance undertaking after opening of the proceedings shall be treated;
- b) the respective powers of the insurance undertaking and the trustee or the liquidator;
- c) the preconditions for admissibility of an offset;
- d) how the opening of proceedings affects ongoing contracts of the insurance undertaking;
- e) how the opening of proceedings affects the legal actions of individual creditors, with the exception of the effects on pending proceedings pursuant to article 59x;
- f) which claims must be filed and how claims are to be dealt with in the proceedings arising after the proceedings are opened;
- g) the filing, review, and determination of the claims;
- h) the distribution of the proceeds from the realization of the assets, the ranking of the claims, and the rights of the creditors that have been partially satisfied after the opening of the proceedings on the basis of collateral security or as the consequence of an offset;
- i) the preconditions and consequences of the termination of the proceedings, especially pursuant to bankruptcy protection;
- k) the rights of the creditors after termination of the proceedings;
- l) who must bear the costs of the proceedings, including expenses;
- m) which legal acts are invalid, contestable, or ineffective as between the parties because they disadvantage the body of creditors.

¹ Title preceding article 59p inserted by LGBl. 2005 No. 14.

² Article 59p inserted by LGBl. 2005 No. 14.

Article 59q¹*Effects on certain contracts and rights*

With respect to the effects of monitoring of own funds, bankruptcy protection, and bankruptcy:

- a) only the law of the State applicable to labor contracts shall be applied to a labor contract and an employment relationship;
- b) only the law of the State in which the immovable object in question is located shall apply with respect to a contract granting entitlement to use or purchase an immovable object;
- c) only the law of the State responsible for supervision of the registry in question shall apply to the rights of the insurance undertaking with respect to an immovable object, a ship, or an aircraft subject to entry in a public registry.

Article 59r²*In rem rights of third parties*

1) The *in rem* right of a creditor or a third party with respect to physical or non-physical, moveable or immovable objects of the insurance undertaking – both with respect to specified objects and with respect to a majority of non-specified objects with a changing composition – that are located in the territory of another Contracting Party to the EEA Agreement at the time the proceedings are opened shall not be affected by the opening of the proceedings.

2) Rights within the meaning of paragraph 1 shall include in particular:

- a) the right to utilize the object or arrange for the utilization of the object and to obtain satisfaction from the proceeds or the utilization of this object, especially pursuant to a lien or mortgage;
- b) the exclusive right to collect a claim, especially pursuant to a lien on a claim or pursuant to assignment of the claim for security;
- c) the right to demand the surrender of the object from someone holding or using the object against the will of the rights-holder;
- d) the *in rem* right to collect the fruits of an object.

¹ Article 59q inserted by LGBl. 2005 No. 14.

² Article 59r inserted by LGBl. 2005 No. 14.

3) A right entered into a public registry and effective against everyone to obtain an *in rem* right within the meaning of paragraph 1 shall be equivalent to an *in rem* right.

4) Paragraph 1 shall not stand in the way of the invalidity or contestability of a legal act or the ineffectiveness of a legal act as between the parties pursuant to article 59p, paragraph 2(m).

Article 59s¹

Reservation of ownership

1) The opening of proceedings concerning the assets of the purchaser of an object shall not affect the rights of the purchaser arising from a reservation of ownership, if, at the time the proceedings are opened, this object is located in the territory of a different Contracting Party to the EEA Agreement than where the proceedings are opened.

2) The opening of proceedings concerning the assets of the seller of an object after delivery of the object shall not justify the dissolution or termination of the purchase contract and shall not stand in the way of the purchase of ownership by the purchaser, if this object is located in the territory of a different Contracting Party to the EEA Agreement than where the proceedings are opened.

3) Paragraphs 1 and 2 shall not stand in the way of the invalidity or contestability of a legal act or the ineffectiveness of a legal act as between the parties pursuant to article 59p, paragraph 2(m).

Article 59t²

Offset

1) The capacity of a creditor to offset a claim by the insurance undertaking with the creditor's claim shall not be affected by the opening of the proceedings, if this offset is permissible according to the law applicable to the claim of the insurance undertaking.

2) Paragraph 1 shall not stand in the way of the invalidity or contestability of a legal act or the ineffectiveness of a legal act as between the parties pursuant to article 59p, paragraph 2(m).

¹ Article 59s inserted by LGBl. 2005 No. 14.

² Article 59t inserted by LGBl. 2005 No. 14.

Article 59u

*Regulated markets*¹²⁰

1) Without prejudice to article 59r, only the law of the State applicable to the market in question shall apply to the effects of the opening of proceedings on the rights and duties of the participants in a regulated market within the meaning of article 4, paragraph 1(14) of Directive 2004/39/EC.¹²¹

2) Paragraph 1 shall not stand in the way of the invalidity or contestability of a legal act or the ineffectiveness of a legal act as between the parties pursuant to article 59p, paragraph 2(m).¹²²

Article 59v¹²³*Contesting*

1) Article 59p shall not apply if the person who benefited from a legal act disadvantaging the body of creditors demonstrates that

- a) the law of a different State applies to this act and
- b) in this event, this act can in no way be contested according to this law.

Article 59w

*Protection of third-party purchasers*¹²⁴

If, pursuant to a legal act undertaken after opening of the proceedings and in return for compensation, the insurance undertaking has at its disposal:¹²⁵

- a) an immoveable object;¹²⁶
- b) a ship or aircraft subject to entry into a public registry;¹²⁷

¹²⁰ Article 59u heading inserted by LGBl. 2005 No. 14.

¹²¹ Article 59u, paragraph 1 amended by LGBl. 2007 No. 264.

¹²² Article 59u, paragraph 2 inserted by LGBl. 2005 No. 14.

¹²³ Article 59v inserted by LGBl. 2005 No. 14.

¹²⁴ Article 59w heading inserted by LGBl. 2005 No. 14.

¹²⁵ Article 59w introductory sentence inserted by LGBl. 2005 No. 14.

¹²⁶ Article 59w(a) inserted by LGBl. 2005 No. 14.

¹²⁷ Article 59w(b) inserted by LGBl. 2005 No. 14.

- c) transferable securities or other instruments enumerated in Section C of Annex 1 of Directive 2004/39/EC, the existence or transfer of which requires entry into a legally prescribed registry or account or which are kept in a central depository subject to the law of a Contracting Party to the EEA Agreement;¹²⁸

Article 59x¹²⁹

Pending legal disputes

Only the law of the State in which the legal dispute in question is pending shall apply to the effects of the proceedings on a legal dispute concerning an object or a right pertaining to the estate.

VII. Competence and cooperation¹³⁰

A. Competence¹³¹

Article 60¹³²

Supervisory authority

The Financial Market Authority (FMA) shall be responsible for the supervision of insurance undertakings.

¹²⁸ Article 59w(c) amended by LGBl. 2007 No. 264.

¹²⁹ Article 59x inserted by LGBl. 2005 No. 14.

¹³⁰ Title preceding article 60 amended by LGBl. 2009 No. 328.

¹³¹ Title preceding article 60 inserted by LGBl. 2009 No. 328.

¹³² Article 60 amended by LGBl. 2004 No. 188.

B. Cooperation with other domestic authorities¹³³

Article 61¹³⁴

Principle

Within the framework of supervision, the supervisory authority shall work together with other domestic authorities, to the extent necessary for fulfillment of its responsibilities.

Article 61a¹³⁵

Notification obligation of the courts and the Office of Land and Public Registration

1) The courts shall furnish the supervisory authority with a copy of all judgments concerning provisions of insurance contract law.

2) The Office of Land and Public Registration shall notify the supervisory authority of all changes to entries in the Public Registry that concern an insurance undertaking. It shall also grant the supervisory authority electronic access to the data of the Public Registry.

C. Cooperation with other foreign authorities¹³⁶

Article 61b¹³⁷

Principle

1) The supervisory authority may, to the extent necessary for fulfillment of its responsibilities, work together with the competent foreign authorities within the framework of supervision by, in particular, processing data, information, reports and records or transmitting them to the competent foreign authorities.

¹³³ Title preceding article 61 inserted by LGBl. 2009 No. 328.

¹³⁴ Article 61 amended by LGBl. 2009 No. 328.

¹³⁵ Article 61a inserted by LGBl. 2009 No. 328.

¹³⁶ Title preceding article 61b inserted by LGBl. 2009 No. 328.

¹³⁷ Article 61b inserted by LGBl. 2009 No. 328.

2) For the purpose of cooperation, the supervisory authority may also conclude agreements with foreign supervisory authorities, subject to article 61e.

Article 61c³

Information exchange with authorities from Contracting Parties to the EEA Agreement

The supervisory authority may, within the framework of its supervision, exchange all information with the competent authorities of other Contracting Parties to the EEA Agreement, if:

- a) the sovereignty, security, public order or other essential national interests are not violated;
- b) the recipients or employed and mandated persons of the competent authorities are subject to a confidentiality obligation equivalent to article 44;
- c) it is ensured that the communicated information is used only for matters relating to financial market supervision, especially supervision of insurance undertakings; and
- d) in the case of information originating abroad, express consent of the authority communicating the information exists and it is ensured that the information shall, where applicable, only be forwarded for the purposes expressly consented to by these authorities.

Article 61d¹³⁸

Information exchange with authorities from third States

1) Applying article 61c *mutatis mutandis*, the supervisory authority may exchange all information necessary for fulfillment of the responsibilities under this Act and under foreign laws comparable to this Act with the competent authorities of States that are not Contracting Parties to the EEA Agreement (third States).

2) Personal data may be transmitted to third States only in accordance with article 8 of the Data Protection Act.

³ Article 61c inserted by LGBl. 2009 No. 328.

¹³⁸ Article 61d inserted by LGBl. 2009 No. 328.

Article 61e¹³⁹*Cooperation agreements with authorities from third States*

Cooperation agreements with supervisory authorities from third States may only be concluded if the protection of confidentiality under the law of the foreign States concerned is guaranteed in the same way as under this Act. In this regard, it must be provided that information received from another Contracting Party to the EEA Agreement may only be forwarded with the express consent of the competent authorities of that Contracting Party.

Article 61f¹⁴⁰*Cooperation in the field of reinsurance*

1) Where a reinsurance undertaking licensed in another Contracting Party to the EEA Agreement pursues its activities via a domestic establishment, the competent authorities of the home State in question shall be authorized to conduct audits of the information necessary for financial supervision of the undertaking on site in the Principality of Liechtenstein, either itself or through mandatees.

2) Prior to performance of the audit in Liechtenstein, the competent authorities of the home State shall notify the domestic supervisory authority; the domestic supervisory authority may participate in the audit.

Article 61g¹⁴¹*Notifications in reinsurance concerning subsidiary undertakings with parent undertakings from a third State*

1) The supervisory authority shall notify the competent authorities of the Contracting Parties to the EEA Agreement and to the EFTA Surveillance Authority of:

- a) every license for reinsurance granted to a direct or indirect subsidiary undertaking with at least one parent undertaking subject to the law of a third State;

¹³⁹ Article 61e inserted by LGBl. 2009 No. 328.

¹⁴⁰ Article 61f inserted by LGBl. 2009 No. 328.

¹⁴¹ Article 61g inserted by LGBl. 2009 No. 328.

- b) every acquisition of a participation in a reinsurance undertaking whose head office is situated in a Contracting Party to the EEA Agreement by such a parent undertaking, where that reinsurance undertaking becomes a subsidiary undertaking.

2) Where a license is granted in accordance with paragraph 1(a) to a direct or indirect subsidiary undertaking of one or several parent undertakings subject to the law of a third States, the structure of the group shall be included in the notice referred to in paragraph 1.

Article 62¹⁴²

Repealed

VIIa. Legal remedies¹⁴³

Article 63

Legal remedies

1) Decisions and orders of the supervisory authority may be appealed within 14 days of service to the FMA Complaints Commission.¹⁴⁴

2) Decisions and orders of the FMA Complaints Commission may be appealed within 14 days of service to the Administrative Court.¹⁴⁵

Article 63a¹⁴⁶

Repealed

¹⁴² Article 62 repealed by LGBl. 2009 No. 328.

¹⁴³ Title preceding article 63 inserted by LGBl. 2009 No. 328

¹⁴⁴ Article 63, paragraph 1 amended by LGBl. 2004 No. 188.

¹⁴⁵ Article 63, paragraph 2 amended by LGBl. 2004 No. 33 and LGBl. 2004 No. 188.

¹⁴⁶ Article 63a repealed by LGBl. 2009 No. 328.

VIII. Penal provisions

Article 64

Misdemeanors and administrative offenses

1) The Court of Justice shall punish with imprisonment of up to six months or with a fine of up to 360 daily rates for committing a misdemeanor anyone who:

- a) violates insurance secrecy or induces such a violation or attempts to induce it;
- b) performs an insurance activity subject to this Act without a license.

Both punishments may be combined.

2) The Court of Justice shall punish with a fine of up to 100,000 francs for committing an administrative offense anyone who:

- a) violates conditions imposed in connection with a license;
- b) violates the provisions concerning capital resources and formation of reserves;
- c) gives false information to the supervisory authority, in particular for purposes of obtaining a license for business activities, approval for cross-border provision of services, approval of amendments to the business plan, or approval of a transfer of the insurance portfolio on behalf of an insurance undertaking;
- d) gives false information to the auditing office;
- e) does not keep account books properly or does not retain account books and receipts;
- f) as an auditor, grossly violates his responsibilities, in particular by making untrue statements in the audit report or withholding significant facts, by failing to make required requests to the insurance undertaking, or by failing to submit required reports and notifications;
- g) as a responsible actuary for life insurance or as a special mandatee grossly violates his responsibilities;
- h) as a claims management undertaking, engages in insurance activities other than processing of benefits for legal expenses insurance or processes benefits for other classes of insurance;
- i) does not comply with the approved business plan;
- j) conducts business alien to insurance.

3) The supervisory authority shall punish with a fine of up to 50,000 francs for committing an administrative offense anyone who:¹⁴⁷

- a) fails to compile or publish the annual account statement or the business report as required;
- b) fails to have the regular audit or an audit required by the supervisory authority conducted;
- c) fails to fulfill his responsibilities vis-à-vis the auditing office;
- d) fails to submit the required notifications to the supervisory authority or fails to fulfill the submission requirements;
- e) fails to comply with a demand to bring about a lawful state of affairs or with any other order by the supervisory authority;
- f) makes use of services of an insurance intermediary subject to the Insurance Mediation Act who does not have the required FMA license;¹⁴⁸
- g) uses terms in an impermissible manner that indicate activities as an insurance undertaking;¹⁴⁹
- h) fails to properly execute claims adjustment for motor vehicle liability insurance pursuant to article 75c, paragraph 1 of the Road Traffic Act.¹⁵⁰

4) If the offenses are committed negligently, the maximum penalties shall be reduced by half.

5) The misdemeanors according to paragraph 1 shall be subject to a statute of limitations of two years.

6) The general part of the Criminal Code shall apply *mutatis mutandis*.

Article 65¹⁵¹

Notification obligation of the Office of the Public Prosecutor

Repealed

¹⁴⁷ Article 64, paragraph 3, introductory sentence amended by LGBl. 2004 No. 188.

¹⁴⁸ Article 64, paragraph 3(f) amended by LGBl. 2006 No. 128.

¹⁴⁹ Article 64, paragraph 3(g) inserted by LGBl. 2002 No. 157.

¹⁵⁰ Article 64, paragraph 3(h) inserted by LGBl. 2003 No. 137.

¹⁵¹ Article 65 repealed by LGBl. 2004 No. 188.

IX. Transitional and final provisions

Article 66

Licenses

Licenses for operating an insurance undertaking that do not comply with the requirements of this Act and the ordinances enacted in conjunction with this Act shall be adjusted to the new legal provisions within one year of enactment thereof or, if necessary, be withdrawn or revoked.

Article 67

Implementing ordinances

The Government shall enact the ordinances necessary to implement this Act.

Article 68

Entry into force

This Act shall enter into force on 1 January 1996.

signed *Hans-Adam*

signed *Dr. Mario Frick*
Prime Minister

Annex 1**Classification of non-life insurance risks according to classes of insurance pursuant to article 3, paragraph 1**

1. Accident (including industrial injury and occupational diseases)
 - fixed pecuniary benefits
 - benefits in the nature of indemnity
 - combinations of the two
 - injury to passengers
2. Sickness
 - fixed pecuniary benefits
 - benefits in the nature of indemnity
 - combinations of the two
3. Land vehicles (other than railway rolling stock)
All damage to or loss of:
 - land motor vehicles
 - land vehicles other than motor vehicles
4. Railway rolling stock
All damage to or loss of railway rolling stock
5. Aircraft
All damage to or loss of aircraft
6. Ships (sea, lake and river and canal vessels)
All damage to or loss of:
 - river and canal vessels
 - lake vessels
 - sea vessels
7. Goods in transit (including merchandise, baggage, and all other goods)
All damage or loss of goods in transit, irrespective of the form of transport
8. Fire and natural forces
All damage to or loss of property (other than property included in classes 3, 4, 5, 6, or 7) due to:
 - fire
 - explosion

- storm
 - natural forces other than storm
 - nuclear energy
 - land subsidence
9. Other damage to property
All damage to or loss of property (other than property included in classes 3, 4, 5, 6, and 7) due to hail or frost, and any event such as theft, other than those mentioned under 8
10. Motor vehicle liability
All liability arising out of the use of motor vehicles operating on the land (including carrier's liability)
11. Aircraft liability
All liability arising out of the use of aircraft (including carrier's liability)
12. Liability for ships (sea, lake and river and canal vessels)
All liability arising out of the use of ships, vessels or boats on the sea, lakes, rivers or canals (including carrier's liability)
13. General liability
All liability other than those forms mentioned under 10, 11 and 12
14. Credit
- insolvency (general)
 - export credit
 - installment credit
 - mortgages
 - agricultural credit
15. Suretyship
- suretyship (direct)
 - suretyship (indirect)
16. Miscellaneous financial loss
- employment risks
 - insufficiency of income (general)
 - bad weather
 - loss of benefits
 - continuing general expenses

- unforeseen trading expenses
 - loss of market value
 - loss of rent or revenue
 - indirect trading losses other than those mentioned above
 - other financial loss (non-trading)
 - other forms of financial loss
17. Legal expenses
Legal expenses and cost of litigation
18. Assistance to tourists
Emergency assistance benefits for persons encountering difficulties while traveling or while away from their residence or permanent abode

Designation of license granted simultaneously for several classes (collective designations)

Where the license simultaneously covers

- a) classes 1 and 2, then it shall be named "Accident and health insurance";
- b) classes 1 (fourth indent), 3, 7, and 10, then it shall be named "Motor insurance";
- c) classes 1 (fourth indent), 4, 6, 7, and 12, then it shall be named "Marine and transport insurance";
- d) classes 1 (fourth indent), 5, 7, and 11, then it shall be named "Aviation insurance";
- e) classes 8 and 9, then it shall be named "Insurance against fire and other damage to property";
- f) classes 10, 11, 12, and 13, then it shall be named "Liability insurance";
- g) classes 14 and 15, then it shall be named "Credit and suretyship insurance".

Classification of life insurance risks according to classes of insurance pursuant to article 4, paragraph 3

1. Life insurance
 - insurance on survival, insurance on death
 - annuities
 - supplementary insurance for accidental death, disability, and sickness
2. Marriage insurance, birth insurance
3. Unit-linked/fund-linked life insurance
4. Health insurance (including disability insurance)
5. Tontines
6. Capital redemption operations
7. Business relating to the administration of institutions for occupational retirement provision (pension funds)

¹⁵² Annex 2 amended by LGBl. 2007 No. 14.

Large risks pursuant to article 11, paragraph 8

The following shall be deemed large risks:

- a) the risks classified under classes 4, 5, 6, 7, 11, and 12 in Annex 1;
- b) the risks classified under classes 14 and 15 in Annex 1, if the policyholder works in the industrial or commercial sector or is self-employed and the risk is associated with this work;
- c) the risks classified under classes 3, 8, 9, 10, 13, and 16 in Annex 1, provided that the policyholder exceeds the upper thresholds with respect to at least two of the three following criteria:
 - balance sheet total: 6.2 million euros
 - net profits from sales: 12.8 million euros in the business year
 - average number of employees over the course of the business year: 250.

If the policyholder belongs to an enterprise group for which a consolidated annual account statement is compiled, then the aforementioned criteria shall be applied to the consolidated annual account statement.

¹ Annex 3 amended by LGBl. 2002 No. 157.

Annex 4**Information requirements vis-à-vis policyholders pursuant to articles 45 and 49**

Prior to conclusion and during the term of a contract, the insurance undertakings must inform the policyholder, if the policyholder is a natural person, of the facts and rights pertaining to the insurance relationship in accordance with the following provisions. In the case of insurance of large risks, an indication of the applicable law and the competent supervisory authority shall suffice. The information must be in writing.

Section I

1. Information required for all classes of insurance:
 - a) name, address, legal form, and head office of the insurance undertaking and, if applicable, the establishment at which the contract is to be concluded;
 - b) the general insurance conditions applicable to the insurance relationship, including the rate schedule, and indication of the law applicable to the contract;
 - c) information on the type, scope, and maturity of the insurance undertaking benefits, unless no general insurance conditions or rate schedules are used;
 - d) information on the term of the insurance relationship;
 - e) information on the amount of the premiums, with individual specification of the premiums if the insurance relationship is to include several independent insurance contracts, and on the manner of payment of the premiums, as well as information on any additional fees and expenses and on the total amount to be paid;
 - f) information on the amount of time during which the applicant is to be bound by the application;
 - g) instructions concerning the right of cancellation or withdrawal;
 - h) address of the competent supervisory authority to which the policyholder may turn in the case of complaints relating to the insurance undertaking.

2. Additional information required for life insurance policies and accident insurance policies with premium refund:
 - a) information on the calculation principles and measures used for surplus determination and participation in profits;
 - b) indication of the surrender value;
 - c) information on the minimum insurance amount for conversion into a fully paid-up policy and on the benefits from a fully paid-up policy;
 - d) information on the extent to which the benefits according to b) and c) are guaranteed;
 - e) in the case of fund-linked insurance policies, information on the fund to which the policy is linked and the type of assets contained therein;
 - f) general information on tax rules applicable to this type of insurance policy.

Section II

Information to be communicated by the insurance undertaking during the term of the insurance contract:

1. changes to the name, address, legal form, and head office of the insurance undertaking and, if applicable, the establishment at which the contract has been concluded;
2. changes with respect to the information provided pursuant to Section I, no. 1(c) to (e) and no. 2 (a) to (e), provided that they arise from changes to legal requirements;
3. annual communication regarding the level of participation in profits for life insurance and accident insurance with premium refund.

Transitional provisions

**961.01 Law on the Supervision of Insurance
Undertakings (Insurance Supervision Act; ISA)**

Liechtenstein Law Gazette

Year 2009

No. 328

published on 17 December 2009

Law
of 22 October 2009
amending the
Insurance Supervision Act

...

III.
Transitional provisions

1) Reinsurance undertakings subject to supervision under this Act which received a license or approval to pursue reinsurance activities in accordance with the requirements of the Contracting Party to the EEA Agreement in which their head office is situated prior to entry into force of this Act¹⁵³ shall be deemed licensed within the meaning of article 12.

2) Undertakings referred to in paragraph 1 that do not meet the requirements of this Act and the associated ordinances must adjust to these provisions within one year of entry into force¹.

3) Insurance undertakings that have so far not appointed a responsible actuary in accordance with article 18b must appoint such a responsible actuary within one year of entry into force of this Act¹.

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¹⁵³ Entry into force: 1 January 2009