FINANCIAL SUPERVISION COMMISSION
INSURANCE SUPERVISION DIVISION

CONDITIONS IN WHICH, FOR REASONS OF THE GENERAL GOOD, MUST BE CARRIED THE ACTIVITIES OF BRANCHES OF COMMUNITY BASED INSURANCE UNDERTAKINGS ESTABLISHED IN THE REPUBLIC OF BULGARIA AND OF SUCH INSURANCE UNDERTAKINGS PURSUING THEIR ACTIVITIES IN THE REPUBLIC OF BULGARIA UNDER THE FREEDOM TO PROVIDE SERVICES

The following rules imposed in the interests of the general good shall be complied with by the insurance undertakings with head offices in the European Economic Area operating in the Republic of Bulgaria under the right of establishment or the freedom to provide services:

Rules on the applicable language in the insurance activity – article 9a of the Code on Insurance (hereinafter CI).

The language in which insurance and insurance intermediation shall be carried out in the Republic of Bulgaria shall be the *Bulgarian language*.

The general conditions, consumer information and other documents that shall be provided by insurers and insurance intermediaries shall be prepared in Bulgarian.

On request by a consumer, *another language may be used* in the relationships with the insurer.

Rules on disclosure and avoiding of conflict of interests – articles 90 – 91 of the CI

With respect to the avoiding conflict of interests the CI provides that where certain high profile personnel of the insurer (*members of a managing or supervisory body, officials having a governing functions, persons authorized to manage or represent the undertaking*) and/or their related parties (*family members, and undertakings where those natural persons and their family members hold a qualified participating interest, or a managerial position*) enter into a contract with the insurer, which contract exceeds the bounds of the insurer's regular operations or considerably deviates from the usual market conditions the Managing Body of the insurance undertaking shall be notified in writing.

It is also provided that the said officials shall not participate in the negotiations, discussion and decision-making on concluding a transaction on behalf of the insurer with themselves or with their related parties.

The insurer is also obliged to build up the internal organization and to adopt rules in order to prevent conflict of interests.

Rules on Safeguarding and Disclosure of the Insurance Secrecy - articles 93-94 of CI

The insurer, all its personnel including the persons to which the insurer has outsourced parts of its activity shall be obligated to keep in secrecy all and any information that has become

known to them in connection with the performance of their functions as well as insurance and reinsurance intermediaries and their employees.
These persons may not utilize the information acquired to their own personal benefit or in favour of another person, as well as for purposes other than performance of their functions.

All the natural persons obliged to keep the insurance secrecy shall sign a Declaration on Safeguarding the Insurance Secrecy.

The information subject to the obligation to safeguard the insurance secrecy may be disclosed only in the following cases:

- to the Financial Supervision Commission (hereinafter FSC), to the Deputy Chairperson of the FSC head of the Insurance Supervision Division (hereinafter the Deputy Chair) and to the authorized officials of the FSC's administration;
- by explicit written consent of the person to whom it refers;
- before the authorities of the Court, the Prosecution Office, the investigation authorities and the police authorities under the procedure envisaged by law;
- before the State Agency National Security under the terms and conditions and under the procedure envisaged by the Law on the Measures against Money Laundering;
- before the Guarantee Fund and the National Bureau of Bulgarian Motor Insurers with relation to their activities under the CI and the relevant regulations and administrative provisions;
- for the purposes of establishing information systems for insurance fraud prevention;
- before a director of a regional directorate of the National Revenue Agency where:
    - with an administrative action of an income body has been established that the person inspected has impede the conduct of an inspection or of a revision or has failed to keep accounts as required, or that there are material deficiencies in the said accounts;
    - a competent public authority has established by a written statement the occurrence of a fortuitous event which has led to the destruction of the accounting records of the person inspected;
- To a reinsurer where this is necessary in relation to conclusion of a reinsurance contract.

Rules on the Organization of the Activity on Insurance Claims Settlement - articles 104, 105 and 107 of CI

The CI provides for the general principles of the claims settlement which concern:

- the internal rules that every insurer shall have in place in order to guarantee swift, transparent and fair treatment of the consumers;
- procedures of filing and processing of an insurance claim;
- term of settling of a claim.

Internal Rules to be adopted by the insurers

The internal rules shall provide for the procedures, under which an insurer shall:

- file claims under insurance contracts,
- collect evidence in order to establish their grounds and amount,

- perform assessment of the damages incurred,
- specify the indemnity amounts,
- effect payments to consumers,
- consider complaints submitted by them.

The internal rules shall be adopted by the board of the insurer. They shall apply mandatory to the settlement of all claims except for the claims under insurance contracts for insurance of large risks.
The internal rules may not come into contradiction with the law and must guarantee the consumers' rights to swift, transparent and fair settlement of their claims.

These rules, along with their subsequent amendments, shall be submitted to the FSC within a seven-day period following their adoption. The Deputy Chairperson may give mandatory instructions for removal of contradictions with the law, as well as in the cases where the consumers' rights have been restricted unreasonably.

The internal rules shall be public. Insurers shall publish these on their websites and shall secure free access to these at the locations where they perform their activities.

Filing Insurance Claims. Proofs

The insurer is obliged to acknowledge the receipt of each claim filed.

Where a consumer of an insurance service **is not a party** under an insurance contract (e.g. *injured person under Third Party Liability Insurances or a third party beneficiary*), upon filing of the claim the insurer shall notify him/her of the proofs that the above person is to submit in order to establish the grounds and the amount of their claim.
Additional proofs may be required only:

- in the case where the proofs' necessity may not have been envisaged as of the date of filing the claim, and
- not later than within a period of up to forty-five days as of the date of submission or the originally demanded proofs.

*The above protective regime does not apply for claims settlement under contracts for insurance of large risks.

Where the consumer of the insurance service **is a party** under an Insurance Contract, who has submitted the proofs specified by the Contract and the Internal rules the insurer shall notify him/her of the additional proofs within a period of forty-five days following the submission of proofs, where these are necessary in order to establish the grounds and the amount of the claim.
*The above protective regime does not apply to settlement of claims under contracts covering large risks.

It is forbidden to demand proofs:

- which the insurance service consumer may not obtain due to:
  - existing normative obstacles or
  - lack of legal possibility to secure these,

- that may be prudently considered as having no substantial importance for the establishment of the claim's grounds and amount, and aim unjustified delay and prolongation of the claim's settlement procedure.

Term for pronouncing on a claim

Where the contract is not for insurance of large risks the insurer shall have a time period of up to fifteen (15) days following the submission of all proofs (*including the submission of the proofs additionally demanded within the forty-five days period specified above*) to:

- Assess and pay the amount of the indemnity or the sum insured; or
- Legitimately refuse to effect the payment.

Rules for protection of competition

Any activity or omission in the conduct of a business that contradicts the bona fide commercial practices and harms or may harm competitors' interests shall be prohibited and in particular:

- Damaging Competitors' Reputation – article 30 **of the Law on Protection of Competition;**
- Deliberate Misleading – article 31 **of the Law on Protection of Competition**
- Misleading and Comparative Advertising – article 32 **of the Law on Protection of Competition;**
- Undertakings (insurers included) may not use company logo, trade mark or geographic designation identical or similar to those of other entities in a manner which might harm competitors' interests – article 35, paragraph 2 **of the Law on Protection of Competition;**
- Using a domain name or appearance of a website identical or similar to that of other entities in a manner which might be misleading and/or harm competitors' interests – article 35, paragraph 3 **of the Law on Protection of Competition;**
- Unfair competition aimed at soliciting customers and resulting in the termination or breach of previously concluded contracts or in the prevention of conclusion thereof with competitors shall be forbidden – **article 36, paragraph 1 of the Law on Protection of Competition**
- The offering or providing, as an addition to the goods or services of other goods or services, whether gratuitously or for a fictitious price, except for:
    - promotional items of a negligible value;
    - items or services which, according to commercial practices, are an accessory to the goods being sold or the services being provided;
    - goods or services as a discount when larger quantities are sold – **article 36, paragraph 2 of the Law on Protection of Competition**.
- Sales shall when they are accompanied by an offer or promise of something the obtaining of which depends on: the solution of problems, rebuses or riddles or the answering of questions; the collection of a series of coupons etc.; the running of lottery games the prizes wherein are cash or objects whose value is significantly larger than the price of the goods or services being sold – **article 36, paragraph 3 of the Law on Protection of Competition**.

Rules concerning the relations between insurance undertakings and insurance agents

Preliminary verification for observation of requirements to be observed by the insurance agents before entering into a contract for insurance agency – article 169 of the CI.

Before entering into a contract with an insurance agent the insurer is obliged to verify the existence of the following conditions:
That the agent has:

- a good reputation;
- at least secondary school education;
- not been sentenced to imprisonment for a indictable offence of intent unless he/she has been rehabilitated;
- not been divested of the right to hold an office accountable of assets;
- not been in the last three years before the initial date of the insolvency determined by the court a member of a managing or a control body or a general partner in a company, with regard to which bankruptcy proceedings have been initiated, or which has been liquidated as a result of bankruptcy, in case unsatisfied creditors have remained;
- not been declared bankrupt and is not involved in bankruptcy proceedings.

The same conditions must be verified with regard to the legal representatives of an insurance agent which is a legal person and with regard to the employees of the insurance agent that are directly involved in the activities of insurance agency.

In case an agent has no professional liability insurance or does not meet the requirements listed above, an insurer who has signed a contract therewith, shall assume full responsibility for agent's actions in carrying out insurance intermediation.

Obligations of the insurer with regard to the registration of the insurance agents – article 170 of the CI.

Every insurer shall keep and update a list of the persons, with whom it has concluded contracts for insurance agency based on a sample endorsed by the Deputy Chairperson of the Bulgarian Financial Supervision Commission head of the Insurance Supervision Division.

The insurer with a head office in Bulgaria or operating through a branch therein which has concluded contracts for insurance agency shall submit application for entry of the insurance agents in the registry with the Financial Supervision Commission. *In case the insurer operates under the freedom to provide services the insurance agents are entitled to submit the application in the said registry themselves*.

Obligations of the insurers to issue identification card to the insurance agents – article 171 of the CI.

The insurer shall issue to the insurance agent an Identification Card based on a sample endorsed by the Deputy Chairperson, which shall contain at least the following data:

- The name and address of the natural person, or the company name, legal seat and registered office of the insurance agent who is a single proprietor;
- The address of the office or branch office where operations will be performed;

- The insurance classes the agent may offer and the maximum insured amount, up to which an insurance agent may conclude such insurances;
- The names of the persons authorised to manage and represent the insurance agent who is a legal person;
- The registry in which it has been entered and the way to verify such entry.

Training of insurance agents – article 168 of the CI.

The insurer must provide training to the insurance agents with whom they have concluded a contract for insurance agency as well as to their employees who directly carry out insurance intermediation.

The insurer must conduct an examination at the end of the training and to issue a certificate to the insurance agents who have successfully passed the above examination.

Form of the insurance contract article 184, par. 1 of the CI. Obligation of the insurer to provide a certified copy of the policy to the policyholder – Article 184, par. 8 of the CI.

Under Article 184, par. 1 of the CI an insurance contract shall be concluded in writing under the form of an insurance policy or of another written act. Upon a request, for the purpose of verification that an insurance contract is concluded, the insurer shall also issue an insurance acknowledgement, a certificate, or a voucher. The insurer shall compulsorily issue an insurance acknowledgement, certificate or another written document, certifying an insurance contract concluded, in the cases where this is provided for under a law (e.g. green card certificate). The written form of the insurance contract shall be also regarded as observed in the cases where the said contract has been drawn up in the form of an electronic document within the meaning of the Electronic Signature and Electronic Document Act.

Under article 184, par. 1 of the CI where there is a request of the policyholder the insurer shall be obligated to provide a certified copy of the policy within a seven-day term as of the request. The lack of an original copy of it shall not serve as grounds for refusal or reduction of an insurance payment.

Consumer information to be provided prior to the conclusion of the insurance contract - Article 185 of the CI.

Prior to conclusion of an insurance contract every insurer shall be obliged to provide the consumer with the following information in an appropriate written form:

- Company name of the insurer and its legal form;
- Legal seat and registered office of the insurer, as well as of the branch, through which the insurance is taken up;
- Procedures on out-of-court settlement of disputes between the parties to an insurance contract, if provided for;
- The law applicable to the contract, where the parties do not have the right to free choice of applicable law, or the proposed by the insurer applicable law respectively, where the parties are entitled to a free choice.

In addition in the case of a life assurance being taken out the insurer shall be obliged to provide the following information:

- Covered and excluded risks; possibilities for modification of the insurance contract in compliance with the General Terms;
- The term and the methods of contract termination;
- Method of specifying premiums, term and ways of their payment as well as consequences of non-payment;
- Prerequisites and term for payment of insurance indemnity or cash sum;
- Methods of calculation and allocation of bonuses, if provided for;
- Way of calculation of cash surrender values and of the reduced insurance sum, in case of pre-term termination of payments, as well as the amount, up to which these are guaranteed;
- Detailed listing of particular investment funds, in which the funds under a unit-linked *Life* Insurance contract may be invested and characteristics of the assets the funds comprise of;
- Conditions under which the unilateral termination of the contract is possible;
- General information on taxes and fees in relation to this contract;

In a case where an insurance contract is concluded through an insurance broker or an insurance agent, the above mentioned information shall be provided by them.

Requirements to the General Conditions to Insurance Contracts - Article 186 of CI

The general conditions to the insurance contract shall bind the insured in the case where these have been provided to the latter before or at the time of conclusion of the insurance contract, and the said insured has declared in writing that accepts these.

The general conditions as accepted by the insured shall be an inseparable part of the insurance contract.

In the case where there exists discrepancy between the insurance contract and the general conditions, the stipulated under the contract shall be valid.

The general conditions of the insurance policies shall not constitute a legally protected secret and the insurer may not deny access to them with regard to any third party.

The insurer is obligated to provide the insurance services consumer the general conditions of the insurance prior to the insurance contract's conclusion.

In the cases where a questionnaire has been drawn up with regard to the insurance, the general conditions shall be provided along with it.

The general conditions shall clearly and unambiguously specify:

- The risks covered and the exclusions from the coverage;
- The conditions of premiums' payment on the part of the insured and the consequences resulting from non-payment or inaccurate payment;

- Insurer's liabilities, payment's term, and the manner of specifying the payments' amounts;
- The obligations of the person insured upon occurrence of an insured event and its establishment;
- The terms under which the insurance contract can be amended;
- The terms and the amount of the preliminary payments or loans against Life Insurance Policies and their redemption.

The general conditions may not provide for:

- a requirement for submission of documents by state authorities, which documents have no relation to the fact of the occurrence of an insured event, or to the establishment of the amount of claim;
- conditions and requirements which based on a reasonable estimate:
  - do not contribute to the limitation of the risk of occurrence of an insured event;
  - do not contribute to the proving of the insured event or
  - which may be considered that cannot be fulfilled due to a legal or factual impediment. .

Any amendments to or substitution of the general conditions with new ones during the term of an insurance contract, shall be binding for the insured only in the case where the said amendments or the new conditions have been provided to the insured and have been accepted in writing.

Unfair terms in consumer contracts - Article 143 and the following of the Law on Consumer Protection

In addition the Law on Consumer Protection stipulates the unfair terms in consumer contracts that shall be void if they are included in the general conditions or in another part of the contract that has been drafted in advance and the consumer has therefore not been able to influence the substance of the term.
The voidness of the unfair terms applies to all contracts, including the insurance contracts unless individually negotiated and represent clauses to detriment of the consumer which are contrary to the requirement of good faith and cause a significant imbalance in the rights and obligations of the trader or supplier and the consumer and has the object or effect of:

- excluding or limiting the statutory liability of a producer, trader or supplier in the event of the death of a consumer or personal injury to the consumer resulting from an act or omission of the said trader or supplier;
- excluding or limiting the statutory rights of the consumer vis-a-vis the trader or supplier or another party in the event of total or partial non-performance or inadequate performance of any of the contractual obligations, including the option of offsetting a debt owed to the trader or supplier against any claim which the consumer may have against the trader;
- making the fulfilment of contractual obligations by the trader or supplier subject to a condition whose realization depends on his own will;
- permitting the trader or supplier to retain sums paid by the consumer where the consumer decides not to conclude or perform the contract, without providing for the consumer to receive compensation of an equivalent amount from the trader or supplier where the trader or supplier is the party cancelling the contract;

- requiring any consumer who fails to fulfil the obligation thereof to pay a disproportionately high sum in compensation;
- authorizing the trader or supplier to exempt himself from the obligations thereof under the contract on a discretionary basis where the same facility is not granted to the consumer, or permitting the trader or supplier to retain the sums paid for services not yet supplied thereby where he himself dissolves the contract;
- enabling the trader or supplier to terminate a contract of indeterminate duration without notice, except where there are serious grounds for doing so;
- fixing an unreasonably early deadline for automatic extension of the contract where the consumer does not indicate otherwise;
- binding the consumer to terms with which the consumer had no real opportunity of becoming acquainted before the conclusion of the contract;
- enabling the trader or supplier to alter the terms of the contract unilaterally on grounds which are not specified in the contract;
- enabling the seller or supplier to alter unilaterally, without a valid reason, any characteristics of the products or services;
- providing for the price to be determined at the time of delivery of the product or provision of the service or allowing a trader or supplier to increase the price without, in both cases, giving the consumer the corresponding right to cancel the contract if the final price is substantially higher in relation to the price agreed when the contract was concluded;
- giving the trader or supplier the right to determine whether the goods or services supplied are in conformity with the terms of the contract, or giving the trader or supplier the exclusive right to interpret any term of the contract;
- obliging the consumer to fulfil all obligations thereof even where the trader or supplier does not perform the obligations thereof;
- giving the trader or supplier the possibility of transferring the rights and obligations thereof under the contract, without the consumer's agreement, where this may serve to reduce the guarantees for the consumer;
- excluding or hindering the consumer's right to take legal action or exercise any other legal remedy, particularly by requiring the consumer to take disputes exclusively to a specific court of arbitration not covered by legal provisions; unduly restricting the evidence available to the consumer or imposing on the consumer a burden of proof which, according to the applicable law, should lie with the other party to the contract;
- limiting the obligation of the trader or supplier to respect commitments undertaken by the agents thereof, or making the commitments thereof subject to compliance with a particular formality;
- imposing other similar conditions.

A term shall be regarded as not individually negotiated where it has been drafted in advance and the consumer has therefore not been able to influence the substance of the term, particularly in the context of a pre-formulated standard contract.

Special rules for claims settlement and submission of information in case of settlement of total losses of motor vehicles – articles 193, paragraphs 3 and 4 and 294, paragraph 6

Before the settlement of a claim determined as a total loss of a motor vehicle registered in the Republic of Bulgaria, the insurer shall require from the consumer of the insurance service proof of deregistration of the motor vehicle.

A total loss of a motor vehicle shall be a damage incurred where the cost of the repairs needed exceeds 70 percent of its actual value. The amount of costs for the repairs needed shall be determined according to the specific indemnification method based on:

- a proforma invoice issued by a service station in case the damages are repaired in kind, or
- an expert assessment in case of cash indemnification.

Every insurer offering the classes of insurance Land vehicles (other than rail rolling stock) and/or Motor vehicle liability in Bulgaria shall daily submit information about settled claims that are determined as a total loss. The information shall be submitted to the Guarantee Fund in an electronic format.

Prohibition on the reliance on self-participations (excesses) of the insured – Article 194, paragraph 5 of the CI.

Self-participation (excess) shall not be allowed with regard to:

- the obligatory types of insurance, covering risks related to the life and health of natural persons,
- the obligatory Third party liability insurance of motorists, and
- All types of Life Assurance.

Special rules for protection of consumers in case of insurance concluded in favour of a creditor– Article 199a and Article 205, paragraph 3 of the CI.

Insurance concluded in favour of a creditor is for example insurance concluded in favour of a bank which has granted a loan to a person.

In case of insurance concluded in favour of a creditor and upon occurrence of an insured event the insurer shall be liable to the creditor up to the amount of the unrepaid portion of the obligation, for the security of which the insurance contract is concluded, together with the interest and expenses as of the date of occurrence of the insured event.

Where the indemnity or the insurance amount payable under the conditions of the contract exceeds the amount specified above, it shall be paid to the debtor, its heirs or beneficiaries.

In case of an insurance contract in favour of a creditor where the insured amount negotiated between the creditor and the insurer is less than the actual or recoverable value of the insured property the debtor has the right to require that the insured amount be determined up to one of the said values. In such a situation the debtor is entitled to pay additional premium.

An insurance contract in favour of a creditor when it is to be concluded between the creditor and an insurer, and when the insurance will cover the life and/or the property rights of the debtor shall be concluded only with the prior written consent of the debtor.

The insurance contract between the creditor and the insurer specified above shall be concluded under general conditions. In case where the general conditions and the special conditions of the contract do not coincide only the conditions which have been disclosed to the debtor in advance will apply.

Upon request from the debtor the insurer is obliged to inform him/her about any:

- changes,
- acts or failures to act or
- other circumstances

which might have as a consequence:

- the termination of the contract,
- reduction of the amount of the insurance indemnity or amount or
- which might jeopardise the interests of the debtor otherwise.

Rules on the exercise of the right of unilateral change or premature termination of a non-life insurance contract by the insurer because of non payment of a due instalment of the insurance premium - Article 202, paragraphs 1 and 2 of the CI

Where the premium under a non-life insurance contract shall be paid in instalments and the policyholder has delayed the payment of a certain instalment, the insurer has the right under the Article 202, par. 1 of the CI to reduce the insurance amount, to amend the contract or to terminate it.
In order to do so the insurer must send in advance a notification to the last disclosed to it address of the policyholder warning him/her of the circumstance that he/she is in delay and of the possibility of reduction of the insurance amount, or of amendment to the contract or of its termination. The insurer must allow also for a fifteen-day period as of the date of receipt of the notification before exercising its rights.
Alternatively the insurer may include the notification of the abovementioned warnings in the insurance policy. Thus it shall be entitled to exercise its rights after expiring of the 15-th day as of the due date of the instalment.

Rules applicable to the recourse – Articles 213 and 213a of CI

In case of payment of a claim under property insurance the property insurer has the right to claim the amount paid together with the normal expenses incurred from the person which has caused the damage to the property insured.

If the person which has caused the damage is related by direct ascending or descending line, married to or belongs to the household of the insured party the property insurer has the right of recourse only in case the damage has been caused deliberately.

In case the person which has caused the damage to the property insured has liability insurance covering his/hers liability the property insurer has the right to claim directly to the liability insurer.

In case the damage has been caused by a driver of a motor vehicle with a valid Obligatory Motor Third Party Liability insurance the property insurer has the right to claim against the

driver *only in case the damage is larger than the limit of cover under the obligatory MTPL insurance* and *only for the amount exceeding that limit*.

In the situation mentioned above the property insurer must claim to the Obligatory MTPL insurer by presenting the paid property insurance claim file with the supporting proofs. The Obligatory MTPL insurance must verify the submitted claim.

Within 45 days of the submission of the claim the Obligatory MTPL insurer has the right to require further proofs:

- if the property insurer has not submitted them or
- if further proof is necessary which could not have been foreseen as of the date of submitting the claim.

No proofs will be asked:

- which the may not be obtained due to:
  - existing normative obstacles or
  - lack of legal possibility to secure these,
- that may be prudently considered as having no substantial importance for the establishment of the claim's grounds and amount, and aim unjustified delay and prolongation of the claim's settlement procedure.

Within 30 days from submission of all proofs the Obligatory MTPL insurer shall:

- either determine and pay the amount of its obligation under the claim submitted, or
- refuse to effect payment stating the grounds for the refusal.

Direct right of action of the third injured party against the insurance undertaking under the general civil liability (*Third Party Liability*) insurance - Article 226, paragraphs 1 and 2 of CI

According to Article 226, par. 1 of the CI every injured party, in regard to whom an insured person under a third party liability insurance (TPL) of any kind is liable, shall have the right to demand indemnity directly from the insurer and also enjoys the right of direct legal action.

In case of a direct claim made by the third injured party the insurer may in its relationships with him/her raise all the objections ensuing from the contract and from the third party liability of an insured in order to argue its liability except for the below mentioned objections on the grounds of the following violations of the contract committed by the insured (policyholder):

- Failure to allow the insurer to make an inspection of the damaged property and to submit the documents required by the insurer, which are directly related to ascertainment of the event and the amount of the damages.
- Failure to perform the necessary actions to limit the damages from the insured event and to follow the instructions of the insurer.
- Failure to notify the insurer of circumstances that may lead to the arising of third party liability within a seven-day period as of coming of knowledge.
- Failure to notify the insurer of claims presented against the policyholder within a seven-day period as of coming knowledge thereof.

The above mentioned rules on the direct right of action apply both to the compulsory TPL insurance contracts and to the voluntary ones.

Where the *TPL* Insurance is compulsory pursuant to a law, the insurer may not raise objections for self-participation (excess) of the insured person as well.

Rules on the liability of the insurer for intentionally caused damage in the relationship with the third injured party under an insurance contract for compulsory third party liability (*TPL*) insurance - Article 226, paragraph 3 of CI

Under the *TPL* insurance, which is compulsory, an insurer shall be also liable with regard to an injured party in the case where the latter has been intentionally injured by the insured.

After payment to the third injured party in the case mentioned above the insurer has the right to claim the indemnity paid from the insured person (the policyholder).

Invalidity of a life or accident insurance contract covering death of a minor person, or of a person placed under full judicial disability, as well as with coverage of the risk of abortion or giving birth to a dead child – Article 230, paragraph 3 of the CI.

A *life* or *accident* insurance contract shall be invalid where it covers:

- the occasion of death
  - of a minor person, or
  - of a person placed under full judicial disability,
- the risk of
  - abortion or
  - giving birth to a dead child.

The insurer shall be obligated to pay back the insurance premiums received under a *life* or *accident* insurance contract that covers such risks.

In the case where the person taking up the insurance has deliberately concealed information in regard to the persons mentioned above, whose life is a subject to a *life* or *accident* insurance contract, the insurer shall be entitled to deduct the amount of the expenses made on the insurance contract's conclusion from the sum of the premium, which is subject to return.

Rules concerning pensions or annuities insurance – Article 230a of the CI

Operations where pension or annuities cover is provided in exchange for transfer of property rights over immovable property shall be considered insurance operations.

In case of pension or annuity contract where the cover is provided in exchange for transfer of property rights over immovable property the value of the immovable property shall be determined by at least two independent assessors of immovable property.

Rules on the conclusion and termination of life or accident insurance contracts which subject is the life, health or physical integrity of a third person - Article 233, paragraphs 1 and 2 of CI

A person may conclude a *life* or *accident* insurance contract, whose subject is the life, health or physical integrity of another person. The said contract shall only be effective if concluded with the explicit written consent of that person.

The person over whose life the contract has been concluded may always terminate it by a unilateral written statement addressed to the insurer. In the case where the contract has been maintained for at least two years, the insurer shall be obligated to pay to the person insured the premium reserve under the insurance.

Rules on the premium payment under life insurance contracts - Article 236 of CI

In the case where an insured under a *life* insurance contract does not pay due premium in the case of annuity premium payments, the insurer shall not be entitled to demand its payment through the court.
An insurer shall be hereby obligated to invite in writing the insured to pay the due premium within a period that shall not be less than one month as of the invitation's receipt.
In the case where the due premium is not paid one month as of the invitation's receipt, the insurer may reduce the insurance amount to the amount of the redemption value where the premiums under the insurance contract have been paid for at least two years. Otherwise, the insurer may terminate the contract.

Rules on calculation of premiums and technical reserves under life insurance contracts

Under Article 13, item 10 of Ordinance No 27 on the Procedure and Methods of Setting up Insurance and Health Insurance Technical Reserves, the maximum amount of the technical interest used in calculating premiums and reserves shall stand at 3.5 per cent.

Right of unilateral termination of the life insurance contract – Article 237 of the CI

A natural person who has concluded an individual *life* insurance contract, having a term exceeding six months, shall be entitled to unilaterally terminate the contract within a period of 30 days as of the date, on which she/he has been notified of the insurance contract's conclusion.
The entitled person shall exercise his/her right to termination of the contract by a unilateral written notification, addressed to the insurer.
As from the notification's date to the insurer, the insurance contract shall be terminated, and the insured shall be exempted from his/her liabilities under it, and shall have the right to receive the insurance premium paid, with the exception of the part corresponding to the time, during which the insurer has borne the risk, if no insured event has occurred.
The insurer shall return the part of the premium within a thirty-day period as of the notification's receipt.

Rules on life or accident insurance contracts concluded as a collateral to an obligation - Article 242 of CI

Where *life* or *accident* insurance has been concluded for the benefit of a creditor in order to secure a liability of a natural person, the latter has the right to a claim against the insurer even in the case where it has not been a party to the insurance contract and has paid the liability upon occurrence of an insured event. The same right shall also be entitled to any third person who on the strength of the law has paid the liability.
The insurer may raise all objections ensuing from the insurance contract.

Prohibition to refuse concluding insurance contract for obligatory insurance by an insurer, authorized for such class of insurance – Article 250 of CI.

An insurer who performs obligatory insurance may not refuse to conclude a contract for the relevant obligatory insurance.

Rules on the sign for verification of the conclusion of a *Third Party Liability Insurance of Motorists* - Article 261, paragraph 1 of CI and articles 5 and 7 of Ordinance No. 24 of 08.03.2006 on the Compulsory Insurance Pursuant to Items 1 and 2 of Article 249 of the Insurance Code and on the Procedure of Settlement of Claims for Compensation of Damages Caused to Motor Vehicles (hereinafter Ordinance No. 24)

Under Art. 261. par. 1 of the CI the existence of an insurance contract for obligatory *TPL Insurance of Motorists* shall be proved with an insurance policy and a sign (sticker) that shall be issued by the Bulgarian Guarantee Fund and must be placed at the front window of the motor vehicle.
The insurance policy for obligatory *TPL Insurance of Motorists* shall be a registered form with continuous numeration, which shall be printed under the procedure established by the Council of Ministers for printing of securities.
When the sign (sticker) has been printed by the procedure established by the Council of Ministers for the printing of securities it shall be assumed that the upper obligation has been fulfilled.

Under article 5 of Ordinance No. 24 the insurer issuing obligatory *TPL Insurance of Motorists* shall supply the person that has concluded the compulsory insurance with a sign issued by the Guarantee Fund.
In the case of loss, theft or destruction of the sign the insurer, at the request of the owner, user, holder or driver of the motor vehicle, shall provide a new sign, which shall be valid until the expiry of the insurance term.
The insurer shall declare in writing before the Guarantee Fund the number of signs he needs.
The insurer shall pay for the number of signs ordered in accordance with the price established in the contract between the Guarantee Fund and the contractor hired to print the sign. The payment shall be made to an account of the contractor.
The insurer shall receive from the Guarantee Fund the ordered number of sing referred to in following the submission of a document certifying the payment. The Guarantee Fund shall refuse execution of the order of an insurer that has not paid for the number of signs referred to in Paragraph (1) said insurer has ordered.

Rules on the standard numbering of the insurance policies for obligatory *Third Party Liability Insurance of Motorists* and for the obligatory *Accident Insurance* for passengers in the means for public transportation - Article 26 of Ordinance No. 24

Insurers that issue insurance policies on obligatory *TPL Insurance of Motorists,* frontier insurance and *Accident Insurance of passengers* shall have standard numbering.
Each policy on obligatory insurance against civil liability of motorists, frontier insurance and on obligatory accident insurance of passengers shall contain the unique identification code of the insurer, provided by the Guarantee Fund, the type of insurance, the year in which the insurance policy is issued and the number in order.

Obligation of the insurer which has concluded Obligatory TPL Insurance of Motorists to provide the policyholder with a form for bilateral protocol of establishment of the car accident – Article 261, paragraph 4 of the CI.

The insurer which has concluded Obligatory TPL Insurance of Motorists is obliged to provide the policyholder with a form for bilateral protocol of establishment of the car accident. The protocol is in the format of the European Accident Statement.

Special provisions concerning the proofs about the occurrence of a car accident – Article 271, paragraphs 3 and 4 of the CI.

An insurer may not refuse to pronounce on a claim where:

- a written proof issued by the traffic police or
- a bilateral protocol duly signed by the participants in the car accident and notified to the traffic police has been produced for the verification of the occurrence of the car accident.

This does not prevent the insurer from requiring additional proofs from other institutions or persons nor it precludes the right of a consumer to produce other proofs.

Rules on taxation, book keeping and registration of the insurers.

According to the interpretation of the Ministry of Finance based on the definition of '*place of economic activity*' according to § 1, item 5 of the Additional Provisions of the Code on Tax and Social Security Procedure the insurers, based in an EEA Member State and operating in Bulgaria under **the right of establishment**, represent a *place of economic activity* for accounting and tax purposes.
Consequently these insurers for their activities in Bulgaria shall:

- keep the accountancy books according to Bulgarian legislation;
- prepare its annual accounts according to the Bulgarian Law on Accountancy and according to the International Accounting Standards/International Financial Reporting Standards that are applicable in Bulgaria;
- pay corporate tax on the profit derived from the *place of economic activity* in Bulgaria
    - the corporate tax is 10 % of the taxable profit which shall be defined by transforming the financial result before taxation derived from the *place of*

economic activity according to the rules as per Part Second of the Law on Corporate Income Taxation

Subject to a 10 % tax, collectable in Bulgaria, are the taxable incomes of the legal persons based abroad (EEA based insurers included) having their source inside Bulgaria **(tax at source of income)**.
Such incomes, having their source inside Bulgaria, are:

- the incomes from disposition of property of *place of economic activity*;
- any income from financial assets issued by resident legal persons, the Bulgarian State and the municipalities, as well as any income from transactions in such financial assets;
- any income from dividends and shares in a liquidation surplus, accruing from participating interests in resident legal persons;
- any interest payments, including interest within payments under a financial lease contract;
- any income from rent or other provision for use of movable or immovable property;
- any copyright and licence royalties;
- any technical assistance fees;
- any payments received under franchising agreements and factoring contracts. Such incomes charged in favour of non-resident legal persons from a permanent establishment of a resident person or from a fixed base of resident natural persons situated outside the territory of the country, shall not have its source inside the country.
- any compensations for management or control of a Bulgarian legal person;
- any income from agriculture, forestry, hunting ground management and fisheries within the territory of the country;
- any income from immovable property or from transactions in immovable property, including an undivided interest or a limited right in rem to any immovable property situated in the country

For the purposes of determination of the source of income the place of payment of the income shall not be relevant.

Subject to a 10 % tax are the business entertainment expenses, the social benefit expenses and the expenses related to operation of means of transport where used to service management operations.
Further details regarding levy of corporate tax can be found on the National Revenue Agency`s website: http://www.nap.bg/. An English version of this website is also developed.

A foreign legal entity which is for tax purposes a local person of an European Union Member State or of another country- a party under the European Economic Area Agreement, shall be entitled to choose to recalculate the **tax at source of income** in conformity with article 202a of the Law on corporate income taxation.

For the purposes of determination of the corporate tax under Art. 202a, par. 2, accounting income, accounting expenditures, accounting financial result, assets, liabilities and equity of a foreign legal entity from an European Union Member State, or from another country – a

party under the European Economic Area Agreement shall be those pursuant to the international accounting standards, applicable in the country in the respective year.

The insurers, based in an EEA Member State and operating in Bulgaria under **the freedom to provide services**, represent a *place of economic activity* for tax purposes provided that they enduringly transact insurance contracts with a place of performance in Bulgaria.

The undertakings based in an EEA Member State and operating in Bulgaria under the freedom to provide services are not obliged to keep the accountancy books according to Bulgarian legislation.

It must be mentioned in addition that Bulgaria has concluded conventions for the avoidance of double taxation with all the Member States of the European Union and the EEA (except for Estonia, Island and Lichtenstein) and therefore where they provide for a different regime it shall predominantly apply.

Since **January 1, 2011 a LAW ON THE INSURANCE PREMIUMS TAX** is in force (SG. 86, November 2, 2010). The Law imposes a premium tax in amount of 2% over the insurance premiums for certain classes of non-life insurance. The Law can be found in the "Legal framework" section of the web-site.

Registration of branch of insurer operating under the terms and conditions of the right of establishment

In the case of operating within the territory of the Republic of Bulgaria under the terms and conditions of the right of establishment the insurer may establish a branch upon receipt of the Deputy Chairperson's notification of the information received from the competent authority of the Member State where the insurer's legal seat is registered. Article 4 of the Law of the commercial register stipulates that the branches of foreign traders shall be entered in the commercial register when the entering is provided with a law. Such provision is the rule of article 17a of the Commercial law which introduces an obligatory registration in the commercial register of a branch of foreign person, registered with the right of performing trade activity under the national legislation.

Registration of EEA based insurers

Legal entities based abroad (EEA based insurers included) that exercise economic activity in Bulgaria, including through *place of economic activity,* or a certain facility or site, or who own immovable property in Bulgaria shall be registered with the BULSTAT register. **The undertakings operating under the freedom to provide services are not obliged to be registered with the BULSTAT register.**
According to Article 3 (1), item 5 and item 8 of the Law on BULSTAT Register, with the BULSTAT Register shall be registered foreign legal entities:

a) that exercise economic activity in this country, including through location of economic activity or a certain facility or site, or

b) whose effective management is located on the territory of this country, or

c) who own immovable property in this country,

as well as the branches and divisions of the foreign legal entities, as well as the branches of traders entered into the Commercial Register.

Article 3 (1), item 8 of the Law on BULSTAT Register enters into force on January 1, 2008.

Details regarding the registration with the BULSTAT Register are published on the website: http://www.registryagency.bg/en/, or any other questions can be addressed to the competent administration which is the Registry Agency.

Under Title Two "Particular Administrative Proceedings", Chapter Eleven "Registration" of the Code on Tax and Social Insurance Procedure are stated the procedure and the terms under which the liable parties are subject to registration.

The National Revenue Agency shall create and maintain a register and database on the obliged persons as the registration shall be effected by means of an ex officio recording of data in the register.

The data covered under Article 81 (1) of the Code on Tax and Social Insurance Procedure on the persons recorded in the Commercial Register and on the persons recorded in the BULSTAT Register shall be recorded ex officio by the relevant competent territorial directorate on the basis of the data in the Commercial Register or the BULSTAT Register, as the case may be.

In respect to the registration under the Law on Value Added Tax, these rules are regulated by Part Six "Obligations of persons", Chapter Nine "Registration" of the Law on Value Added Tax. The rules of registration in case of Intra-Community supply of goods and services laid down under the Law on Value Added Tax are in line with Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment, as well as with Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.