

REGULATION NO. 2001/25
UNMIK/REG/2001/25
5 October 2001

**ON LICENSING, SUPERVISION AND REGULATION OF INSURANCE
COMPANIES AND INSURANCE INTERMEDIARIES**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo, and UNMIK Regulation No. 1999/20 of 15 November 1999, as amended, on the Banking and Payments Authority of Kosovo,

For the purpose of establishing a legal regime for the licensing, supervision and regulation of insurance companies and insurance intermediaries by the Banking and Payments Authority of Kosovo,

Hereby promulgates the following:

CHAPTER I
GENERAL PROVISIONS

Section 1
Definitions

The following terms mean:

“Accident insurance” means insurance against the risk of loss as a consequence of an accident.

“Actuary” means a professionally trained person who has qualified as an actuary and is registered as such with a professional body recognized by the BPK.

“Administrator” means any person who is an officer or member of the governing board or audit committee of a legal person, and any other person who is authorised to enter into commitments on behalf of such legal person.

“Affiliates” or “affiliated” means, in the context of legal persons, that they are considered to be “affiliates” or “affiliated” if one of them controls the other, or if the same person controls both of them.

“Agent” means a person who acts on behalf of an insurance company in representing the services and products of that company.

“Beneficiary” means any person designated on an insurance policy as being entitled to payment of an insurance indemnity in the event of the occurrence of an insurable event.

“Board of directors” means the highest ranking governing body of a corporation as appointed by the voting equity holders.

“BPK” means the Banking and Payments Authority of Kosovo.

“BPK rule” means an obligatory directive addressed to insurance companies and/or insurance intermediaries, and issued by the BPK Governing Board to implement provisions of the present regulation.

“Branch” means a place of business that is a legally dependent arm of an insurance company or insurance intermediary, is not separately incorporated, and conducts directly all or some of the business of the insurance company or insurance intermediary.

“Broker” means a person who acts on behalf of an insurance policyholder.

“Business organization” means any person or group of persons who are engaged in commerce.

“Capital” means property, whether movable or immovable, tangible or intangible, that is owned by a business organization and used for the production of wealth.

“Charter capital” means the aggregate par value of shares to be initially issued by the corporation, as stated in its founding documents.

“Commerce” means the conduct of any sustained activity for the purpose of realising profit, whether such purpose is expressly stated or not.

“Compulsory Insurance” means insurance that is required to be maintained under the applicable law in Kosovo.

“Control” over a legal person means, whether alone or in collaboration with one or more other persons:

- (a) Direct or indirect ownership of 50 percent or more of any category of the voting shares of such legal person;
- (b) The ability to elect at least half of the members of the board of directors, or any equivalent body, of such legal person; or
- (c) Regardless of formal ownership or voting rights, the ability to exercise a dominant influence over the management or policies of such legal person, on the basis of an agreement or in any other way.

“Corporation” means a joint stock or limited liability company, the capital of which is divided into a specified number of shares of the same par value, and the shareholders of which are not liable for the obligations of the company.

“Director” means a natural person exercising the powers of a member of a board of directors of a corporation.

“Financial year” means the twelve-month period commencing January 1 and finishing December 31.

“General insurance” means all insurance, including health insurance, other than life insurance.

“Health insurance” means insurance to protect against the risk of financial loss stemming from health problems.

“Insolvency” means a state of affairs in which all the assets of an insurance company or insurance intermediary, if made immediately available, would not be sufficient to discharge all of its liabilities, and/or the insurance company or insurance intermediary is unable to pay its debts as they become due in the usual course of business including near cash assets equal to the Required Minimum Capital and Minimum Solvency Margin.

“Insurable event” means an event which, when it occurs, may give rise to a right to receive an insurance indemnity.

“Insurable interest” means, with respect to general insurance, an interest of a policyholder or a designated beneficiary, which, if damaged or lost, would cause a loss to the policyholder or beneficiary. With respect to life insurance, it means an interest in the life of one or more persons.

“Insurance” means financial protection purchased against an identified potential risk of loss, and evidenced by an insurance policy.

“Insurance company” means a person engaged in the provision of insurance services to policyholders.

“Insurance indemnity” means the amount paid by an insurance company to a policyholder arising from an insured event.

“Insurance intermediary” means an insurance agent, sub-agent, or broker, whether or not it is formed as a corporation.

“Insurance policy” means a written agreement between an insurance company and a policyholder for the provision of insurance.

“Insurance premium” means the amount paid by a policyholder to be insured.

“Kosovo Consolidated Fund” means the fund established pursuant to UNMIK Regulation No. 1999/16 of 6 November 1999, as amended, on the Establishment of the Central Fiscal Authority of Kosovo and other Related Matters.

“Licence” means a written authorisation issued by the BPK to an insurance company or insurance intermediary granting the right to engage in insurance activities as specified in the present regulation, BPK rules, and the licence.

“Licensed Audit Firm” means a firm that is licensed under the applicable law in Kosovo to undertake an audit.

“Life insurance” means a policy or policies where an insurance indemnity is contingent upon the death of a person or involves the payment of an annuity.

“Mathematical provisions” means provisions that must be calculated for life insurance policies. The calculation of these provisions is dictated by prescribed mortality tables and other factors. For purposes of the present regulation, references to technical provisions include mathematical provisions unless otherwise stated.

“Near cash assets” means readily marketable short-term financial debt instruments with a maturity date of one month or less. They must be rated A-1, R-1, or the equivalent by an internationally recognised, widely followed credit rating agency.

“OECD” means the Organization for Economic Co-operation and Development.

“Officer” means an employee appointed by the highest governing body of the business organization to carry out day to day activities of the business organization at a senior level.

“Order” means an obligatory directive of the BPK issued to an insurance company or insurance intermediary, or any group or class thereof, in implementation of the present regulation or of a rule.

“Person” means both a natural and a legal person.

“Person related to the insurance company or insurance intermediary” means, with respect to a particular insurance company or insurance intermediary, the following persons:

- (a) Any administrator in the insurance company or insurance intermediary;
- (b) Any direct or indirect holder of a significant interest in the insurance company or insurance intermediary;
- (c) Any natural person who is related, up to the second degree, by blood or by marriage, to an administrator or significant interest holder in the insurance company or insurance intermediary;
- (d) Any legal person who is affiliated to the insurance company or insurance intermediary;
- (e) Any legal person who has an administrator who is also an administrator or direct or indirect holder of a significant interest in the insurance company or insurance intermediary;

(f) Any legal person with a holder of a significant interest, direct or indirect, in the legal person who is also an administrator or direct or indirect holder of a significant interest in the insurance company or insurance intermediary;

(g) Any natural person who is related, up to the second degree, by blood or by marriage, to an administrator or significant interest holder in a legal person that is related to the insurance company or insurance intermediary;

(h) Any person determined by the BPK under the present regulation to be related to an insurance company or insurance intermediary, based on significantly shared economic interests with the insurance company or insurance intermediary; and

(i) Any other similarly situated person determined by the BPK to be a related person.

“Policyholder” means the person holding an insurance policy.

“Reinsurance” means the financial protection provided to an insurance company by retrocession of its risks to another company.

“Reinsurance company” means a legal person that provides reinsurance.

“Related party transaction” means a transaction between an insurance company or insurance intermediary and a person related to the insurance company or insurance intermediary.

“Resident” means a natural person, regardless of citizenship, domiciled in Kosovo.

“Senior officer” means the highest ranking officer of an insurance company or insurance intermediary.

“Significant Interest” means, whether alone or acting in concert with other persons:

(a) Direct or indirect ownership of 10 percent or more of any category of the voting shares of such legal person; or

(b) Regardless of formal ownership or voting rights, the ability to exercise a significant influence over the management or policies of such legal person, on the basis of an agreement or in any other way.

“Subsidiary” means any legal person controlled by another person.

“Sub-agent” means a person who acts on behalf of an insurance agent, other than an employee.

“Technical provisions” means provisions for: unearned premiums; reported claims; incurred but not reported claims and unexpired risk reserves; and bonuses, discounts and cancellations.

Section 2
Scope of Regulation

The present regulation shall apply to insurance companies and insurance intermediaries, their shareholders, administrators, employees, agents and affiliated persons.

CHAPTER II
ROLE OF THE BPK

Section 3
Objective and Role of the BPK under the Regulation

3.1 The principal objective of the BPK under the present regulation is the protection of policyholders purchasing insurance policies from or through an insurance company or insurance intermediary licensed in Kosovo.

3.2 The BPK shall have sole responsibility for the licensing, supervision and regulation of insurance companies and insurance intermediaries.

3.3 The BPK shall have sole responsibility for the setting of standards and the issuance of rules, orders and guidelines governing the conduct of insurance companies and insurance intermediaries. Such rules, orders and guidelines shall be published and shall take effect on the date of such publication or on such later date as such rules, orders or guidelines shall specify.

Section 4
Insurance Regulatory Powers of the BPK

The BPK shall exercise the following powers in the area of insurance:

(a) The BPK may visit such offices of insurance companies and insurance intermediaries at such reasonable times as it deems appropriate, to examine such accounts, books, documents and other records, and to take such other action as it shall deem necessary or advisable to give effect to the intent of the present regulation or rules, orders or guidelines issued thereunder;

(b) The BPK may request the provision of any information from insurance companies and insurance intermediaries, including their shareholders or owners, administrators and other employees, in whatever manner preferred by the BPK, subject to reasonable notice;

(c) The BPK may bring a case and appear before any court of competent jurisdiction to seek damages, enforce any civil penalty imposed under the present regulation, or to enjoin any acts or practices which constitute a violation of the present regulation or of any BPK insurance rules, orders or guidelines issued under it; and

(d) The BPK shall exercise such other powers as are provided in the present regulation or which are incidental to the implementation of a power provided in the present regulation.

Section 5

General Insurance Classes

The BPK shall, in a BPK rule, define the classes of general insurance permitted.

Section 6

Compulsory Insurance

BPK may establish, through BPK rules, common policy conditions and premium requirements for the provision of compulsory insurance.

Section 7

Fees

7.1 The BPK shall charge fees to insurance companies and insurance intermediaries for its supervisory and regulatory functions in order to defray its direct and indirect costs incurred in providing such services. Fees shall be assessed against insurance companies in relation to the amount of net premiums written or based on any extraordinary expenses incurred by the BPK or its agents in relation to its supervisory activities with respect to a particular insurance company.

7.2 Fees for insurance intermediaries shall be assessed in relation to their commissions earned or based on any extraordinary expenses incurred by the BPK or its agents in relation to its supervisory activities with respect to a particular insurance intermediary.

7.3 Fees shall be established in a schedule adopted by the BPK Governing Board and shall be paid within ten (10) days of presentation of a statement by the BPK.

Section 8

Cooperation with Other Supervisory and Regulatory Authorities

8.1 The BPK shall exchange information with other supervisory and regulatory authorities, including international regulatory authorities, in order to promote the harmonious development of a sound financial institution regulatory network.

8.2 A supervisory or regulatory authority requesting information from BPK shall clearly specify the reason for its request. BPK shall only provide information pursuant to such a request to the extent that the request relates to legitimate regulatory concerns.

8.3 The requesting supervisory or regulatory authority shall provide detailed information supporting the request for information. The purpose for the information requested shall be clearly explained. Suspected violations of regulations, rules, administrative directions, orders, directives, guidelines and equivalent instruments, whatever their form, shall be

enumerated. Suspected inappropriate behavior and practices on the part of an insurance company or insurance intermediary and/or its shareholders, directors, officers or employees shall be similarly identified. Where applicable, the requesting supervisory or regulatory authority shall provide the BPK with extracts of their governing laws, regulations and similar standards where the other supervisory or regulatory authority suspects non-compliance.

8.4 The BPK shall only disclose the information requested if it is assured in writing by the requesting supervisory or regulatory authority that such information is required solely to carry out its regulatory duties. Further, the information will only be provided if the requesting supervisory or regulatory authority provides written assurance, sufficient to the BPK, that its laws provide adequate legal restrictions on the transmittal of such information to other parties for non-regulatory purposes.

8.5 Where it is possible that the information requested from BPK may be concerned with fiscal or tax questions in other jurisdictions, BPK shall reject the request unless there is a legally compelling reason for providing the information, as determined by a competent court in Kosovo.

8.6 Where another supervisory or regulatory authority wishes to transmit the information obtained from the BPK to another regulatory institution in its own jurisdiction or elsewhere, it shall first obtain the permission of the BPK.

8.7 Failure of another supervisory or regulatory authority to comply with the requirements of the present regulation will negate any agreement, formal or informal, for BPK to continue to cooperate with that party.

CHAPTER III LICENSING, ESTABLISHMENT AND TERMINATION OF OPERATIONS

Section 9 Prohibitions

9.1 No person shall engage in the business of an insurance company or an insurance intermediary in Kosovo unless it has been licensed by the BPK.

9.2 No person shall use the word “insurance” or a derivative of the word “insurance” in respect of a business, trade name, product or service without a licence issued by the BPK. Moreover, no person shall make a misstatement of material fact or a false or misleading representation or do anything to create a false or misleading appearance or engage in any manipulative device or practice in relation to issuing insurance policies.

9.3 No person organized outside of Kosovo shall engage directly in the business of an insurance company or insurance intermediary in Kosovo unless the activity is undertaken through a branch or subsidiary for which a licence has been issued by the BPK.

9.4 A company licensed to engage in life insurance shall not offer any kind of general insurance.

9.5 A company licensed to engage in any kind of general insurance shall not offer life insurance.

Section 10

Establishment of Insurance Companies

10.1 Applicants desiring to form an insurance company shall obtain preliminary approval by the BPK before forming the insurance company.

10.2 An insurance company organized under the applicable law shall only be formed as a joint stock company or as a limited liability company.

Section 11

Establishment of Insurance Intermediaries

11.1 An insurance intermediary is not required to be a corporation in order to be licensed.

11.2 Applicants desiring to form an insurance intermediary as a corporation under Kosovo law shall obtain preliminary approval by the BPK before forming the insurance intermediary as a corporation.

11.3 An insurance intermediary corporation may only be formed as a joint stock company or as a limited liability company.

Section 12

Licensing of Insurance Companies

12.1 The BPK shall grant a licence to an insurance company only if it is satisfied that the following minimum requirements are met:

(a) The insurance company shall be a corporation formed under the applicable law in Kosovo, or a branch of a corporation formed under the laws of another jurisdiction;

(b) The minimum required capital has been paid-in;

(c) The business plan of the insurance company is based on sound analysis under reasonable assumptions;

(d) The insurance company undertakes to comply with all provisions of the present regulation; and

(e) The qualifications, experience, and integrity of the insurance company administrators, principal shareholders and those who propose to have or have significant interests are appropriate for the insurance company's business plan and financial activities.

The BPK may prescribe rules setting out additional requirements consistent with the present regulation.

12.2 Within three (3) months from the date of its receipt of a completed application for an insurance company licence, the BPK shall preliminarily approve or deny it and notify the applicant of its decision in writing; notifications of a denied licence shall state the grounds on which the licence was denied.

12.3 In the case of preliminary approval of an application for an insurance company licence, the BPK shall enumerate the conditions for the insurance company to receive the licence to commence its operations.

12.4 If an insurance company fails within one (1) year to comply with the conditions to receive the licence to commence operations, the preliminary approval of the application shall expire.

12.5 When a corporation has been formed in Kosovo with the intention of applying for an insurance company licence, all founding corporate documentation, including the founder's agreement, charter, by-laws, and any shareholders' agreement, or equivalent documentation, as well as any additional information required by BPK rules, shall be submitted to the BPK.

12.6 The charter establishing the insurance company shall contain information regarding the corporate name and address, the amount of charter capital, classes of shares, numbers and nominal values of each class of shares, and the voting rights accompanying those shares.

12.7 In addition to any grounds set forth in a BPK rule, the BPK may refuse to issue a licence to an insurance company where it determines that the best interests of policyholders will not be well served by approving the application.

12.8 An insurance company licence shall be granted for an indefinite period of time and shall not be transferable.

12.9 Decisions on the licensing of insurance companies shall be taken by the BPK independently. The BPK shall be guided by the desire to ensure a sound and stable insurance market in which fair competition and consumer choice is enhanced.

Section 13

Licensing of Insurance Intermediaries

13.1 The BPK shall grant a licence to an insurance intermediary only if it is satisfied that the following requirements are met:

- (a) The minimum required capital has been paid-in;
- (b) The business plan of the insurance intermediary is based on sound analysis under reasonable assumptions;
- (c) The insurance intermediary undertakes to comply with all provisions of the present regulation; and
- (d) The qualifications, experience, and integrity of the insurance intermediary administrators, principal shareholders and those who propose to have or have significant

interests are appropriate for the insurance intermediary's business plan and financial activities.

The BPK may prescribe rules setting out additional requirements consistent with the present regulation.

13.2 When a corporation has been formed in Kosovo with the intention of applying for an insurance intermediary licence, all founding corporate documentation, including the founder's agreement, charter, by-laws, and any shareholders' agreement, or equivalent documentation, as well as any additional information required by BPK rules, shall be submitted to the BPK.

13.3 For insurance intermediaries that are incorporated, the charter establishing the insurance intermediary as a corporation shall contain information regarding the corporate name and address, the amount of charter capital, classes of shares, numbers and nominal values of each class of shares, and the voting rights accompanying those shares.

13.4 In addition to any grounds set forth in a BPK rule, the BPK may refuse to issue a licence to an insurance intermediary where it determines that the best interests of policyholders will not be well served by approving the application.

13.5 An insurance intermediary licence shall be granted for an indefinite period of time and shall not be transferable.

13.6 Decisions on the licensing of insurance intermediaries shall be taken by the BPK independently. The BPK shall be guided by the desire to ensure a sound and stable insurance market in which fair competition and consumer choice is enhanced.

Section 14

Record of Licensed Insurance Companies and Insurance Intermediaries

The BPK shall maintain a record, accessible to the public during normal business hours, identifying all licensed insurance companies and insurance intermediaries.

Section 15

Grounds for Revocation of an Insurance Company or Insurance Intermediary's Licence

15.1 The BPK may revoke a licence without prior notice where it determines that:

(a) An insurance company or insurance intermediary has failed to commence operations within six (6) months of its licence having been granted;

(b) An insurance company or insurance intermediary has voluntarily agreed to give up its licence;

(c) An insurance company or insurance intermediary has entered into liquidation or wind-up proceedings, whether on a voluntary or involuntary basis;

(d) An insurance company or insurance intermediary has violated a limitation or condition contained in its licence issued by the BPK;

(e) An insurance company or insurance intermediary has underwritten insurance business other than that for which it was licensed by the BPK;

(f) An insurance company or insurance intermediary is not conducting its business in accordance with sound insurance or business principles;

(g) An insurance company or insurance intermediary is carrying on business in a way that is detrimental to policyholders;

(h) An insurance company or insurance intermediary is not in compliance with a provision of the present regulation or a subsidiary instrument issued under it, which in the judgment of the BPK, constitutes a serious violation liable to lead to major financial problems and/or the insolvency of the insurance company or insurance intermediary;

(i) An insurance company or insurance intermediary has intentionally contravened the provisions of the present regulation;

(j) An insurance company or an insurance intermediary has failed to rectify a deficiency detailed in a BPK order within a time period determined by the BPK;

(k) An insurance company or insurance intermediary has intentionally and seriously violated the provisions of any other applicable law;

(l) An insurance company or insurance intermediary adopts a name which is intended to mislead the public in Kosovo;

(m) An insurance company or insurance intermediary is incapable of paying its claims in a timely way;

(n) An insurance company or insurance intermediary is incapable of paying its non-claim obligations as they fall due;

(o) An insurance company or an insurance intermediary has provided false or misleading information to its policyholders or to the BPK;

(p) Any one of the insurance company's or the insurance intermediary's shareholders, directors, officers, or employees has unduly affected the underwriting or investment activities of the insurance company or insurance intermediary in a way that is likely to be detrimental to the interests of policyholders;

(q) Any one of the insurance company's or the insurance intermediary's shareholders, directors, officers, or employees is suspected to have engaged in fraudulent activities;

(r) An insurance company or insurance intermediary is likely to be insolvent, such determination being based on an authoritative actuarial report, an authoritative opinion from a provision for claims expert, or through other means;

(s) An agency agreement has been terminated by an insurance company. In such a case, the insurance company shall immediately notify the BPK of the termination of that agreement and BPK shall revoke the licence of that agent and all of its sub-agents; or

(t) Any other ground provided in the present regulation.

15.2 If the licence of an insurance company is revoked, BPK shall also immediately revoke the licence of all the agents and sub-agents acting for the insurance company.

15.3 The BPK may, in its discretion, or at the direction of the Special Representative of the Secretary-General, reverse a revocation of licence of an insurance company or insurance intermediary.

Section 16

Effect of Revocation of an Insurance Company or Insurance Intermediary's Licence

Upon revocation of its licence, the insurance company or insurance intermediary shall be placed into receivership under the chapter on Receivership set out in the present regulation.

Section 17

Publication of Licence Revocation

The BPK's decision to revoke the licence of an insurance company or insurance intermediary shall be delivered to the insurance company or insurance intermediary and published in one or more newspapers of general circulation in Kosovo.

Section 18

Withdrawal from the Kosovo Insurance Market

18.1 If an insurance company organized outside of Kosovo intends to withdraw from the Kosovo market, it shall request prior approval by the BPK. After receiving BPK approval and before withdrawing from the Kosovo market, such company shall provide the BPK with sufficient evidence that all of its policyholder claims have been paid by the company or have been transferred to the responsibility of another insurance company licensed by the BPK with the prior approval of the BPK.

18.2 An insurance company seeking to leave the Kosovo market without transferring its policies shall cease the underwriting of new insurance policies and the renewal of existing insurance policies a year prior to the proposed date of withdrawal. Following the expiration of the one-year period, the company shall mail to its policyholders notice of its intention to withdraw from the Kosovo market, and publish this notice in a Kosovo newspaper of general circulation once a week for four weeks. The notice shall clearly state that the company intends to withdraw from the Kosovo insurance market and that all claims incurred by its policyholders and not yet reported to the company shall be filed no later than three months after the publication date of the final newspaper notice.

18.3 The BPK shall determine, based on the information provided to it under this section and on an independent actuarial report or an opinion from a provision for claims sufficiency

expert paid for by the withdrawing insurance company, the amount that a company shall transfer to the BPK to be used as a special fund to reasonably cover the extent of the remaining liabilities of the withdrawing insurance company. The special fund for the withdrawing insurance company's liabilities shall be segregated from other BPK accounts. If, based on this procedure, the BPK is satisfied that all claims have been extinguished, it shall release to the withdrawing insurance company, or its successor, the amount remaining in the special fund.

18.4 Neither the withdrawing insurance company nor BPK shall be required to honour claims filed by policyholders who fail to file their claim within the stated three (3) month period after the final newspaper notice.

CHAPTER IV INSURANCE INTERMEDIARIES

Section 19

Agents

19.1 An agent's role is to sell insurance products and services best suited to the needs of policyholders. Agents shall be remunerated by way of commission or a fixed salary, or both, from the insurance company they represent.

19.2 Agents shall not act on behalf of more than one insurance company. The relationship shall be evidenced by a written contract between the insurance company and agent available for review by the BPK on-site at all times at either the company or agent's premises. The contract shall specifically set out the powers of the agent acting for the insurance company and expressly define the actions of the agent for which the insurance company will assume responsibility.

19.3 Agents shall maintain an up-to-date list of authorised sub-agents, which may be examined by the BPK at any time.

Section 20

Sub-Agents

20.1 Sub-agents shall not act on behalf of more than one (1) insurance agent at the same time. The relationship shall be evidenced by a written contract between the insurance agent and sub-agent. That contract shall clearly set out the rights, obligations, and scope of authority of the sub-agent to minimize the responsibility of dispute at a subsequent date.

20.2 Sub-agents may be remunerated by commission or a fixed salary, or both, from the insurance agents they represent.

Section 21

Brokers

21.1 A broker is charged with obtaining the best value insurance policy most suited to the needs of a policyholder. Brokers shall be remunerated by commission from the insurance company for which they have sold the insurance policy.

21.2 Brokers shall maintain an up-to-date list of insurance companies for which the broker is authorised to act, which may be examined by the BPK at any time.

Section 22

Insurance Intermediary Matters

22.1 An insurance company shall be liable for all of the insurance transactions entered into by its authorised agents and, therefore, sub-agents acting for those agents in accordance with the terms of the agency and sub-agency agreements.

22.2 An insurance broker shall be liable to a policyholder for losses sustained by a policyholder in cases where those losses are due to the negligence or misrepresentations of the insurance broker.

22.3 Sub-agents shall provide to the BPK annual written confirmation from the agent for whom they are authorised to act.

22.4 An insurance intermediary shall notify a potential policyholder when the intermediary represents an insurance company.

22.5 Deliberate understating of premiums underwritten or collected by an insurance intermediary will subject that insurance intermediary to sanctions prescribed under the present regulation or BPK rules or orders.

Section 23

Insurance Intermediary Obligations

Insurance intermediaries shall:

(a) Disclose clearly all information regarding their relationship with an insurance company to a potential insurance policyholder. A potential policyholder shall not have to request this information;

(b) Notify a potential policyholder of the insurance company's name, the insurance policy's terms and conditions, premiums amounts due and their due date, the coverage provided, and general or specific exclusions;

(c) Solicit enough information to compile accurate potential policyholder profiles leading to a reliable evaluation of the needs of potential policyholders;

(d) Be able to readily justify the rationale for the advice they are offering a potential policyholder;

(e) Act in the best interests of the potential policyholder by exercising the requisite prudence, professionalism and diligence in business dealings;

(f) Behave with impeccable integrity and equity towards potential and actual policyholders; and

(g) Remit promptly amounts due to an insurance company.

Section 24

Financial Requirements for an Insurance Broker

24.1 An insurance broker shall provide proof of sufficient financial capacity to the BPK before it can receive a licence to carry on business. Brokers shall first obtain a professional indemnity insurance policy from a licensed insurance company or an unconditional financial guarantee from a BPK-approved bank. Either type of coverage shall be subject to one (1) month's notice of cancellation. The amount of coverage obtained shall be commensurate with the amount of premium business anticipated by an applicant for a broker's licence.

24.2 The professional indemnity insurance or bank guarantee shall cover the broker's professional activities for a minimum of one (1) year. If replacement professional indemnity insurance or a replacement bank guarantee is not arranged in writing and confirmed to the BPK at least one (1) month prior to the planned cancellation date of an existing professional indemnity insurance policy or unconditional bank guarantee, the BPK shall have the authority to suspend the licence of the broker and prohibit the further underwriting of insurance. The broker's licence may only be reinstated when the broker has again obtained professional indemnity insurance coverage or an unconditional bank guarantee of at least one (1) year's duration.

24.3 The BPK may prescribe rules setting out additional financial requirements consistent with the present regulation.

CHAPTER V SUPERVISION

Section 25

Monitoring and Examination

25.1 Each insurance company and insurance intermediary and their subsidiaries shall be subject to monitoring by the BPK, which includes the review of financial statements and other reports submitted to BPK by the insurance companies and insurance intermediaries.

25.2 Each insurance company and insurance intermediary and their subsidiaries shall be subject to examinations by examiners of the BPK or by an audit firm appointed by the BPK. Such examiners may include officials of the authority of another country that is charged with the prudential supervision of insurance activities in that country when the insurance company is a branch or subsidiary of an insurance company supervised by the other country's regulator.

Section 26

Record-keeping

26.1 Insurance companies and insurance intermediaries shall keep complete and accurate records on their premises to facilitate efficient BPK examinations. This requirement applies to all current records and those extending back for the previous five (5) financial years. This requirement includes, but is not limited to, the company's charter and by-laws or equivalent documentation, a Premiums Register, a Claims Register, a General Ledger, reinsurance treaties, minutes of board of director meetings, an up-to-date list of authorised agents, financial statements and subsidiary statements and schedules, internal audit work papers and reports, a list of directors and their contact details, and a list of shareholders of record and the number of shares held by each shareholder as well as their contact details.

26.2 Insurance companies and insurance intermediaries may maintain their records in electronic form as long as these are easily accessible for internal and external auditors and BPK examiners. Electronic records shall be backed up daily. Copies of electronic records shall be maintained in a secure, off-site location.

26.3 Both on-site and off-site records, whether in hard copy or electronic form, shall be kept safe from fire, theft, water damage, sabotage and other potential destructive risks.

26.4 As used in this section, "records" means all documentation concerning premiums, claims and investments, including internal and external reports, correspondence and any other information that the BPK deems necessary for a review of an insurance company or insurance intermediary by an internal or external auditor or the BPK.

CHAPTER VI PRUDENTIAL MATTERS

Section 27

Minimum Capital/Solvency Margin

An insurance company shall maintain at all times a minimum capital/solvency margin in compliance with BPK rules.

Section 28

Reserve Requirement

28.1 General insurance companies shall maintain cash or near cash assets equal to a portion of their technical provisions in a reserve account as prescribed through BPK rules.

28.2 Life insurance companies are required to maintain a portion of their technical provisions, as determined by an actuary acceptable to the BPK, in a reserve account as prescribed through BPK rules.

28.3 The reserve account is to be maintained with the BPK or with a bank approved by BPK.

Section 29

Limit on Net Premiums Written for Insurance Companies

29.1 The BPK shall, by BPK rule, establish limitations on the amount of net premiums an insurance company may write. The BPK may issue an order to a specific insurance company to meet a stricter standard than that prescribed in a BPK rule.

29.2 As soon as an insurance company becomes aware that it might not remain in compliance with the prescribed limitations under this section, it shall immediately notify the BPK of its expected violation and of its plans to remedy the breach of the section in a timely way.

Section 30

Limit on an Insurance Company's Exposure to a Single Insurable Event

An insurance company shall ensure that the maximum loss arising from the occurrence of a single insurable event will not exceed an amount established in a BPK rule. An insurance company shall arrange in advance for the reinsurance of amounts exceeding this amount with reinsurance companies acceptable to the BPK.

Section 31

Limitation on the Payment of Dividends

No dividend may be distributed by an insurance company or insurance intermediary company without prior written approval by the BPK. The BPK may decline an application to distribute dividends if, in its judgment, payment of the dividend threatens to undermine the minimum capital/solvency margin of an insurance company or insurance intermediary company required under BPK rules or the financial position of an insurance intermediary company.

Section 32

Liquidity and Matching of Assets with Liabilities

32.1 An insurance company shall ensure that it has the funds available at all times to pay its policyholder claims in a timely way and to pay its creditors as debts come due.

32.2 Insurance companies and insurance intermediaries shall ensure that they adequately match the maturity of their assets with their liabilities.

32.3 The BPK may prescribe limits in a BPK rule on the amount of funds that can be invested in any one asset type.

Section 33

Redemption or Cancellation of Shares by an Insurance Company or Insurance Intermediary Company

An insurance company or insurance intermediary company seeking to redeem or cancel any of its issued and outstanding shares shall first obtain the approval of the BPK.

Section 34

Valuation of Assets

Valuation of an insurance company or insurance intermediary's assets shall be in accordance with International Accounting Standards and guidelines established in a BPK rule.

Section 35

Liabilities

35.1 The following items shall be considered liabilities for accounting purposes for an insurance company:

- (a) Provision for claims incurred and reported but not paid;
- (b) Provision for claims incurred but not reported;
- (c) Provision for unearned premiums; and
- (d) Amounts due to creditors.

35.2 The BPK may allow an insurance company to reduce liabilities for amounts due from reinsurance companies, based on a realistic assessment of the probability of payment by those reinsurance companies.

Section 36

Changes in Business Plan

Significant changes in a business plan of an insurance company or insurance intermediary shall be submitted to the BPK for prior approval. Approval of significant changes may be set out in a BPK order.

Section 37

Sales or Transfers of Business

37.1 The sale or transfer of business from one insurance company or insurance intermediary to another requires the prior approval of the BPK.

37.2 When an insurance company or insurance intermediary applies to the BPK for approval to sell or transfer part or all of its business to another company or intermediary, the BPK shall consider the effect on the minimum capital/solvency margin of the insurance company or the financial impact on the insurance intermediary acquiring that insurance business.

37.3 The rights and obligations stemming from the sold or transferred insurance policies shall be immediately passed to the accepting insurance company or insurance intermediary upon receiving BPK's approval for the sale or transfer of the portfolio of insurance policies.

37.4 The accepting insurance company or insurance intermediary shall inform the affected policyholders of the sale or transfer of their policies to another insurance company or insurance intermediary. Such notice to affected policyholders shall offer them the option to cancel and arrange insurance coverage with an alternative insurance company or through an alternative insurance intermediary within 30 days of receipt of notice of that transfer.

Section 38

Changes in Ownership and Mergers and Amalgamations

38.1 The following transactions require prior written approval of the BPK:

(a) Any transaction that would result in any person obtaining a significant interest in an insurance company or insurance intermediary; and

(b) Any transaction that would change the size of a significant interest held by a person in an insurance company or insurance intermediary.

38.2 Any proposal to merge or amalgamate one or more insurance companies or insurance intermediaries shall receive the approval of the BPK before the proposed transaction.

Section 39

Changes in Audit Firm, Actuary, Directors or Officers

39.1 When an insurance company or insurance intermediary intends to change its audit firm or actuary, the company or intermediary shall obtain prior written approval of the BPK.

39.2 Changes in the board of directors or officers of insurance companies or insurance intermediaries shall be reported to and explained to the BPK.

Section 40

Change in an Insurance Company's or Insurance Intermediary's Name

When an insurance company or insurance intermediary proposes to change its name, the insurance company or insurance intermediary shall obtain prior approval of the BPK. The insurance company or insurance intermediary shall notify its policyholders of its name change upon receiving the approval of the BPK.

Section 41

Reinsurance

Insurance companies shall obtain approval for their reinsurance programs from the BPK. Major changes in the program, such as new reinsurance partners and different types of reinsurance coverage, shall be subject to prior review and approval by the BPK. BPK may establish guidelines and limitations on reinsurance programs through BPK rules.

Section 42

Derivative Financial Products

Insurance companies or insurance intermediaries shall not enter into any financial transactions involving derivative products such as futures, options, swaps and forwards or variations on these same products without prior BPK approval. BPK may prescribe, in a BPK rule, guidelines and conditions under which insurance companies and insurance intermediaries may enter into such financial transactions.

Section 43

Security Interests and Lending of Assets

An insurance company or insurance intermediary may only create a lien in or lend assets with the prior approval of the BPK.

Section 44

Outsourcing

An insurance company or insurance intermediary shall not outsource its principal insurance operational activities such as risk assessment and risk underwriting, premium collection and receipt, claim reporting, claim payment and investment of income received. Claim verification and claim adjustment activities may be outsourced. BPK may establish, through a BPK rule, further conditions and limitations on outsourcing.

Section 45

Maintenance of Assets in Kosovo

45.1 The BPK may establish, through a BPK rule, requirements for insurance companies and insurance intermediaries with respect to maintaining assets within Kosovo.

45.2 Branches of insurance companies and insurance intermediaries shall maintain sufficient assets within Kosovo to cover their liabilities.

Section 46

Restriction on Non-Insurance Activities

46.1 Insurance companies or insurance intermediaries shall not engage in any business other than insurance and insurance related activities without the prior authorisation of the BPK.

46.2 Insurance companies or insurance intermediaries, holders of a significant interest in such companies, their directors, officers, or employees may not separately or collectively invest in more than ten percent (10%) of the equity shares of any business that is not insurance or insurance-related without prior BPK approval. The BPK may issue a BPK rule establishing terms and conditions of such investments exceeding ten percent (10%).

Section 47

Insurance Related Activities

47.1 An insurance company may conduct insurance related activities.

47.2 Insurance related activities shall include the following:

- (a) Claim verification and adjustment services;
- (b) Repair centres and risk mitigation services;
- (c) Appraisal centres; and
- (d) Insurance educational and training facilities.

47.3 The BPK may prescribe rules setting out additional insurance related activities consistent with the present regulation.

CHAPTER VII FINANCIAL CONSIDERATIONS

Section 48

Accounting Standards and Records

48.1 Insurance companies and insurance intermediaries shall prepare their financial statements in accordance with International Accounting Standards.

48.2 Insurance companies and insurance intermediaries shall maintain adequate accounting systems and records including a Premiums Register, a Premiums Ledger, Premium Reports, a Claims Register, a Claims Ledger, Claims Reports, and a General Ledger, in accordance with BPK rules.

Section 49

External Audit

49.1 Insurance companies and insurance intermediaries shall have their financial statements audited annually by a licensed audit firm.

49.2 The appointment of the audit firm is subject to prior written approval by the BPK. An insurance company or insurance intermediary shall ensure that the audit firm is professionally qualified to undertake the audit role. The BPK may reject the appointment of the audit firm if the BPK is not satisfied that the audit firm has sufficient knowledge of and experience in auditing insurance companies or insurance intermediaries.

49.3 The insurance company or insurance intermediary shall enter into a written engagement agreement with the audit firm. The audit firm shall not be a person related to the insurance company or insurance intermediary.

49.4 The audit firm shall:

- (a) Review the adequacy of internal audit and internal control practices and procedures, note deficiencies and make recommendations for improvement;
- (b) Express an opinion as to whether the financial statements present a true and fair view of the financial condition and activities of the insurance company or insurance intermediary in accordance with International Accounting Standards; and
- (c) Present an audit report and findings to the board of directors of the insurance company or insurance intermediary company.

49.5 The engagement agreement with the audit firm shall specify that the audit firm shall express an opinion on whether the insurance company or insurance intermediary is in compliance with the provisions of the present regulation and applicable rules approved by the BPK.

49.6 In addition, the engagement agreement with the audit firm shall require the audit firm to report directly to the BPK as soon as it becomes aware of any of the following:

- (a) A fraudulent act committed by an employee of the insurance company or insurance intermediary or any of its subsidiaries, or any irregularity or deficiency in its administration or operations that may reasonably be expected to result in a material loss for the company;
- (b) The insurance company or insurance intermediary is systematically contravening this regulation or BPK rules; or
- (c) The audit report's conclusions are being suppressed, ignored or unduly influenced by the insurance company or insurance intermediary company's management or board of directors.

49.7 The BPK may prescribe rules setting out additional requirements consistent with the present regulation.

Section 50 **Financial Reporting**

50.1 The financial year-end for insurance companies and insurance intermediaries is 31 December. Consolidated audited financial statements, prepared using International Accounting Standards, shall be submitted by no later than 30 April of the following financial year.

50.2 In addition, each insurance company and insurance intermediary shall prepare and submit to the BPK quarterly reports concerning its administration and insurance operations, liquidity, solvency, and profitability, and those of its subsidiaries on an individual and a consolidated basis. The reports shall be prepared in such form and detail and shall be submitted at such intervals as shall be prescribed in a BPK rule.

Section 51

Requirement for Actuarial or Provision for Claim Certification

51.1 Life insurance companies shall submit to the audit firm and the BPK an independent actuarial certification of technical provisions adequacy by a BPK-approved actuary. A life actuary shall consider such factors as mortality tables, interest rate levels and expenses to determine whether the level of technical provisions is adequate and whether there are sufficient assets to meet a life insurance company's obligations.

51.2 For a general insurance company, the BPK may require the submission of an actuarial or provision for claims expert certification of the adequacy of technical provisions in conjunction with the submission of annual financial statements.

51.3 Actuarial or provision for claims expert certification can be required more frequently if the BPK determines that an insurance company's financial position warrants it.

51.4 An actuary or provision for claims expert shall express an opinion on whether the insurance company's technical provisions are sufficient to meet their liabilities.

51.5 An actuary shall report directly to the board of directors of the company and the BPK if, in the actuary's judgment, the actuarial certification's conclusions are being suppressed, ignored or unduly influenced by the insurance company's management or board of directors.

CHAPTER VIII

CORPORATE GOVERNANCE AND INTERNAL CONTROLS

Section 52

Governance Principles

52.1 Apparent or actual violations of fiduciary responsibilities in favour of personal interest or those of other persons shall be immediately reported to the BPK. Where the BPK learns that a director or officer has violated fiduciary responsibilities in favor of personal interests or those of other persons, whether related to the director or officer or not, this will constitute grounds for the imposition of BPK sanctions and, where appropriate, referral for possible criminal proceedings.

52.2 Where an insurance company's or insurance intermediary company's board of directors refuses to dismiss a director or officer in compliance with an order of the BPK when there has been a clear violation of fiduciary duty, that company or intermediary company and its directors shall be subject to additional sanctions.

52.3 The directors and officers of an insurance company or insurance intermediary, and the representative officers of a branch, must be "fit and proper" persons to exercise their role. They shall not allow their relationships with an insurance company's or insurance intermediary's shareholders, other directors, other officers or employees to affect their fiduciary duty to policyholders in any way.

52.4 The directors and senior officer of an insurance company or insurance intermediary, and the representative officers of a branch, shall not hold more than one different position in the company where the holding of more than one position could lead to a conflict of interest.

52.5 The BPK may, at any time, require the directors and senior officer of an insurance company or insurance intermediary, and the representative officers of a branch, to provide to the BPK an affidavit, acceptable to the BPK, certifying that there are no criminal proceedings past or present involving them.

52.6 The BPK shall review formal curriculum vitae for proposed directors and officers of an insurance company or an insurance intermediary, and for the representative officers of a branch.

52.7 The BPK may reject a potential director or senior officer on the ground that the best interests of the insurance company or insurance intermediate company and insurance market will not be served by the approval of the applicant for director or senior officer.

52.8 The BPK may reject a potential representative officer of a branch on the ground that the best interests of the insurance company or insurance intermediate company and insurance market will not be served by the approval of the applicant for representative officer.

52.9 The BPK may prescribe further guidelines or procedures on the subject of this section in a BPK rule.

Section 53

Board of Directors

53.1 Each insurance company and insurance intermediary company organized under Kosovo law shall be administered by a board of directors consisting of an uneven number of not less than five members. A majority of the members of the board of directors shall be residents of Kosovo. The senior officer is the only employee who may serve on the board of directors.

53.2 The board of directors shall be elected by the shareholders for terms of not more than two (2) years, and may be reappointed for subsequent similar periods. The general meeting of shareholders may establish reasonable compensation for Board members. BPK may order a director to return compensation if it determines that the compensation received is harmful to the interests of the insurance company's policyholders.

53.3 The board of directors shall be responsible for establishing policies, procedures and practices to be followed by the insurance company or insurance intermediary company and for the supervision of their implementation. The policy, procedures, and practices established shall include written investment and loan policies and procedures, and written underwriting policies and procedures.

53.4 Directors shall act in a fiduciary capacity and are charged with the responsibility for protecting the interests of policyholders as their principal duty. They shall not allow other roles they might occupy to influence them to make decisions and adopt policies, procedures and practices that could be considered contrary to the interests of policyholders.

53.5 The directors of an insurance company or insurance intermediary company shall exercise their duty to ensure that: technical provisions are sufficient; the minimum solvency/capital margin and reserve requirement, as prescribed by the BPK, is adhered to at all times; the insurance company or insurance intermediary company maintains sufficient liquidity at all times; the insurance company or insurance intermediary company complies with all provisions of the present regulation and BPK rules at all times; the officers are held properly accountable for the proper implementation of all directives of the board of directors; the insurance company or insurance intermediary company maintains an acceptable standard of internal controls, and the internal and external audits are sufficiently broad in scope and depth.

Section 54

Management

54.1 The senior officer of an insurance company or insurance intermediary company shall be a member of the board of directors, but the senior officer shall not simultaneously serve as the chairperson of the board of directors. The senior officer shall report to and be directly accountable to the board of directors for implementation of policy, procedures and practices of the company adopted by the board of directors.

54.2 The senior officer of an insurance company or insurance intermediary shall be a resident of Kosovo.

Section 55

Internal Controls

55.1 Insurance companies and insurance intermediaries shall maintain adequate internal controls. Internal controls encompass the production of fully documented policies, procedures and practices for underwriting and investment activities.

55.2 The BPK may prescribe additional requirements for internal controls through rules or orders.

Section 56

Conflicts of Interest

56.1 The directors, officers, and employees of an insurance company or insurance intermediary shall act in a fiduciary manner to safeguard the interests of their policyholders.

56.2 Related party transactions shall be prohibited except as may be provided though BPK rules.

56.3 Insurance companies and insurance intermediaries shall not enter into a transaction with or for the benefit of a person related to the insurance company or insurance intermediary on more favourable terms than are generally available to other persons who are not related to the insurance company or insurance intermediary.

CHAPTER IX

MARKET PRACTICE AND CONSUMER PROTECTION

Section 57

Market Conduct and Consumer Protection

57.1 Insurance companies or insurance intermediaries shall provide advice to a potential policyholder in a straightforward and accurate manner. They shall always act with the utmost integrity.

57.2 Insurance companies and insurance intermediaries shall not provide information or make representations that are likely to mislead or deceive potential policyholders.

57.3 An insurance company or insurance intermediary shall obtain sufficient information about the potential policyholder to assess his or her needs. They shall professionally evaluate the requirements of the potential policyholder and offer a policy in keeping with the needs of that person.

57.4 Insurance companies and insurance intermediaries shall fully inform potential policyholders about their rights and obligations before they enter into an insurance policy. Notwithstanding this, the policyholders shall assume the ultimate responsibility for understanding the risks they face and purchasing an insurance policy appropriate to those needs.

57.5 Insurance companies and insurance intermediaries shall honor all legitimate claims. They shall always act with due diligence and due regard for their policyholder. They shall provide competent and professional service.

57.6 Insurance companies and insurance intermediaries shall implement a formal internal system to handle complaints about claims from policyholders. These complaints shall be dealt with equitably and efficiently. Insurance companies shall establish an arbitration forum, independent from insurance companies and their intermediaries, to deal with those cases where internal company or intermediary mechanisms have not satisfactorily resolved policyholder complaints. The arbitration forum will report on the results of its hearings on a quarterly basis to the BPK.

57.7 In the event that the BPK perceives that there is a lack of progress on the part of the industry in establishing such an independent arbitration forum, the BPK may issue a rule or order to compel its timely development.

Section 58

Policy Forms

58.1 Insurance policy forms for each class of insurance written by an insurance company shall be submitted to the BPK for approval prior to their use. The BPK shall consider a policy's general terms and conditions for their reasonableness. Any material changes to those terms and conditions shall be approved by the BPK.

58.2 The BPK has the authority to request, review and approve information prepared in connection with an insurance company's products and services.

Section 59

Insurance Policies

59.1 An insurance policy shall be concluded in written form on paper, with records maintained in both paper and electronic form. Both the policyholder and the insurance company, or insurance intermediary acting for the insurance company, shall sign a hard copy of the document.

59.2 An insurance company, insurance intermediary, and a policyholder, potential or existing, shall each act in the utmost good faith at all times. All parties shall enter into an insurance agreement on an equitable and voluntary basis without any compulsion from the other side.

59.3 An insurance policy shall have the following elements to be considered legally enforceable in Kosovo. It shall:

- (a) Cover an insurable interest of the policyholder or a designated beneficiary;
- (b) Provide for an insurable sum;
- (c) Contain a signature date;
- (d) Explicitly define the risks covered;
- (e) Specifically and clearly state excluded risks;
- (f) Set out the insurance premiums to be paid and the due dates for payment;
- (g) Establish the start and end date of the contract;
- (h) Contain a complete and clear statement of all terms and conditions of the insurance policy;
- (i) Set out all respective rights and obligations of the policyholder, insurance company, and insurance intermediary, if applicable;
- (j) Provide for a policyholder to have the ability to rescind the insurance policy within ten (10) days of the contract's signature and receive a full refund of premiums paid, subject to the deduction of an administration fee which may not exceed ten (10) percent of the amount of premiums paid;
- (k) Contain a provision respecting the designation of the independent arbitration forum for the settlement of a disputed claim with powers to enforce a settlement, as established pursuant to section 58 of the present regulation;
- (l) State the legal name and address of the insurance company; and

(m) State the legal name and address of the policyholder and the beneficiary where the latter is different from the former.

Section 60

Amendment of an Insurance Policy

An insurance policy may only be amended in writing, and only if signed by both parties.

Section 61

Termination of an Insurance Policy

61.1 An insurance policy is terminated in the following cases:

- (a) Completion of the contract;
- (b) Completion of the insurance period specified in the policy;
- (c) The policyholder cancels or rescinds the policy under the terms provided in the present regulation;
- (d) The contractual parties mutually decide to terminate the insurance policy prior to the date provided for in the contract; or
- (e) The insurance company has fulfilled its contractual obligations.

61.2 All outstanding insurance policies issued by an insurance company shall terminate thirty (30) days after publication of BPK's decision to revoke the insurance company's licence.

Section 62

Special Rights and Duties of a Policyholder

62.1 Notwithstanding the terms of the insurance policy, a policyholder may:

- (a) As long as an insurable event has not yet occurred, rescind the insurance policy by delivering written notice to the insurance company or insurance intermediary within ten (10) business days after the policyholder signed the insurance policy, and the policyholder shall be entitled to an immediate refund of amounts paid for the insurance policy; and
- (b) Request mandatory arbitration before an appropriate tribunal for any dispute regarding a claim against the insurance company or insurance intermediary relating to the insurance policy.

62.2 Notwithstanding the terms of the insurance policy, a policyholder shall:

(a) Make a complete and truthful disclosure of facts that could influence an insurance company's or insurance intermediary's decision on behalf of the insurance company to underwrite the risk;

(b) Pay the premium amounts to the insurance company or insurance intermediary in a timely manner as provided in the insurance policy;

(c) Take reasonable acts designed to minimize losses stemming from an insurable event as soon as the policyholder learns that the event has occurred;

(d) Notify the insurance company or insurance intermediary that an insurable event has occurred as soon as it is practical after learning that the event has occurred, unless otherwise provided in the insurance policy;

(e) Furnish to the insurance company or insurance intermediary whatever reasonable proof is required to enable the insurance company or insurance intermediary to evaluate the cause and nature of the claim; and

(f) Advise the insurance company or insurance intermediary of changed circumstances after the issuance of the insurance policy that could lead to an increased likelihood of a claim being filed.

62.3 In the event a policyholder rescinds an insurance policy within the ten (10) day period provided in this section, the insurance company or insurance intermediary may retain from the refund an administrative fee of up to ten percent (10%) of the total premiums that would have been paid under the insurance policy.

Section 63

Special Rights and Duties of an Insurance Company or an Insurance Intermediary

63.1 An insurance company or insurance intermediary may:

(a) After providing the policyholder with thirty days written notice and opportunity to remedy, terminate an insurance policy if a policyholder fails to pay a premium by its due date;

(b) After providing ten days written notice, terminate an insurance policy where the policyholder has been more than thirty days late in paying premiums on more than one occasion during the term of the insurance policy;

(c) Immediately terminate an insurance policy if a policyholder has deliberately concealed or falsified information required for the issuance of the policy;

(d) Retain premiums and refuse payment of a claim in cases where a policyholder has deliberately concealed or falsified information required for the issuance of a policy; and

(e) Seek financial damages from a policyholder who has falsified a claim.

63.2 Notwithstanding the terms of the insurance policy, an insurance company or insurance intermediary shall:

- (a) Prepare insurance policies in written form and provide a copy of the contract to a potential policyholder for review and signature;
- (b) Include all terms and conditions in clear and easily understandable language;
- (c) Disclose all information relevant to the insurance policy and its payment sufficient to permit the policyholder to make an informed decision about the purchase of the insurance policy prior to concluding the contract;
- (d) Acknowledge receipt of, investigate, and pay legitimate insurance claims promptly;
- (e) Promptly notify the policyholder of any refusal to pay an insurance claim;
- (f) Promptly notify the policyholder in writing if the insurance company or insurance intermediary considers the information provided by the policyholder to be incomplete or inadequate and provide the policyholder with a statement of what additional information is necessary;
- (g) Compensate reasonable expenses incurred by a policyholder when the policyholder has taken steps to minimize loss or damage sustained after the occurrence of an insurable event; and
- (h) Provide a mechanism for policyholders to approach the insurance company or insurance intermediary for redress in the event of dissatisfaction with the settlement of a claim.

Section 64

Confidentiality

Present and past shareholders or owners, administrators, employees, and agents of an insurance company and an insurance intermediary shall keep confidential and not use for personal gain or permit to be disclosed to other persons any non-public information that they obtain in the course of the company's business. Notwithstanding this restriction, such information may be disclosed to the BPK, including its examiners, and to auditors, judicial authorities in cases provided by law, other regulatory authorities in Kosovo as provided by law, international financial institution regulators, and when protection of the company's own legal interest in legal proceedings requires disclosure.

Section 65

Selling of Insurance via the Internet

Insurance companies or insurance intermediaries may not offer insurance products via the Internet to persons outside of Kosovo without the prior written permission of the BPK. Such permission may only be granted after the submission of a business plan outlining how the company or intermediary will operate to ensure that policyholders outside of Kosovo are as

protected as those in Kosovo. The BPK may provide conditions and guidelines for selling insurance via the Internet in BPK rules.

CHAPTER X RECEIVERSHIP

Section 66

Initiation of Receivership

66.1 Upon revocation of a licence, BPK shall immediately appoint a receiver to take possession and control of the insurance company or insurance intermediary. The proceeding shall be known as a receivership.

66.2 Notwithstanding any applicable bankruptcy law in Kosovo, the provisions of this chapter on Receivership shall control the process of administration and liquidation of insolvent insurance companies and insurance intermediaries.

Section 67

Voluntary Liquidation

If the shareholders or owners of an insurance company or insurance intermediary wish to voluntarily liquidate the company under UNMIK Regulation No. 2001/6 of 8 February 2001 on Business Organizations or any other applicable law they shall submit a request for approval of the voluntary liquidation to the BPK accompanied by such information as the BPK may prescribe. The BPK shall make due inquiry into the affairs of the company and, if it assures itself that policyholders and creditors' interests will be sufficiently protected, may approve the voluntary liquidation under applicable law or determine that the present regulation applies and appoint a receiver pursuant to this chapter.

Section 68

Special Considerations for Insolvent Life Insurance Companies

68.1 If the BPK determines that a life insurance company is likely to be insolvent, as evidenced through an authoritative independent actuarial opinion or through other means, it may transfer the company's life insurance policies, assets, liabilities, including technical provisions, to other life insurance companies in the Kosovo insurance market on a mutually agreeable basis.

68.2 If the BPK is unable to accomplish a transfer under the previous section, the BPK may transfer the failed company's life insurance policies, assets, liabilities, including technical provisions, to life insurance companies licensed outside of Kosovo. In the event that such transfer is not possible, the BPK may order the existing Kosovo life insurance companies to assume the life insurance policies, assets, liabilities, including technical provisions, on a pro-rata basis consistent with the size of their technical provisions, as reported on their most recent financial returns. The BPK shall endeavor to accomplish this

operation in as equitable manner as possible without causing undue financial harm to the surviving life insurance companies.

Section 69

Receiver

69.1 A receiver may be a person from the private sector or an official of the BPK who meets the qualifications prescribed by the BPK. The BPK may, for good cause, dismiss a receiver. The terms of the receiver's remuneration may include incentives for prompt liquidation of assets and distribution of proceeds to policyholders and creditors and may include penalties for failure to meet such objectives.

69.2 The remuneration of the receiver and experts engaged by the receiver, reimbursement of their expenses, and expenses of the BPK in execution of the present regulation with respect to an insurance company or insurance intermediary shall be paid from the assets of the company. Payments to the receiver shall be made on a current basis. Any moneys owing to the receiver at the end of the term of receivership shall be paid from the proceeds from the sales of the company's assets with the level of priority provided in this chapter on Receivership.

Section 70

Notice and Registration of Receivership

70.1 The receiver shall, within two (2) days of being appointed, post in each office of the insurance company or insurance intermediary a notice announcing the appointment pursuant to the present regulation, specifying the effective date and time of possession by the receiver and specifying that:

(a) Authorisations of persons to engage the financial responsibility of the insurance company or insurance intermediary have been cancelled;

(b) Persons who previously had authorisation to give instructions on behalf of the insurance company or insurance intermediary with respect to payment or transfer of the company's assets or assets managed by the company are no longer so authorised;

(c) The insurance company's or insurance intermediary's licence has been revoked; and

(d) Proof of claims against the insurance company or insurance intermediary must be submitted to the receiver within ninety (90) days after revocation of the licence.

70.2 The receiver shall publish a notice specifying the actions taken under this section in one (1) or more newspapers of general circulation in Kosovo. Publication shall take place no less than once each week for four (4) weeks. The BPK shall review and approve the content of notice.

Section 71

Powers and Duties of Receiver and Effects of Receivership

71.1 The principal functions of the receiver are to administer the insurance company or insurance intermediary in receivership, liquidate its assets, pay policyholder claims, and pay creditors. A receiver shall have all the powers of the administrators and shareholders of the insurance company or insurance intermediary concerned. Subject to the primary objective of maximum satisfaction of the company's liabilities to policyholders and creditors, the receiver shall expedite the sale of the company's assets and payments to policyholders and creditors.

71.2 A receiver may continue any operations geared toward liquidation of the insurance company or insurance intermediary. The receiver may not issue new policies or extend the term of any existing policy. The receiver may, after receiving the written approval of the BPK, borrow money on a secured or unsecured basis. The receiver may stop or limit the payment of any obligation, employ or dismiss any officer, employee or adviser, execute any instrument in the name of the company and initiate or defend and conduct in the insurance company's or insurance intermediary's name any action or legal proceeding.

71.3 The receiver shall have unrestricted access to and control over the offices, books of account and other records, and other assets and liabilities of the insurance company or insurance intermediary and its subsidiaries. At the request of the receiver, a law enforcement officer or officers shall assist the receiver to gain access to the premises of the insurance company or insurance intermediary or control over its records.

71.4 The receiver shall have the power to bring and defend against actions in court and arbitration proceedings on behalf of the insurance company or insurance intermediary in receivership.

71.5 The receiver shall have the same rights and privileges and be subject to the same duties, penalties, conditions, and limitations that apply to administrators or other employees of an insurance company or insurance intermediary licensed under the present regulation.

71.6 The powers of the administrators and shareholders of the insurance company or insurance intermediary shall be suspended during a receivership. The receiver may retain some or all of the administrators, with reasonable remuneration, as are necessary to administer the receivership and to carry out functions specifically assigned in writing by the receiver. All employees shall be subject to dismissal by the receiver from their positions at the insurance company or insurance intermediary and shall thereupon cease to receive remuneration from the insurance company or insurance intermediary.

71.7 The receiver shall secure the assets of the insurance company or insurance intermediary in order to seek to prevent their dissipation by theft or other improper action, by taking actions including, but not limited to, the following:

(a) Changing the locks and limiting access to the new keys on external entrances to the insurance company's or insurance intermediary's offices and on doors to internal offices which contain financial assets or information or equipment which could enable a person to gain unlawful access to financial assets;

(b) Changing or establishing access codes to the insurance company or insurance intermediary in receivership's computers and granting access only to a limited number of trustworthy employees;

(c) Issuing new photo identification passes for entrance of authorised employees to the premises of the insurance company or insurance intermediary and controlling the access of others to the premises;

(d) Cancelling authorisations of persons to engage the financial responsibility of the insurance company or insurance intermediary and issuing new authorisations, as appropriate, and notifying third parties;

(e) Informing all policyholders, agents, sub-agents, brokers, reinsurance companies, relevant tax offices, and banks and other businesses conducting business with the insurance company or insurance intermediary that persons who previously had authorisation to give instructions on behalf of the insurance company or insurance intermediary with respect to dealing in its assets and accounts are no longer so authorised and that only the receiver, and persons authorised by the receiver have such authority; and

(f) Suspending the payment of capital distributions in general and payment of any kind to administrators and shareholders; provided, however, that base compensation may be paid to administrators for services already rendered in their capacity as administrators of the insurance company or insurance intermediary.

71.8 The receiver shall establish a new balance sheet for the insurance company or insurance intermediary, based on the receiver's determination of liquidation values of the company's assets with a corresponding reduction in the value of the company's liabilities in the reverse order of priority in payment of distributions in a liquidation of a company's assets. Liabilities shall be deemed due, and interest shall cease to accrue, as of the date the receiver is appointed.

71.9 Within one (1) month of taking possession of the insurance company or insurance intermediary, the receiver shall make an inventory of the assets and property of the company and transmit a copy thereof to the BPK, which shall make a copy available for examination by the public.

71.10 When a receiver has taken possession of the insurance company or insurance intermediary:

(a) Any term, statutory, contractual or otherwise, on the expiration of which a claim or right of the insurance company or insurance intermediary would expire or be extinguished, shall be extended by six (6) months from the date of such expiration or extinction;

(b) Any attachment or security interest (except one existing six (6) months prior to the effective date of the receivership) shall be vacated, and no attachment or security interest, except one created by the receiver in the application of this section shall attach to any of the assets or property of the insurance company or insurance intermediary in receivership so long as such receivership continues; and

(c) Shareholders' rights shall be extinguished except for the right to receive proceeds, if any remain after satisfaction of claims with priority over shareholders, and the right to receive any net payment received from the sale of the insurance company or insurance intermediary or substantially all its assets if the receiver determines that the insurance company or insurance intermediary had positive net worth at the time of sale.

71.11 Claims against the insurance company or insurance intermediary shall be filed with the receiver within ninety (90) days after revocation of the licence of the insurance company or insurance intermediary. A claim not submitted within this time period shall be satisfied only after the satisfaction of all the claims of the respective class, and only where the claimant has demonstrated sufficient justification for the claim not having been submitted in the time period. Otherwise, the claim shall not be honoured. The procedures for determining the validity and amount of claims and for liquidation of the assets of the insurance company or insurance intermediary and payment of claims shall be prescribed through BPK rules. The sale of assets shall be accomplished in a transparent and commercially reasonable manner.

71.12 After receiving prior approval of the BPK, the receiver may abandon or transfer property that is subject to a valid and unavoidable lien to the holder of the lien so long as little or no value would remain for the receivership after satisfaction of such lien.

71.13 The receiver shall report each month to the BPK on the progress of the receivership in such form as may be prescribed by the BPK.

Section 72

Professional Persons

The receiver may specially retain accountants, actuaries, appraisers, attorneys, and other professional consultants only after receiving written approval of the BPK. The request for approval shall set forth in detail the need for such retention, the proposed compensation of such person, and a certification disclosing all material facts regarding whether the person is a person related to the insurance company or insurance intermediary. The person shall not be related to the receiver. Before making any payments to such person, the receiver must obtain written approval of the BPK for the amount of such payment.

Section 73

Avoidance of Pre-Receivership Transfers

73.1 The receiver may bring an action in court to set aside a transaction based on a forged or fraudulent document that the insurance company or insurance intermediary has executed to the detriment of policyholders or creditors within five (5) years of the effective date of the receivership.

73.2 The receiver may bring an action in court to set aside the following transactions affecting the assets of the insurance company or insurance intermediary or to recover from third parties the transfers by the insurance company or insurance intermediary:

(a) Gratuitous transfers to any person related to the insurance company or insurance intermediary and made within five (5) years prior to the effective date of the receivership;

(b) Gratuitous transfers to third parties made within three (3) years prior to the effective date of the receivership;

(c) Transactions in which the consideration given by the insurance company or insurance intermediary considerably exceeded the received consideration, made within three (3) years prior to the effective date of the receivership;

(d) Any act done with the intention of all parties involved to withhold assets from policyholders or creditors, or otherwise impair their rights, within five (5) years prior to the effective date of the receivership;

(e) Creation of a lien in, or any loan of, assets of the insurance company or insurance intermediary made without prior approval of the BPK; and

(f) Transfers of property or money of the insurance company or insurance intermediary to, or for the benefit of a creditor on account of a debt incurred within six (6) months prior to the effective date of the receivership which has the effect of increasing the amount that the creditor would receive in a liquidation; provided, however, the avoidance power in this section shall not apply to transfers to made to policyholders under their respective insurance policies.

73.3 The receiver may bring an action in court to set aside transactions with persons related to the insurance company or insurance intermediary that were conducted within one (1) year prior to the effective date of the receivership, if such transactions were detrimental to the interest of insurance policyholders and other creditors. An action to set aside a transfer may be brought by the receiver within one (1) year following the effective date of the receivership.

73.4 Notwithstanding the provisions set forth above in this section, the receiver may not set aside a payment or transfer by the insurance company or insurance intermediary if it was made in the ordinary course of the company's business, or if it was part of a contemporaneous exchange for reasonably equivalent value, or to the extent that following the transfer the recipient extended new unsecured credit to the insurance company or insurance intermediary which had not been satisfied by the insurance company or insurance intermediary as of the effective date of the receivership.

73.5 The receiver may recover property or the value of property transferred by the insurance company or insurance intermediary from a subsequent transferee of an initial transferee only if the subsequent transferee did not give fair value for the property and knew that the initial transfer could be set aside under the present regulation.

73.6 A lessor of the premises to the insurance company or insurance intermediary or a provider of utility services such as electricity, natural gas, water, or telephone service, may not discontinue such service to the company solely because of its receivership or because the company has failed to pay for services prior to its receivership. Notwithstanding this restriction, such lessor or provider of utility services may require that the receiver provide a security deposit in a bank as a condition to the lessor's or utility company's duty to continue to provide services during the receivership. The maximum amount of such deposit shall not be greater than the cost of services provided to the insurance company or insurance intermediary during the month immediately prior to the initiation of the receivership.

Section 74

Priorities in Payment of Claims

74.1 In any liquidation of the insurance company's or insurance intermediary's assets, allowed secured claims shall be paid from proceeds of the collateral or the collateral shall be delivered to the secured creditor. Any amount of an allowed secured claim remaining after the collateral has been exhausted shall be treated as an unsecured claim.

74.2 Other allowed claims shall be paid in relation to all other debts, in the order of priority described below:

(a) Necessary and reasonable expenses incurred by the receiver and the BPK, including professional fees, in application of the provisions of the receivership sections hereof;

(b) Reasonable salaries and social insurance benefits due to employees and incurred up to two (2) months prior to the initiation of the receivership;

(c) Legitimate outstanding insurance policy claims;

(d) Unearned premiums;

(e) Taxes and duties coming due within one (1) year prior to initiation of the receivership; and

(f) Other creditors and unsecured portions of secured claims.

74.3 The satisfaction of claims that belong to a subsequent class of lower priority may be initiated only after the complete and full satisfaction of the claims of the previous class of higher priority. If the amount available for payment for any class of claims is insufficient to provide payment in full, such claims shall be reduced in equal proportions.

74.4 Any proceeds remaining after claims of insurance policyholders and other creditors have been paid shall be distributed among the shareholders or owners of the insurance company or insurance intermediary in accordance with their rights.

Section 75

Miscellaneous Receivership Provisions

75.1 Employees and professional persons appointed to represent or assist a receiver or the BPK in connection with a receivership shall not be paid amounts greater than are payable to employees or agents of insurance companies or insurance intermediaries for similar services in Kosovo, except that the BPK may authorize payment at higher rates, if the BPK determines that paying such higher rates is necessary in order to recruit and retain necessary personnel.

75.2 The BPK shall have authority to indemnify receivers and their agents for their actions on such terms as the BPK deems proper.

Section 76

Final Reporting to the BPK

Once the proceeds for the sale of assets of the insurance company or insurance intermediary have been distributed, the receiver shall provide a report to the BPK that includes a statement of income and expense and sources and uses of funds during the period of receivership. Upon approval by the BPK of the report, the BPK and the receiver shall be relieved of any further responsibility in connection with the receivership of the insurance company or insurance intermediary.

CHAPTER XI ENFORCEMENT

Section 77

Infractions, Penalties and Remedial Measures

The BPK may take one or more of the following actions with respect to an insurance company or insurance intermediary if the BPK, in its judgment, determines that the company or any of its administrators or holders of a significant interest have violated a provision of the present regulation or subsidiary instruments issued hereunder or any rule or order of the BPK, have violated any condition or limitation to an authorisation issued by the BPK, or have engaged in unsafe or unsound business or insurance practices:

- (a) Issue written warnings;
- (b) Require the insurance company or insurance intermediary to increase the frequency of financial reporting;
- (c) Prohibit the insurance company or insurance intermediary from renewing existing insurance policies or issuing new policies;
- (d) Impose limits and/or place restrictions on the operations of an insurance company or insurance intermediary;
- (e) Issue a cease and desist order against the insurance company or insurance intermediary;
- (f) Impose civil penalties in accordance with section 78 of the present regulation;
- (g) Order the insurance company or insurance intermediary to take supplementary measures in order to preserve its assets;
- (h) Require the insurance company or insurance intermediary to increase its charter capital;
- (i) Require the insurance company or an insurance intermediary to submit a remedial plan;
- (j) Appoint an adviser to the insurance company or insurance intermediary;

- (k) Require that an audit firm of the insurance company or insurance intermediary report directly to the BPK;
- (l) Appoint an external audit firm at the expense of an insurance company or insurance intermediary and have the audit firm report directly to the BPK;
- (m) Appoint an actuary at the expense of the insurance company and have the actuary report directly to the BPK;
- (n) Appoint a temporary administrator in place of current management of the insurance company or insurance intermediary;
- (o) Establish a special receivership to restore the insurance company or insurance intermediary;
- (p) Seize and take control of the insurance company's or insurance intermediary's assets;
- (q) Suspend the licence of the insurance company or insurance intermediary; and
- (r) Revoke the licence of the insurance company or insurance intermediary.

Section 78

Civil Penalties

78.1 If the BPK determines that any insurance company or insurance intermediary, or any director, officer, or employee of an insurance company or insurance intermediary, or any receiver appointed under the present regulation has violated this regulation or any rule or order issued by the BPK under the present regulation, the BPK may assess a civil penalty against that person.

78.2 The BPK may assess a civil penalty against any person who harasses, hinders, delays, impedes, intimidates, or exerts undue influence on BPK staff, or who attempts to do any of these things.

78.3 The BPK may assess a civil penalty against any person who willfully interferes with a receiver's access to or control over the offices, books of account and other records, and other assets of the insurance company or insurance intermediary in receivership for which the receiver has been appointed.

78.4 A civil penalty imposed under this section shall not preclude application of other civil remedies or criminal penalties as provided under the applicable law.

78.5 The BPK may issue rules setting out specific violations and civil penalties to be imposed for such violations. Such penalties may range from 500 DEM to 50,000 DEM for violations by individual persons and from 5,000 DEM to 1 percent (1%) of the insurance company's annual net premiums written for violations by insurance companies. For violations by insurance intermediaries, penalties may range from 5,000 DEM to 1 percent

(1%) of annual net commissions. If there is a continuing violation, each day of violation may be considered a separate violation, with a separate penalty assessed.

78.6 The BPK shall immediately deliver to the person against whom the civil penalty is assessed written notice of the civil penalty and the factual determinations supporting the civil penalty.

78.7 The person against whom the civil penalty is assessed under this regulation shall be entitled to challenge the civil penalty in accordance with section 80 of the present regulation within thirty (30) days of receiving the written notice, after which period the civil penalty shall become immediately due and payable.

78.8 In proceedings brought by the BPK to enforce the civil penalty, the notice provided to the person against whom the penalty is assessed shall evidence the person's obligation to pay.

78.9 Any civil penalty imposed under this section shall be paid to the Kosovo Consolidated Fund.

Section 79

Suspension and Removal of Persons Related to an Insurance Company or Insurance Intermediary

79.1 If the BPK determines that any administrator, employee or holder of a significant interest in an insurance company or insurance intermediary has:

(a) Willfully or repeatedly committed any violation of the present regulation or any rule or order resulting in a material loss to the insurance company or financial gain to such person; or

(b) Engaged in unsafe or unsound practices and has persisted in such violations or practices following a written warning from the BPK;

the BPK may issue an order containing any or all of the following provisions:

(c) Requiring the dismissal of the person from his or her position in the insurance company or insurance intermediary;

(d) Prohibiting such person from serving in or engaging in the insurance business for a stated period or for life;

(e) Prohibiting the person from direct or indirect exercise of voting rights attached to shares of the insurance company or insurance intermediary company;

(f) Requiring the person to dispose of all or any part of his or her direct or indirect ownership interest in the insurance company or insurance intermediary or cease to hold a significant interest in it; and

(g) Requiring the person to reimburse the insurance company or insurance intermediary for losses caused by such violations.

79.2 If any such person is charged with any criminal offence, the BPK may issue an order temporarily suspending such person from his or her position in the insurance company or insurance intermediary, and, if applicable, suspending the exercise of voting rights of shares in the insurance company by such person, pending the determination of the criminal case. A dismissal of the criminal case or decision of not guilty on the merits shall not preclude the BPK from taking any enforcement action with respect to a person authorised by the present regulation.

79.3 No person may hold any position in, or participate in any manner in the conduct of the activity of, any affiliate of an insurance company without the prior written approval of the BPK, if such person is subject to an order of the BPK suspending or removing that person from a position in an insurance company or insurance intermediary, prohibiting the exercise of the person's voting rights in shares of an insurance company, or requiring the person to dispose of his or her ownership interest in an insurance company.

79.4 In the event that any person does not sell or dispose of voting shares of an insurance company pursuant to an order issued under this section within the prescribed period of time, the BPK may order that all the shares in the insurance company held by such person be transferred to a trustee for sale at auction and the net proceeds, less expenses of sale, will be remitted to that person.

Section 80

Judicial Review

80.1 Any person aggrieved by an order or civil penalty issued by the BPK under the present regulation may petition a court of competent jurisdiction to review it. Such petition shall be filed within thirty (30) days after the order or civil penalty has been issued to the person. The court shall have the power to affirm, modify, or set aside such order or civil penalty in whole or in part.

80.2 In any proceeding in a court of competent jurisdiction concerning an order or civil penalty issued by the BPK under the present regulation:

(a) The court may set aside an order or civil penalty if the court determines that it was issued in violation of the present regulation or otherwise in violation of the applicable law, was beyond the jurisdiction of the BPK, was issued in violation of applicable procedural requirements, or is not supported by substantial evidence;

(b) No actual or former official, employee, or agent of the BPK shall be liable for damages or otherwise liable for acts or omissions performed in good faith in the course of his or her duties; and

(c) The order or civil penalty issued by the BPK which is the subject of any such proceeding shall continue without restriction during the proceeding and any appeals or judicial review unless stayed by a court of competent jurisdiction.

CHAPTER XII

FINAL PROVISIONS

Section 81

Transitional Provisions

81.1 An insurance company is “a company acceptable to UNMIK” within the meaning of section 4 of UNMIK Regulation No. 1999/15 of 21 October 1999 on Temporary Registration of Privately Operated Vehicles in Kosovo if it is licensed by the BPK to issue third party liability insurance, or if it is otherwise authorised to operate pursuant to the present regulation.

81.2 Within thirty (30) days of the present regulation entering into force, all insurance companies that are licensed under UNMIK Administrative Direction No. 1999/3 Implementing UNMIK Regulation No. 1999/15 and insurance intermediaries that are in existence on such date shall submit to the BPK a completed application for a licence. Each such insurance company and insurance intermediary that does not so apply within this period shall, upon expiration of this period, cease business operations and be placed into receivership under the chapter on Receivership in the present regulation. BPK may, prior to the expiration of this thirty (30) day period, and for good cause, extend this period once for a maximum of thirty (30) days.

81.3 Regardless of the period for existing companies to apply for a licence under section 81.2, BPK may at any time, for good cause, order a company to cease business operations and place that company into receivership under the chapter on Receivership in the present regulation.

81.4 Within ninety (90) days from the date it receives a completed application for an insurance company or insurance intermediary licence, the BPK shall preliminarily approve or deny it and notify the applicant of its decision in writing. Each company whose licence application is denied shall cease business operations immediately and be placed into receivership under the chapter on Receivership in the present regulation.

81.5 When BPK grants a preliminary licence approval it shall enumerate the conditions for the insurance company or insurance intermediary to continue in business and to receive a licence. BPK may revoke a preliminary licence approval at any time where it determines that the best interest of policyholders would not be served by the company continuing in business.

81.6 If an insurance company or insurance intermediary fails, within ninety (90) days of the decision to preliminarily approve a licence, to comply with the conditions to receive the licence, the preliminary licence approval of the application shall expire. BPK may extend this period once up to ninety (90) days for good cause.

81.7 Upon expiration or revocation of a preliminary licence approval the insurance company or insurance intermediary shall be placed into receivership under the chapter on Receivership in the present regulation.

Section 82
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 83
Applicable Law

This regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 84
Entry into Force

The present regulation shall enter into force on 5 October 2001.

Hans Haekkerup
Special Representative of the Secretary-General