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No. 100

15 September 2016

# ACT

## on Insurance Activities

**Entered into force on 1 October 2016.** *EEA Agreement: Annex IX, Directive 2009/138/EC. Amended by: Act no. 36/2018 (entered into force on 23 May 2018; EEA Agreement: Annex IX, Directive 2014/51/EU. Act no. 46/2018 (entered into force on 1 July 2018; for limits of legal applicability, see Art. 19). Act no. 141/2018 (entered into force on 1 January 2019). Act no. 26/2019 (entered into force on 23 May 2019). Act no. 27/2019 (entered into force on 23 May 2019). Act no. 91/2019 (entered into force on 1 January 2020, with the exception of Art. 133, which entered into force on 16 July 2019). Act no. 94/2019 (entered into force on 1 January 2020, with the exception of Art. 46, which takes effect according to instructions in Art. 55; EEA Agreement: Annex XXII, Directive 2014/56/EU, Regulation 537/2014). Act no. 45/2020 (entered into force on 4 June 2020; EEA Agreement: Annex IX, Directive 2011/61/EU, 2013/14/EU). Act no. 82/2021 (entered into force on 7 July 2021; EEA Agreement: Annex IX, Regulation 2017/2358, 2017/2359). Act no. 115/2021 (entered into force 1 Sept. 2021, with the exception of Art. 39, which entered into force on 1 Nov. 2021, and paragraph 5 of Art. 48, which enters into force on 28 Feb. 2023; for limits of legal applicability see Art. 147; EEA Agreement: Annex IX, Directive 2014/65/EU, 2016/1034, Regulation 600/2014, 2016/1033, 2017/565, 2017/567).*

References in this Act to a minister or ministry without stating the area of responsibility specifically or referring to it, shall refer to the Minister of **Finance and Economic Affairs** or the Ministry of **Finance and Economic Affairs**, which administers this Act. Information on the areas of responsibility of the ministries under the Presidential Decree can be found here.

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### CHAPTER I

#### Objective and scope

##### Art. 1

##### *Objective*

The purpose of this Act is to protect the interests of policy holders and beneficiaries, as well as to ensure financial market stability.

##### Art. 2

##### Scope

This Act applies to the activities of domestic insurance undertakings and the activities of foreign insurance undertakings in Iceland. Only insurance undertakings with the required operating licences are authorised to engage in insurance activities in Iceland. For the purposes of this Act, insurance activities

shall mean primary insurance activities in the field of non-life insurance and life insurance and any type of reinsurance activities.

This Act applies to groups of undertakings when the parent undertaking is an insurance undertaking. The Financial Supervisory Authority may decide that the provisions of this Act on groups of undertakings shall apply to connections between an undertaking that is not an insurance undertaking and insurance undertakings where the former would be regarded as the parent undertaking under this Act if it conducted insurance activities.

The Financial Supervisory Authority may decide that this Act applies to undertakings that are not considered groups of undertakings where there is a significant interrelationship between them. In such case, the undertakings shall designate one among them as the parent undertaking.

In assessing whether there is control of an undertaking, the rights of the parent undertaking and a subsidiary or subsidiaries shall be combined.

### **Art. 3**

#### *Limits to scope of application*

This Act shall not apply to retirement funds, pension funds and sickness funds of individual occupations, occupational groups and companies, nor to the Social Insurance Administration, Icelandic Health Insurance, the Unemployment Insurance Fund and similar institutions operating under special legislation.

This Act does not apply to reinsurance activities handled by the state, or fully guaranteed by the state, when the activities, for reasons of important public interests, provide reinsurance cover that would otherwise be unobtainable or difficult to obtain.

The provisions of Chapters XV, XVI, XVII, XX and XXI, as well as points 2, 5 and 6 of paragraph 1 of Art. 24, [paragraphs 2-5 of]<sup>1)</sup> Art. 27, paragraphs 3-8 of Art. 29, Art. 31, Art. 32, Art. 39, Art. 40, the final sentence of paragraph 3 of Art. 42, Articles 43-47, paragraphs 1 and 2 of Art. 48, Art. 49, Art. 52, Articles 54-57, subparagraph d of paragraph 2 of Art. 71, Art. 73, Articles 76-82, Art. 86, Art. 87 and Articles 115-120 of this Act shall not apply either to [Icelandic Natural Catastrophe Insurance]<sup>2)</sup> or to insurance undertakings to which the following conditions apply:

1. the undertaking's annual written premiums are less than the ISK equivalent of EUR 5 million;
2. the total of the undertaking's technical provisions is less than the ISK equivalent of EUR 25 million;
3. the total of the technical provisions of the group is less than the ISK equivalent of EUR 25 million if the undertaking belongs to a group;
4. the undertaking's activities do not include liability, credit or suretyship insurance, unless such risk is classified as an ancillary risk under paragraph 3 of Art. 20;
5. the written premiums in reinsurance do not exceed 10% of the undertaking's total written premiums or the ISK equivalent of EUR 0.5 million. In addition, technical provisions for those activities may not amount to more than 10% of the undertaking's total technical provisions or more than the ISK equivalent of EUR 2.5 million.

Insurance undertakings that ceased to take on new insurance risk before 10 December 2007 and worked exclusively on the settlement of older reinsurance contracts are exempt from the same provisions as are referred to in paragraph 3.

[The Central Bank of Iceland]<sup>3)</sup> may set rules<sup>4)</sup> on claims against an insurance undertaking covered by the exemption provisions of paragraph 3, which have the aim of protecting the policy holder and the insured. [The rules may among other things include provisions on solvency requirements, governance and disclosure to the Financial Supervisory Authority.]<sup>1)</sup>

If an insurance undertaking exceeds the thresholds of paragraph 3 for three consecutive years, the undertaking will no longer be considered exempt from the provisions of the paragraph.

If an insurance undertaking has not fallen under paragraph 3, but the conditions of the paragraph have applied to the undertaking for three consecutive years and it is not expected to exceed any of these

thresholds in the next five years, it is considered to be covered by the exemption provisions of paragraph 3.

This Act shall apply in full to an insurance undertaking that applies for an operating licence, unless it is demonstrated that the conditions of paragraph 3 apply to the first five years of its operation according to its business plan. If a request for such is received from an insurance undertaking, the Financial Supervisory Authority may decide that the Act shall apply to its activities, even though the conditions of paragraph 3 apply to the undertaking.

<sup>1)</sup>Act no. 36/2018, Art. 1. <sup>2)</sup>Act no. 46/2018, Art. 20. <sup>3)</sup>Act no. 91/2019, Art. 120. <sup>4)</sup>Reg. 1090/2018.

## CHAPTER II

### **Distinctions to other activities**

#### **Art. 4**

##### *Distinctions to other activities*

An insurance undertaking may not conduct activities other than insurance activities except as otherwise provided for in Article 5.

An insurance undertaking shall be regarded as carrying out an activity other than insurance activities if it controls, either alone or together with another insurance undertaking, an undertaking which pursues activities other than insurance activities. In the case of a group of undertakings, or an insurance undertaking directly or indirectly operationally linked with other undertakings, and where the parent undertaking is not an insurance undertaking, the insurance undertakings shall in this connection be regarded as a single undertaking.

Notwithstanding the provisions of paragraphs 1 and 2, an insurance undertaking may operate a commercial bank or other financial activity in a separate undertaking, provided the activity is subject to an operating licence and the supervision of a public authority.

An insurance undertaking may not assume liabilities which are not insurance obligations. It may not assume obligations which are not connected to the normal operations of an insurance undertaking.

#### **Art. 5**

##### *Permissible ancillary activities*

An insurance undertaking may carry out the following ancillary activities:

1. acting as agent for insurance undertakings which have a licence to operate in Iceland, and for other undertakings subject to the supervision of the Financial Supervisory Authority or other public bodies;
2. building, owning and operating real estate as part of long-term investment for a return on the undertaking's assets, under rules established by its Board of Directors;
3. buying and selling bonds and other financial instruments, and lending under rules established by its Board of Directors. This provision shall not apply to financial instruments which are listed on a regulated [market]<sup>1)</sup> where investments are made for a return on the undertaking's assets. Investments under this point shall be limited by the provisions of paragraph 2 of Art. 4;
4. claims handling and loss prevention activities;
5. operation and supervision of funds which are connected to or analogous to insurance activities;
6. other administration directly resulting from and in normal connection with insurance activities.

The Financial Supervisory Authority may decide that activities provided for in point 5 of paragraph 1 shall be run by an independent undertaking. Activities provided for in point 6 of paragraph 1 are subject to a licence from the Financial Supervisory Authority.

<sup>1)</sup>Act no. 115/2021, Art. 148.

CHAPTER III  
Definitions of concepts

Art. 6

*Definitions*

For the purposes of this Act the following meanings shall apply:

1. *Member State*: a state which is party to the Agreement on the European Economic Area, a party to the Convention establishing the European Free Trade Association, or the Faroe Islands;
2. *Member State where the primary insurance risk is situated*:
  - a. for property insurance: the State in which the insured property is situated, when buildings are insured or buildings and their contents are covered by the same insurance policy;
  - b. for motor vehicle insurance: the State where the vehicle is registered;
  - c. for travel insurance: the State where the insurance is purchased, provided that its period of validity does not exceed four months;
  - d. for other insurances: the State in which the policy holder habitually resides or, in the case of a legal entity, the Member State in which that policy holder's establishment to which the contract principally relates is located;
3. *Member State where services are provided*: the Member State where an insurance undertaking or a branch in another Member State insures risks which are situated there, cf. point 2, without having an establishment there;
4. *guarantee fund for motor vehicle insurance*: an institution that pays compensation, at least up to the limit of the insurance coverage, for bodily injury or damage to property caused by an unknown or uninsured vehicle;
5. *risk measure*: a mathematical function which assigns a monetary amount to a given probability distribution and increases with the level of risk exposure underlying that probability distribution;
6. *risk mitigation techniques*: actions that enable an insurance undertaking to transfer part or all of its risk to another party;
7. *Value at Risk (Var)*: a statistical method for measuring the risk of loss. The Var based on a 99.5% confidence level for one year means the loss that is 99.5% likely not to occur in the coming year, i.e. there is only a 0.5% chance of such a loss;
8. *captive reinsurance undertaking*: a reinsurance undertaking, owned either by an undertaking other than an insurance undertaking or group of insurance undertakings or by a non-financial undertaking, the purpose of which is to provide reinsurance cover exclusively for the risks of the undertaking or undertakings to which it belongs or of an undertaking or undertakings of the group of which it is a member;
9. *captive insurance undertaking*: an insurance undertaking, owned either by an undertaking other than an insurance or group of insurance undertakings or by a non-financial undertaking, the purpose of which is to provide insurance cover exclusively for the risks of the undertaking or undertakings to which it belongs or of an undertaking or undertakings of the group of which it is a member;
10. *subsidiary*: an undertaking which is controlled by a parent undertaking. The subsidiary of a subsidiary shall also be deemed to be a subsidiary of the parent undertaking;
11. *supervisory authority*: the national authority empowered by law to supervise insurance and reinsurance undertakings, in Iceland the Financial Supervisory Authority;
12. *reinsurance undertaking*: an insurance undertaking that has received an operating licence to pursue reinsurance activities as provided for in Art. 22;
13. *reinsurance undertaking of a third country*: a reinsurance undertaking with its head office in a country which is not a Member State and which would require an operating licence as provided for in Art. 22 if its head office were in a Member State;
14. *reinsurance activities*: the activity consisting of accepting risks ceded by an insurance undertaking or other reinsurance undertaking. In the case of the association of underwriters known as Lloyd's, reinsurance activity also means accepting risks, ceded by any member of Lloyd's or by an insurance or reinsurance undertaking other than the association of underwriters known as Lloyd's;

15. *special purpose vehicle*: an undertaking, whatever its form of enterprise, other than an existing insurance undertaking, which assumes risk from insurance undertakings and [which fully covers its exposure to such risks by]<sup>1)</sup> debt issuance or any other financing mechanism where the repayment rights of the purchasers of such debt or participants in a financing mechanism are subordinated to the reinsurance obligations of such an undertaking;

16. *diversification effects*: the reduction in the risk exposure of insurance undertakings and groups arising from the diversification of their activities. The effects result from the fact that the adverse outcome from one risk can be offset by a more favourable outcome from another risk, where those risks are not fully correlated;

17. *direct insurance undertaking*: an undertaking that carries out the activity of insuring the risk of individuals and legal entities, other than reinsurance risk, and has been granted an operating licence for this purpose as provided for in Chapter VI;

18. *direct insurance undertaking of a third country*: a direct insurance undertaking with its head office in a country which is not a Member State and which would require an operating licence as provided for in Chapter VI if its head office were in a Member State;

19. *direct insurance activities*: the business of insuring the risk of parties other than insurance undertakings;

20. *host State*: a Member State where an insurance undertaking with its head office in another Member State has a branch or provides services without an establishment;

21. *home State*: a Member State where the head office of an insurance undertaking or other regulated entity is situated and its operating licence is issued;

22. *participation*: the ownership, direct or by way of control, of 20% or more of the voting rights or capital of an undertaking;

23. *credit risk*: the risk of loss or of adverse changes in the financial situation, resulting from fluctuations in the credit standing of issuers of securities, counterparties and any debtors to which insurance undertakings are exposed. Credit risk includes counterparty risk, spread risk and market risk concentrations;

24. *national motor insurance bureau*: an organisation of insurers established according to the Council of Europe Recommendation no. 5 of 25 January 1949, comprised of insurance undertakings which have been granted an operating licence in the State in question to deal in the insurance class "liability insurance of motor vehicles";

25. *liquidity risk*: the risk that an insurance undertaking does not have sufficient liquid assets at its disposal or will not be able to sell assets in time to meet liabilities when due;

26. *market risk*: the risk of loss or of adverse change in the financial situation resulting, directly or indirectly, from fluctuations in the level and in the volatility of market prices of assets, liabilities and financial instruments;

27. *central counterparty*: a legal entity that interposes itself between the counterparties to the contracts traded on one or more financial markets, becoming the buyer towards the seller and the seller towards the buyer. A qualifying central counterparty is a party that has been granted an operating licence by a supervisory authority;

28. *parent undertaking*: an undertaking which controls another undertaking;

29. *close links*: a situation in which two or more natural or legal persons are linked by control or participation, or a situation in which two or more natural or legal persons are permanently linked to one and the same person by a control relationship;

30. *operational risk*: the risk of loss arising from inadequate or flawed internal processes, employee conduct or from external events;

[31. *acting in concert*: parties shall be considered to be acting in concert, for instance, if they have entered into an agreement for one or more of them to acquire a qualifying holding in an undertaking, whether the agreement is formal or informal, written, oral or otherwise. Parties shall always be considered to be acting in concert when the following connections exist unless the opposite is demonstrated:

- a. married couples, parties who are registered as co-habiting partners, and the minor children of these parties. Parents and children are also regarded as parties acting in concert;
- b. connections between parties which directly or indirectly involve control by one party of the other, or if two or more undertakings are directly or indirectly under the control of the same party. Regard shall be had for connections between parties as referred to in subparagraphs a, c and d;
- c. undertakings in which a party directly or indirectly owns a significant holding, i.e. a party directly or indirectly owns at least 20% of the voting rights in the undertaking in question. An undertaking, its parent undertaking, subsidiaries and associates are considered to be acting in concert. Regard shall be had for connections between parties as referred to in subparagraphs a, b and d;
- d. links between an undertaking and its directors and between an undertaking and its managing director];<sup>1)</sup>

[32.]<sup>1)</sup> *concentration risk*: all exposures sufficiently large that losses on them could threaten the solvency or financial position of an insurance undertaking;

[33.]<sup>1)</sup> *regulated [market]*<sup>2)</sup>: a market for financial instruments according to the definition of the Stock Exchange Act. A market situated in a third country must meet the following conditions:

- a. be recognised in Iceland and fulfil the requirements of the Stock Exchange Act;
- b. financial instruments traded on that market must be of a quality comparable to that of the instruments traded on the regulated [market]<sup>2)</sup> in Iceland;

[34.]<sup>1)</sup> *insurance undertaking's establishment*: the head office or branches of an insurance undertaking;

[35.]<sup>1)</sup> *function*: the performance of a specific task within the management system of an insurance undertaking. The management system of an insurance undertaking includes the risk-management function, compliance function, internal audit function and actuarial function;

[36.]<sup>1)</sup> *large risk*: insurance classes related to business operations and larger undertakings especially. Insurance classes listed in paragraph 1 of Art. 20, points 4, 5, 6, 7, 11, 12, 14, and 15 are considered large risks. Non-life insurance of large undertakings in classes listed in points 3, 8, 9, 10, 13 and 16 are also considered large risks;

[37.]<sup>1)</sup> *finite reinsurance*: reinsurance under which the explicit maximum loss potential, expressed as the maximum economic risk transferred, arising both from a significant underwriting risk linked to both a loss occurrence and the timing of the underwriting risk transfer, exceeds the premium over the lifetime of the contract by a limited but significant amount, together with at least one of the following features:

- a. explicit and material consideration of the time value of money;
- b. contractual provisions to achieve, in the long term, the success of the parties in achieving the aimed-for risk transfer;

[38.]<sup>1)</sup> *external credit assessment institution (ECAI)*: an undertaking which has been granted an operating licence in the European Economic Area to carry out credit assessment or a central bank which assesses creditworthiness and is exempt from such an operating licence;

[39.]<sup>1)</sup> *branch*: a branch or agency of an insurance undertaking located in a Member State other than its home State;

[40.]<sup>1)</sup> *outsourcing*: an arrangement between an insurance undertaking and a service provider, under which that service provider performs a task, provides a service or pursues an activity which would otherwise be performed by the insurance undertaking itself. The service provider may perform the task itself or by sub-outsourcing. Notwithstanding the outsourcing, the insurance undertaking is responsible for compliance with this Act;

[41.]<sup>1)</sup> *underwriting risk*: the risk of loss or of adverse change in the value of insurance liabilities, due to inadequate pricing or provisioning;

[42.]<sup>1)</sup> *insurance undertaking*: a direct insurance undertaking or reinsurance undertaking;

[43.]<sup>1)</sup> *technical provisions*: obligations of an insurance undertaking arising from insurance contracts concluded;

[44.]<sup>1)</sup> *intra-group transactions*: any transaction by which an insurance or reinsurance undertaking relies, either directly or indirectly, on other undertakings within the same group or on any natural or legal person connected with the undertakings within that group by close links, for the fulfilment of an obligation, whether or not contractual, and whether or not for payment;

[45.]<sup>1)</sup> *qualifying holding*: a direct or indirect holding in an undertaking amounting to 10% or more of the share capital or voting rights or other participation which makes it possible to exercise a significant influence on the management of the undertaking in question;

[46.]<sup>1)</sup> *control*: control is considered to exist when one or more of the following apply:

- a. an undertaking (the parent undertaking) controls the majority of votes in another undertaking, or
- b. owns holdings in another undertaking and has the right to appoint or dismiss the majority of the Board or executives, or
- c. owns holdings in another undertaking and has the right to exercise a decisive influence on its activities on the basis of the undertaking's Articles of Association or based on contracts concluded with it, or
- d. owns holdings in another undertaking and controls the majority of votes in the undertaking on the basis of an agreement with other shareholders or other owners, or
- e. owns holdings in another undertaking and holds a dominant position in it, or
- f. comparable links between natural or legal persons and an undertaking, which will result, in the estimation of the Financial Supervisory Authority, in actual influence on its activities.

Amounts in euros in this Act shall be converted into the functional currency of an insurance undertaking based on the mid-rate of the euro against the currency in question at the close of day on 31 October the preceding year.

<sup>1)</sup>Act no. 82/2021, Art. 1. <sup>2)</sup>Act no. 115/2021, Art. 148.

## CHAPTER IV

### Working practices

#### Art. 7

##### *Legal form*

The following undertakings may pursue insurance activities in Iceland:

1. limited liability companies that have been granted an operating licence in Iceland as provided for in Chapter VI;
2. insurance undertakings that have been granted an operating licence in another Member State, cf. Articles 124 and 126;
3. European companies under the Act on European Companies that have been granted an operating licence in a Member State, cf. Articles 124 and 126;
4. insurance undertakings with its head office in a state other than a Member State receiving a licence to operate a branch in Iceland, cf. Art. 131.

Insurance undertakings referred to in point 1 of paragraph 1 shall be governed by the provisions of the Acts on Public Limited Companies and in the case of European companies, as referred to in point 3 of paragraph 1, by the provisions of the Act on European Companies unless otherwise indicated by the provisions of this Act.

Captive insurance or reinsurance undertakings shall be limited liability companies.

Undertakings established by special legislation to pursue insurance activities may pursue these activities in any legal form authorised by law, provided that they operate under the same conditions as other undertakings and satisfy the provisions of Chapter II.

## **Art. 8**

### *Restrictions on intermediation for direct insurance activities*

No one may, for commercial purposes, actively encourage the direct insurance of a risk arising in Iceland, cf. point 2 of paragraph 1 of Art. 6, by any party other than an insurance undertaking which has been granted an operating licence by the Financial Supervisory Authority or an operating licence in another Member State.

## **Art. 9**

### *Requirements for good business practice*

Insurance activities and permitted ancillary activities as provided for in Art. 5 shall be conducted in accordance with normal and sound business practice and custom in the insurance business and with a view to the benefit of the policyholders and the beneficiaries.

An insurance undertaking shall follow approved guidelines on corporate governance. To this end, the insurance undertaking shall, among other things, publish an annual statement on its corporate governance in a special section in its annual financial statements or annual report and give an account of its corporate governance on its website and publish a statement there on its corporate governance.

An insurance undertaking shall specify on its website the names and proportional holdings of all those who own 5% or more of the undertaking.

## **Art. 10**

### *Supervision of the business practices of insurance undertakings*

The Financial Supervisory Authority shall, as far as possible, monitor the terms and conditions of insurances offered in Iceland and ensure that they are in accordance with law and sound and normal business practice. If the Financial Supervisory Authority is of the opinion that this is not the case, it shall demand that such provisions be amended or cancelled.

[The Financial Supervisory Authority supervises the business practices of insurance undertakings that have been granted an operating licence in Iceland, their sales activities and claims settlement, and shall carry out such examinations of insurance undertakings as it deems necessary for that purpose. The Financial Supervisory Authority also supervises the business practices of foreign insurance undertakings operating in Iceland.]<sup>1)</sup>

If the Financial Supervisory Authority considers that activities do not comply with the provisions of Art. 9 it may order the rectification of any deficiencies.

The Central Bank of Iceland]<sup>2)</sup> sets rules<sup>3)</sup> on what are considered normal and sound business practices in insurance business as provided for in this Act. The rules shall, among other things, provide generally for dealings between insurance undertakings and their customers, information disclosure to customers and handling of complaints.

<sup>1)</sup>Act no. 82/2021, Art. 2. <sup>2)</sup>Act no. 91/2019, Art. 120. <sup>3)</sup>Reg. 353/2022.

## **Art. 11**

### *Marketing activities*

No parties other than those who have a licence to pursue insurance activities may bear a name that indicates or implies that they conduct insurance activities or disclose anything publicly, in print or by other means, which could be understood as meaning that the undertaking operates insurance activities.

The name of an insurance undertaking shall be clearly stated in all its material distributed, including insurance terms and conditions, insurance applications, advertisements and other marketing material.

All promotion and marketing of an insurance undertaking in Iceland by parties other than those licensed to pursue insurance activities in the country shall be prohibited.

Only insurance undertakings authorised to operate in Iceland as provided for in this Act are permitted to sell mandatory insurances.



## CHAPTER V

### **Establishing an insurance undertaking**

#### **Art. 12**

##### *Establishing an insurance undertaking*

Except as specified in this Chapter, the provisions of Chapter II of the Act on Public Limited Companies shall apply to the establishment of an insurance undertaking.

#### **Art. 13**

##### *Memorandum of Association*

The Memorandum of Association of an insurance undertaking shall state the following, in addition to what is required by the Act on Public Limited Companies:

1. whether an agreement is to be concluded with the founders or others involving substantial financial obligations for the undertaking;
2. whether the undertaking should bear the cost of its establishment and, if so, how high that cost may be. This cost may not exceed 5% of the registered share capital, net of public fees and the cost of valuation, cf. Art. 14. The Financial Supervisory Authority may grant an exemption from the maximum establishment costs. The founders may not be remunerated in connection with the establishment.

If the undertaking is established with a view to taking over the insurance operations or insurance portfolio of another insurance undertaking, this shall be stated in the Memorandum of Association and it shall be specified whether a draft agreement on the transfer of the insurance portfolio has been concluded and examination thereof by the Financial Supervisory Authority is available, cf. Articles 34-36.

Documents which contain important information which is not included in the Memorandum of Association shall be attached to it and considered an integral part of the Memorandum.

#### **Art. 14**

##### *Payment of share capital*

Shares shall be paid for in cash.

The Financial Supervisory Authority may authorise payment by other means, provided that a valuation is available approved by the Financial Supervisory Authority.

If the Financial Supervisory Authority considers there to be reason to expect that the value of contributions has changed from the time the valuation was carried out [until] the initial shareholders' meeting is held, it may require evaluation statements from the appraisers or a new valuation.

#### **Art. 15**

##### *Articles of Association of an insurance undertaking*

In addition to those provisions in the Articles of Association of a public limited company provided for in the Act on Public Limited Companies, the following shall be stated in the Articles of Association of an insurance undertaking:

1. how profits are to be disposed of and any losses covered;
2. allocation of dividends.

## **Art. 16**

### *Amendments to the Articles of Association*

Amendments to the Articles of Association of an insurance undertaking must be sent to the Financial Supervisory Authority within one week of their approval. If the Financial Supervisory Authority has any comments, these must be made within two months.

## **CHAPTER VI**

### **Operating licences**

## **Art. 17**

### *Licensing authority*

The Financial Supervisory Authority shall grant operating licences as provided for in this Act. An insurance undertaking may commence operations once it has received an operating licence from the Financial Supervisory Authority.

The Financial Supervisory Authority shall consult with the supervisory authorities of the Member State concerned when assessing an application for an operating licence by an insurance undertaking which is:

- a. a subsidiary of a financial undertaking or insurance undertaking licensed in another Member State;
- b. a subsidiary of a parent undertaking of a financial undertaking or insurance undertaking licensed in another Member State;
- c. under the control of a party, an individual or legal entity, holding a controlling interest in a financial undertaking or insurance undertaking in another Member State.

Consultation as referred to in paragraph 2 shall have special regard to the eligibility of shareholders and management, cf. paragraph 3 of Art. 40, paragraph 6 of Art. 41 and Art. 61. Consultation shall also be held on monitoring compliance with conditions for operations.

## **Art. 18**

### *Conditions for an operating licence*

An application for an operating licence must be made in writing. An insurance undertaking must satisfy the following conditions for obtaining an operating licence:

1. Its purpose shall be limited to insurance activities.
2. A plan for its activities, as provided for in Art. 24, shall be available.
3. Eligible own-fund items to meet the lower limit of the minimum capital requirements as provided for in Art. 112, must exist.
4. Documentation must confirm that it has a suitable own-fund items to maintain a stable solvency capital requirement as provided for in Art. 96 and stable minimum capital as provided for in Art. 111, as well as documentation showing it has a management system that meets the requirements of Chapter VIII.
5. Information shall be available on the names and addresses of all claims representatives if application is made for a licence for activities including third-party liability insurance for motor vehicles, as provided for in point 10 of paragraph 1 of Art. 20, in other Member States.

The following documentation and information must accompany the application:

1. the name of the undertaking;
2. certified copies of the Memorandum of Association and minutes of the initial shareholders' meeting;
3. a list of the founders and share capital and confirmation that this is paid-up, which parties own qualifying holdings in the undertaking and how large, and an explanatory report on any other close links the undertaking has;
4. draft Articles of Association;
5. [the insurance classes or sub-classes for which application for a licence is being made, cf. Articles 20-22, as applicable];<sup>1)</sup>

[6. Other information deemed relevant by the Financial Supervisory Authority].<sup>1)</sup>

The provisions of this Article shall apply to an application for an operating licence for a special purpose vehicle, [an application for an operating licence in direct insurance],<sup>1)</sup> an application for an operating licence in reinsurance and an application for an operating licence in finite reinsurance, as applicable.

<sup>1)</sup>Act no. 82/2021, Art. 3.

## **Art. 19**

### *Operating licence for a special purpose vehicle*

A special purpose vehicle may operate in Iceland after obtaining an operating licence from the Financial Supervisory Authority, provided such vehicle complies with the conditions in a regulation issued by the Minister. The regulation shall provide for:

1. the scope of the operating licence;
2. mandatory conditions which must be included in all contracts issued;
3. the eligibility of parties operating the special purpose vehicle;
4. eligibility requirements for shareholders or owners of qualifying holdings;
5. management and accounting methods, internal control systems and risk management requirements;
6. accounting, prudence and statistical information;
7. solvency capital requirements.

[[The Central Bank of Iceland]<sup>1)</sup> shall set rules<sup>2)</sup> based on the implementing technical standards of the European Insurance and Occupational Pensions Authority (EIOPA) on handling cases where an operating licence is granted to a special purpose vehicle. The rules shall also contain provisions on the format of application forms for data submission pursuant to point 6 of paragraph 1.

[The Central Bank of Iceland]<sup>1)</sup> may issue rules<sup>2)</sup> based on the implementing technical standards of the European Insurance and Occupational Pensions Authority on the handling of cases with regard to co-operation and exchange of information between supervisory authorities in Member States when a special purpose vehicle assumes risk for an insurance undertaking in a Member State other than the state where the undertaking referred to in paragraph 1 holds an operating licence.]<sup>3)</sup>

<sup>1)</sup>Act no. 91/2019, Art. 120. <sup>2)</sup>Reg. 1091/2018. <sup>3)</sup>Act no. 36/2018, Art. 2.

## **Art. 20**

### *Operating licence for non-life insurance*

An operating licence for non-life insurance shall be limited to specific insurance classes or sub-classes thereof according to the following list:

1. accident insurance (accidents, occupational accidents, occupational diseases):
  - a. fixed pecuniary benefits,
  - b. benefits in the nature of indemnity,
  - c. fixed pecuniary benefits/benefits in the nature of indemnity,
  - d. injury to passengers;
2. sickness insurance (illness, loss of health):
  - a. fixed pecuniary benefits,
  - b. benefits in the nature of indemnity,
  - c. fixed pecuniary benefits/ benefits in the nature of indemnity;
3. land vehicles insurance: property damage, including total loss of:
  - a. land motor vehicles other than railway rolling stock,
  - b. land vehicles other than motor vehicles;
4. railway rolling-stock insurance: property damage, including total loss of railway rolling stock;
5. aircraft insurance: property loss, including total loss of aircraft;
6. ships insurance: property damage, including total loss of:
  - a. sea vessels,

- b. lake vessels,
- c. river and canal vessels;
- 7. goods in transit: property damage, including total loss of goods and luggage in transit, regardless of the means of transport;
- 8. property insurance (fire and natural forces); property damage, including total loss, other than as listed in classes 3, 4, 5 and 7, due to:
  - a. fire,
  - b. explosion,
  - c. storm,
  - d. natural forces other than storms,
  - e. nuclear energy,
  - f. land subsidence;
- 9. other damage to property insurances: property damage, including total loss, other than as listed in classes 3, 4, 5, 6 and 7 and not included in class 8, including hail, frost and events such as theft, etc.
- 10. motor vehicle third-party liability insurance: liability arising from the use of motor vehicles, including carrier's liability;
- 11. aircraft third-party-liability insurance: liability arising from the use of aircraft, including carrier's liability;
- 12. marine and inland water vessel third-party-liability insurance: liability arising from the use of ships, vessels or boats on the sea, lakes, rivers or canals, including carrier's liability;
- 13. general third-party liability insurance: all third-party liability other than listed under classes 10, 11 and 12;
- 14. credit insurance:
  - a. insolvency (general),
  - b. export credit,
  - c. instalment credit,
  - d. mortgages,
  - e. agricultural credit;
- 15. suretyship insurance:
  - a. suretyship (direct),
  - b. suretyship (indirect);
- 16. miscellaneous financial loss insurances (financial losses):
  - a. unemployment,
  - b. insufficiency of income (in general),
  - c. bad weather,
  - d. loss of benefits,
  - e. continuing general expenses,
  - f. unforeseen trading expenses,
  - g. loss of market value,
  - h. loss of rent or revenue,
  - i. other indirect trading loss,
  - j. other non-trading financial loss,
  - k. other forms of financial loss;
- 17. legal expenses insurance: legal expenses and cost of litigation;
- 18. assistance: assistance to persons who gets into difficulties while travelling far from home or permanent residence.

The risks included in a specific class may not be included in any other class except in the instances stated in paragraph 3.

A joint operating licence may be granted for the following classes of non-life insurance, cf. paragraph 1:

1. accident and sickness insurance, as referred to in classes 1 and 2 of the first paragraph;
2. vehicle and cargo insurance as referred to in subparagraph d of class 1, classes 3, 7 and 10 of paragraph 1;
3. marine and transport insurance as referred to in subparagraph d of class 1, classes 6, 7 and 12 of paragraph 1;
4. aviation and transport insurance as referred to in subparagraph d of class 1, classes 5, 7 and 11 of paragraph 1;
5. property insurance as referred to in classes 8 and 9 of paragraph 1;
6. liability insurance as referred to in classes 10, 11, 12 and 13 of paragraph 1;
7. credit and suretyship insurance as referred to in classes 14 and 15 of paragraph 1;
8. direct insurance as referred to in classes 1-18 of paragraph 1.

An insurance undertaking obtaining an operating licence for classes of direct insurance as referred to in paragraphs 1 and 2 (principal risk) may include an ancillary class (additional risk) without special authorisation when:

1. the ancillary risk is connected to the principal risk;
2. the ancillary risk is connected to the assets which are insured against the principal risk;
3. the ancillary risk is covered under the insurance contract covering the principal risk.

The risks included in the classes 14, 15 and 17 of paragraph 1 may not be regarded as ancillary classes to other insurance classes, with the exception that risks in class 17 of paragraph 1 may be regarded as an ancillary class to class 18 of paragraph 1 when the conditions of class 1 of paragraph 1 are fulfilled and the principal risk is exclusively connected with assistance provided to individuals in difficulty while travelling away from their home or far from their normal residence. The insurance class 17 of paragraph 1 may also be an ancillary class where the risk or dispute is connected with the use of vessels and boats.

Provision as to how the interests of policyholders shall be safeguarded in disputes with the insurance undertaking itself shall be made in a regulation<sup>1)</sup> on legal assistance insurance.

<sup>1)</sup>Reg. 510/2017.

## **Art. 21**

### *Operating licences for life and health insurances*

An operating licence for life and health insurance shall be limited to specific direct insurance classes or sub-classes thereof according to the following list:

1. life insurance on death and survival without investment risk:
  - a. payments upon survival, from a specific age,
  - b. payments upon death,
  - c. payments upon survival, from a specific age, or upon death if earlier,
  - d. life insurance with reimbursement of premiums,
  - e. annuities,
  - f. supplementary compensation for bodily injury, including loss of work capacity,
  - g. supplementary payments in the event of death due to an accident,
  - h. supplementary benefits due to disability due to an accident or illness;
2. marriage assurance, birth assurance:
  - a. life insurance in connection with marrying or establishing a registered partnership,
  - b. children's life insurance in connection with birth;
3. life insurance on death and survival with investment risk:
  - a. payments on survival from a specific age,
  - b. payments upon death,
  - c. payments upon survival, from a specific age, or upon death if earlier,
  - d. life insurance with reimbursement of premiums,
  - e. annuities;
4. permanent health insurance not subject to cancellation;

5. other life insurance involving risk based on life span.

## **Art. 22**

### *Operating licence for reinsurance*

An operating licence for reinsurance activities, cf. the provisions of Art. 18 shall be granted for non-life reinsurance activities, life and health insurance reinsurance or any type of reinsurance activities, through application.

## **Art. 23**

### *Finite reinsurance activities*

[The Central Bank of Iceland]<sup>1)</sup> shall set rules on activities in finite reinsurance ...<sup>2)</sup> The rules shall stipulate how an insurance undertaking with such activities can appropriately analyse, measure, manage, limit and document the risks associated with such activities.

An insurance undertaking which concludes a contract for finite reinsurance shall, in an appropriate manner, analyse, measure, manage, limit and document the risks associated with such a contract.

<sup>1)</sup>Act no. 91/2019, Art. 120. <sup>2)</sup>Act no. 82/2021, Art. 4.

## **Art. 24**

### *Business plan of an insurance undertaking*

A plan of the proposed business activities accompanying an application for an operating licence must include the following:

1. a report on re-insurance cover and the maximum liability the undertaking intends to bear on own account without reinsurance in each insurance class;
2. the assets that are to be in place at the undertaking in order to satisfy the lowest requirements for minimum capital as provided for in Art. 112;
3. a reasoned estimate of the cost of establishing the activities and how this is to be financed;
4. the undertaking's projected financial position according to its balance sheet at the end of the first three financial years, together with an estimate of annual income and expenses;
5. a plan as to how the undertaking intends to meet its solvency capital requirements for the first three full financial years. The method of calculation used to assess the solvency capital requirement must be stated;
6. a plan as to how the undertaking intends to meet its minimum capital requirement for the first three full financial years. The method of calculation used to assess the minimum capital requirement must be stated.

The plan of non-life insurance undertakings for the next three years shall include an estimate of operating expenses and commissions and estimates of premiums and claims.

The plan of life insurance undertakings for the next three years shall include an estimate of income and expenses for direct insurance and for reinsurance purchased and sold.

If an application is made for a licence for credit insurance, as listed in class 14 of paragraph 1 of Art. 20, in addition to the documentation referred to in paragraph 1 a specific account must be provided of the rules to be followed in assessing the undertaking's unsettled liabilities due to credit insurance contracts, i.e. technical provisions, and the assets intended to cover these.

An application for a licence for assistance to travellers, as listed in class 18 of paragraph 1 of Art. 20, must specify, in addition to the documentation referred to in paragraph 1, in what manner assistance to travellers is to be provided.

## **Art. 25**

### *Granting of an operating licence*

An applicant must be notified in writing as promptly as possible of the decision of the Financial Supervisory Authority, and no later than six months after receipt of a complete application. The

Financial Supervisory Authority must notify the applicant when an application is considered to be satisfactory.

The operating licence shall include information on those insurance activities which the undertaking may pursue.

An operating licence may be granted for individual classes of direct insurance under Art. 20 or Art. 21 or for individual insurance subclasses within them, or jointly for several classes listed in paragraph 2 of Art. 20. An operating licence granted for a specific class of direct insurance shall also be valid for ancillary classes in another category if the conditions according to paragraph 3 of Art. 20 are fulfilled.

The Financial Supervisory Authority shall publish notifications of operating licences granted to insurance undertakings.

If the application of a subsidiary, owned directly or indirectly by a party domiciled outside the Member States, is being considered by the Financial Supervisory Authority, it may take a longer period for a decision than that provided for in paragraph 1.

[The Financial Supervisory Authority shall notify the European Insurance and Occupational Pensions Authority of operating licences granted in Iceland.]<sup>1)</sup>

<sup>1)</sup>Act no. 36/2018, Art. 3.

## **Art. 26**

### *Refusal of an operating licence*

If, in the estimation of the Financial Supervisory Authority, an application for an operating licence does not fulfil the requirements of this Act, the Authority shall refuse to grant an operating licence.

Should the Financial Supervisory Authority consider the lack of suitability of an undertaking's Board of Directors or managing director to direct the undertaking or adequately ensure its sound and prudent operation, or if their track record gives reason to doubt this, the operating licence may be refused. The same shall apply if the owners of qualifying holdings in the undertaking are not considered able to adequately ensure sound and prudent management. If an undertaking has close links to other parties, an operating licence shall only be granted if those connections do not impede supervision of the undertaking's operations. If third-country legislation applies to those parties to whom an insurance undertaking has close links, impeding supervision of the undertaking's activities, an operating licence shall be refused; this shall also apply if difficulties in enforcing said legislation are likely to render supervision difficult. If the undertaking's actual head office is not in Iceland, an operating licence shall be refused.

The Financial Supervisory Authority's refusal of an application must be substantiated and notified to the applicant within six months of receipt of a satisfactory application as provided for in Art. 18.

<sup>1)</sup>Act no. 82/2021, Art. 5.

## **Art. 27**

### *New classes of insurance*

An insurance undertaking, which has obtained an operating licence in Iceland and proposes to take up another class or subclass of insurance, or intends to substantially change its activities, shall apply for a licence to the Financial Supervisory Authority for the new activity and send the appropriate documentation as provided for in Articles 18–22 which is necessary for the Authority to evaluate the application.

If the undertaking satisfies the solvency capital requirement provided for in Chapter XVI and the minimum capital provided for in Art. 112, taking into account the new activity, and if the application is otherwise accepted, the Financial Supervisory Authority shall grant a licence for the new activity.

An insurance undertaking pursuing life insurance activities that intends to introduce insurance classes 1 or 2 of paragraph 1 of Art. 20 shall, in addition to the documentation referred to in Art. 24, demonstrate that:

- a. the conditions concerning the lower limit of the minimum capital of life insurance undertakings and non-life insurance undertakings are fulfilled, cf. Art. 112;

- b. there are eligible own-fund items to meet the lower limit of the minimum capital requirements of life insurance and non-life insurance undertakings, cf. Art. 73.

An insurance undertaking that has activities in the non-life insurance classes 1 and 2 of paragraph 1 of Art. 20, which intends to take up life insurance activities, shall in addition demonstrate the following:

- a. that the conditions of Art. 112 concerning the lower limit of the minimum capital of life insurance undertakings and non-life insurance undertakings are fulfilled;
- b. that there are eligible own-fund items to meet the equivalent of the minimum capital requirements of life insurance and non-life insurance undertakings, cf. Art. 73.

If a life insurance undertaking takes up a new insurance class, the premiums shall be sufficient, based on reasonable actuarial assumptions, to enable the life insurance undertaking to meet all its obligations, in particular technical provisions.

#### **Art. 28**

##### *Head offices*

An insurance undertaking that has received an operating licence as provided for in Art. 25, must have its head offices in Iceland.

### **CHAPTER VII**

#### **Supervision**

#### **Art. 29**

##### *The supervisory process*

The Financial Supervisory Authority shall supervise insurance undertakings with head offices in Iceland and branches of foreign insurance undertakings in Iceland as provided for in this Act and the Act on Official Supervision of Financial Activities.

If the Financial Supervisory Authority considers that activities covered by this Act are being carried out without the required licences, it may require documentation and information from the parties in question to ascertain whether this is the case. It may require immediate cessation of such activities. Furthermore, the Authority may make public the names of parties considered to be offering services without the required licences.

The Financial Supervisory Authority shall monitor and assess the strategy, processes and reporting procedures used by insurance undertakings to comply with this Act, as well as the regulations and rules based upon it.

In particular, the Financial Supervisory Authority shall assess and monitor how insurance undertakings fulfil:

- a. requirements concerning management system, including own risk and solvency assessment as provided for in Chapter VIII;
- b. requirements concerning technical provisions as provided for in Chapter XIV;
- c. solvency margin as provided for in Chapters XV and XVI;
- d. rules on investments as provided for in Chapter XVIII;
- e. provisions on the quality and amount of own-fund items as provided for in Chapter XV;
- f. requirements of Chapter XVI, when an insurance undertaking uses its own full internal model or partial internal model.

The Financial Supervisory Authority shall assess whether the financial position of an insurance undertaking is deteriorating and monitors that such a position is addressed.

The Financial Supervisory Authority shall assess whether an insurance undertaking's methods and practices for analysing events or changes in the economic situation that may have an adverse effect on its financial position are satisfactory. The Financial Supervisory Authority shall also assess the ability of an insurance undertaking to respond to such events and changes.

The Financial Supervisory Authority may require insurance undertakings to rectify weaknesses or deficiencies that become apparent through supervision.



Supervision and assessment under this Article shall be carried out regularly. The Financial Supervisory Authority shall determine the minimum frequency of such supervision and assessment, considering the nature, size and complexity of the activities of the insurance undertaking in question.

### **Art. 30**

#### *Transparency and information disclosure*

The Financial Supervisory Authority shall conduct its work in a transparent and responsible manner with respect for obligations on non-disclosure of confidential information.

The Financial Supervisory Authority shall make the following information available on its website:

1. laws, regulations, rules, decisions and other legal sources as well as guidelines concerning insurance activities;
2. criteria and assessment methods that form the basis for the Authority's assessment, including assessment as provided for in the sixth paragraph of Art. 29;
3. a summary of the implementation of this Act;
4. the objectives of supervision of the insurance market together with the purpose and activities of supervision.

The information shall be presented in such a way that comparisons can be made with implementation by regulatory bodies of other Member States.

[The Financial Supervisory Authority shall submit the following information annually to the European Insurance and Occupational Pension Authority:

1. the average capital add-on for each insurance undertaking and the distribution of capital add-ons imposed by the Financial Supervisory Authority in the previous year, measured as a percentage of solvency capital requirements and shown separately for:
  - a. insurance undertakings,
  - b. life insurance undertakings,
  - c. non-life insurance undertakings,
  - d. insurance undertakings pursuing both life and non-life insurance activities,
  - e. reinsurance undertakings;
2. the proportion of capital add-ons imposed as provided for in paragraph 1 of Art. 32, with a breakdown according to point 1 of this paragraph;
3. the number of insurance undertakings granted an exemption from regular data submission to the Financial Supervisory Authority and the number of insurance undertakings granted an exemption from submitting a list of all assets as provided for in paragraphs 6 and 7 of Art. 31, together with the extent of solvency capital requirements, premiums, technical provisions and assets, expressed as appropriate as a percentage of the total extent of solvency capital requirements, premiums, technical provisions and assets of insurance undertakings in Iceland.]<sup>1)</sup>

The Minister shall issue a regulation<sup>2)</sup> on how information provided for in this Article shall be structured as well as its format, contents and when the data shall be published.

<sup>1)</sup>Act no. 36/2018, Art. 4. <sup>2)</sup>Reg. 55/2022.

### **Art. 31**

#### *Submission of data to the Financial Supervisory Authority.*

An insurance undertaking shall provide the Financial Supervisory Authority with the data and information necessary for supervision under this Act in order to:

1. assess the insurance undertaking's management system, activities, rules to assess solvency, the undertaking's risk, risk management, equity structure, capital requirements and capital management;
2. make decisions regarding supervision and work in accordance with this Act;
3. obtain data on activities in other Member States.

An insurance undertaking shall have systems and arrangements to meet the requirements for data submission provided for in this Article, together with a written policy, confirmed by the Board, to ensure that the data to be submitted to the Financial Supervisory Authority is satisfactory.

With the exception of the provisions of paragraph 2 of Art. 112, on the quarterly calculation of minimum capital, the Financial Supervisory Authority may grant an insurance undertaking an exemption from submission of data more frequently than annually if the submission of such information would be too onerous, considering the nature, size and complexity of the risk in the undertaking's operations, and if the information is submitted at least annually.

If an insurance undertaking is part of a group, the exemption referred to in paragraph 3 can only be granted if the Financial Supervisory Authority can demonstrate that more frequent regular data submission is unnecessary, considering the nature, size and complexity of the risk in the group's activities.

An exemption as referred to in paragraphs 3 and 4 can only be granted to insurance undertakings which combined have less than a 20% market share in non-life insurance, calculated on the basis of written premiums, and in life insurance, calculated on the basis of technical provisions. Insurance undertakings with the smallest market share shall be given priority when an exemption is granted.

The Financial Supervisory Authority may grant an exemption from regular data submission or exempt an insurance undertaking from submitting a list of assets if:

- a. the submission of such information would be too onerous, considering the nature, size and complexity of the risk in the undertaking's operations;
- b. such information is not necessary for effective supervision of the insurance undertaking;
- c. the exemption does not undermine financial stability;
- d. the insurance undertaking can provide such information upon request.

If an insurance undertaking is part of a group, the exemption referred to in paragraph 3 can only be granted if the Financial Supervisory Authority is of the opinion that more frequent regular data submission is unnecessary, considering the nature, size and complexity of the risk in the group's activities.

An exemption as referred to in paragraphs 6 and 7 shall only be granted to insurance undertakings with a combined market share of less than 20% in non-life insurance, calculated on the basis of written premiums, and in life insurance, calculated on the basis of technical provisions. Insurance undertakings with the smallest market share shall be given priority when an exemption is granted.

In deciding whether to grant exemptions based on the nature, size and complexity of the insurance undertaking's activities, the Financial Supervisory Authority shall, among other things, consider:

- a. the scope of the premiums, technical provisions and assets of the insurance undertaking;
- b. volatility in the amounts of claims and life insurance benefits;
- c. the market risk inherent in the insurance undertaking's investments;
- d. the extent of the concentration risk;
- e. the number of classes of insurance for which the insurance undertaking has an operating licence;
- f. the potential impact of the insurance undertaking's investments on financial stability;
- g. systems, structure and strategy of the insurance undertaking as referred to in paragraph 2;
- h. the insurance undertaking's management system;
- i. the amount of its own-fund items to meet the solvency capital requirements and minimum capital;
- j. whether the insurance undertaking is a captive insurance undertaking that only insures risks connected with the undertaking to which it belongs.

The annual data submissions by an insurance undertaking shall be received by the Financial Supervisory Authority no later than 14 weeks after the end of the undertaking's financial year.

An insurance undertaking's quarterly data submissions shall be received by the Financial Supervisory Authority no later than 5 weeks after the end of each quarter.

The Minister shall issue a regulation<sup>1)</sup> specifying further the documentation provided for in paragraph 1 and deadlines for data submission. Furthermore, this shall provide authorisations to the Financial Supervisory Authority to grant a partial exemption from data submission if the nature, size and risk of an insurance undertaking's activities so warrant.

[The Central Bank of Iceland]<sup>2)</sup> shall set rules<sup>3)</sup> on the format of regular data submissions based on the implementing technical standards of the European Insurance and Occupational Pensions Authority].<sup>4)</sup>

<sup>1)</sup>Reg. 55/2022. <sup>2)</sup>Act no. 91/2019, Art. 120. <sup>3)</sup>Reg. 1114/2021. <sup>4)</sup>Act no. 36/2018, Art. 5.

### **Art. 32**

#### *Capital add-on*

Following a supervisory review process as provided for in Art. 29, the Financial Supervisory Authority may impose a capital add-on for an insurance undertaking in the following exceptional cases:

1. The Financial Supervisory Authority concludes that the risk profile of the insurance undertaking deviates significantly from the assumptions underlying its solvency capital requirement, as calculated using the standard formula, and the requirement to use an internal model as provided for in Art. 109 is inappropriate or has been unsuccessful, or a partial or full internal model is being developed as provided for in Art. 104.
2. The Financial Supervisory Authority concludes that the risk profile of the insurance undertaking deviates significantly from the assumptions underlying its solvency capital requirement, as calculated using an internal model or partial internal model, because certain quantifiable risks are captured insufficiently and the adaptation of the model to better reflect the given risk profile has failed within an appropriate time frame.
3. The Financial Supervisory Authority concludes that the system of governance of an insurance undertaking deviates significantly from the standards laid down in Chapter VIII and that those deviations prevent it from being able to properly identify, measure, monitor, manage and report the risks that it is or could be exposed to and that the application of other measures is unlikely to improve the deficiencies sufficiently within an appropriate timeframe.

A capital add-on as referred to in points 1 and 2 in paragraphs 1 and 2 shall be calculated so as to ensure that the undertaking complies with the provisions of Art. 97.

A capital add-on as referred to in point 3 in paragraph 1 shall be proportionate to the risk arising from the deficiencies which gave rise to the decision to set the add-on.

If a capital add-on has been imposed as referred to in points 2 and 3 in paragraph 1, the Financial Supervisory Authority shall require the insurance undertaking to make every effort to remedy the deficiencies that led to the imposition of the capital add-on.

The capital add-on shall be in addition to the unsatisfactory solvency capital requirement.

Notwithstanding the provisions of paragraph 5, the Solvency Capital Requirement used to calculate the risk margin as provided for in Art. 76 shall not include a capital add-on pursuant to point 3 of paragraph 1.

The Financial Supervisory Authority shall review the capital add-on at least annually and cancel it when the insurance undertaking has rectified the deficiencies that led to the imposition of the capital add-on.

The Minister shall issue a regulation<sup>1)</sup> which further specifies the circumstances in which a capital add-on is imposed and how it is calculated and the process of imposing, calculating and cancelling the capital add-on.

<sup>1)</sup>Reg. 1077/2017. Reg. 55/2022.

### **Art. 33**

#### *Supervision of outsourced activities*

An insurance undertaking which outsources a function or part of its insurance activities shall take the necessary steps to ensure that the following conditions are satisfied:

1. the service provider cooperates with the Financial Supervisory Authority concerning the outsourced activities;
2. the insurance undertaking, its auditor and the Financial Supervisory Authority must have ready access to data related to the outsourced activities;
3. the Financial Supervisory Authority must have ready and effective access to the business premises of the service provider.

If an insurance undertaking with an operating licence in another Member State outsources operations to a service provider located in Iceland, the supervisory authority of the insurance undertaking's home State or its agent must be able to carry out an on-site inspection of the service provider's establishment. The Financial Supervisory Authority is authorised to carry out such an on-site inspection on behalf of the supervisory authority of the home State.

If the activities of an insurance undertaking with an operating licence in Iceland are outsourced to a service provider with an establishment in another Member State, the Financial Supervisory Authority shall notify the relevant authorities in that Member State if it deems on-site inspection of the service provider's establishment to be necessary.

[The Financial Supervisory Authority may request the assistance of the European Insurance and Occupational Pensions Authority or the EFTA Surveillance Authority, as appropriate, pursuant to Art. 19 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (the European Insurance and Occupational Pensions Authority) if it is not permitted to carry out an on-site inspection as provided for in paragraph 3. The same applies to the supervisory authorities of other Member States if they are not permitted to carry out an on-site inspection by an insurance undertaking that has outsourced operations in Iceland, cf. paragraph 2.

The European Insurance and Occupational Pensions Authority is authorised pursuant to Art. 21 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (the European Insurance and Occupational Pensions Authority) to participate in an on-site inspection of outsourced activities if this is carried out jointly by two or more supervisory authorities.]<sup>1)</sup>

<sup>1)</sup>Act no. 36/2018, Art. 6.

### **Art. 34**

#### *Transfer of an insurance portfolio*

An insurance undertaking with head offices in Iceland may transfer its insurance portfolio in part or in full to another undertaking which has been granted an operating licence in a Member State. The undertaking shall send the Financial Supervisory Authority an application for the transfer together with a draft agreement between the undertakings and the documentation that the Authority deems necessary. The Financial Supervisory Authority shall examine the application with regard to the interests of both undertakings and whether there is reason to expect that the transfer could harm the policy holders and the insured of the undertakings and others who have special interests at stake. Such transfer shall be authorised only if the [supervisory authority]<sup>1)</sup> of the home Member State of the accepting undertaking confirms that solvency requirements will be satisfied after transfer of the portfolio.

The Financial Supervisory Authority shall seek the approval of the supervisory authority of the receiving undertaking, which has three months to give its opinion. [The Financial Supervisory Authority shall also, if applicable, seek the approval of the supervisory authority of the Member State where the insurance contracts in the insurance portfolio were concluded. The supervisory authority has three months to give its opinion. The absence of any response from the authorities consulted shall be considered as tacit consent.]<sup>1)</sup>

If the Financial Supervisory Authority is of the opinion that permission for the transfer should be refused, the undertakings shall be notified immediately. Otherwise, in the case of underwriting risk in Iceland, cf. point 2 of paragraph 1 of Art. 6, the Financial Supervisory Authority shall publish a notification of the transfer application and request written comments from policy holders, beneficiaries

and others who have special interests at stake within a specified period, which shall not be less than one month.

The Financial Supervisory Authority shall grant permission for the transfer following the expiry of the time limit provided for in paragraph 2 if it concludes, considering any comments that have been submitted, that the application shall be approved.

The rights and obligations of policy holders, beneficiaries and others under insurance contracts automatically retain their validity upon transfer. [Policy holders may cancel insurance contracts that are part of a transferred portfolio from the date on which the transfer of the portfolio takes place, provided that they notify the insurance undertaking thereof in writing within one month of the date of transfer.]<sup>1)</sup>

[When an insurance undertaking with head offices in another Member State, which has established a branch or provides services in Iceland, intends to transfer its insurance portfolio to another undertaking, holding an operating licence in a Member State, the Financial Supervisory Authority shall publish a notification of the transfer request as provided for in paragraph 3, if the underwriting risk is in Iceland.]<sup>2)</sup>

[An insurance undertaking with head offices in Iceland may accept the insurance portfolio of another undertaking. Such transfer shall be authorised only if the Financial Supervisory Authority confirms that solvency requirements will be satisfied after transfer of the portfolio. If the Financial Supervisory Authority receives notification from a supervisory authority in another Member State of the transfer of an insurance portfolio to an insurance undertaking with head offices in Iceland it shall provide the supervisory authority with its opinion within three months of receipt of the request for transfer. The accepting undertaking shall send the Financial Supervisory Authority all information necessary in connection with the transfer in the opinion of the Financial Supervisory Authority.]<sup>1)</sup>

<sup>1)</sup>Act no. 82/2021, Art. 6. <sup>2)</sup>Act no. 36/2018, Art. 7.

### **Art. 35**

#### *Merger*

If insurance undertakings which have obtained an operating licence in Iceland request that a merger be effected through the acquisition of one or more insurance undertakings and their winding up, in such manner that all the assets and liabilities will be transferred completely without liquidation proceedings, all the undertakings shall send the Financial Supervisory Authority an application, together with a draft merger agreement between the undertakings and such documentation as the Authority considers necessary. The same shall apply if two or more insurance undertakings request that a merger be effected through the establishment of a new insurance undertaking with the winding up of the undertakings without liquidation proceedings, in such manner that all the assets and liabilities will be transferred to the new undertaking. Authorisation for the transfer of insurance portfolios, cf. Art. 34, must be granted for such merger to take place.

The provisions of paragraph 1 shall also apply to undertakings referred to in Art. 5 which make a request to transfer their assets and liabilities entirely without liquidation proceedings.

A merger, either through acquisition or the establishment of a new undertaking, may be authorised even if one or more of the undertakings which are acquired or which are to be wound up undergo liquidation proceedings, provided that this option is limited to undertakings that have not yet begun to distribute their assets to owners.

### **Art. 36**

#### *Merger agreement*

The draft merger agreement, which must accompany an application, shall specify, among other things, how payment is to be made for shares in insurance undertakings which terminate their insurance activities, when shares potentially used as payment shall convey the right to dividends and other privileges, what rights owners of holdings in an undertaking terminating its activities acquire in the undertaking taking over its assets and liabilities, as well as other measures that may result in changes to

the owners' rights. It shall also be stated whether directors or [the managing director]<sup>1)</sup> shall enjoy specific benefits and if so what benefits.

Certified financial statements, listing the assets and liabilities of each undertaking on the date of the proposed merger, as well as the joint initial balance following the merger, shall be submitted; the statements may not be more than six months old when the decision is taken to effect the merger. The Financial Supervisory Authority may, however, authorise the use of the undertakings' annual financial statements at the end of the last financial year.

When a merger is effected through the establishment of a new undertaking, a draft of its Articles of Association shall also be submitted. The same shall apply to any amendments, other than change of name, made to the Articles of Association of the merging undertakings.

The Financial Supervisory Authority grants authorisation for the merger. The operating licence of an undertaking or undertakings which terminate their insurance activities shall be revoked as of the date specified by the Financial Supervisory Authority and the undertaking or undertakings are no longer considered operating undertakings.

<sup>1)</sup>Act no. 82/2021, Art. 7.

### **Art. 37**

#### *Financial conglomerates*

The Financial Supervisory Authority shall monitor the compliance of financial conglomerates with the provisions of this Act. [The Central Bank of Iceland]<sup>1)</sup> shall set further rules<sup>2)</sup> on the identification and supervision of financial conglomerates. [The Central Bank of Iceland]<sup>1)</sup> may also set general rules on the internal control arrangements of financial conglomerates. The Financial Supervisory Authority may, at the request of a supervisory authority in another state, verify information from parties in Iceland that are subject to the supervision of financial conglomerates. The supervisory authority concerned may participate in the work of verifying such information. Calculation of solvency for financial conglomerates shall be governed by rules set by [the Central Bank of Iceland].<sup>1)</sup>

<sup>1)</sup>Act no. 91/2019, Art. 120. <sup>2)</sup>Reg. 1410/2021.

## **CHAPTER VIII**

### **System of governance. Risk management and internal control**

#### **Art. 38**

##### *Responsibility of the Board of Directors*

The Board of Directors of an insurance undertaking is responsible for the undertaking's compliance with this Act and administrative provisions issued on its basis.

#### **Art. 39**

##### *General governance requirements*

An insurance undertaking must have an effective system of governance in place that ensures that it is managed in a sound and prudent manner. The system of governance shall be proportionate to the nature, scale and complexity of the activities.

That system shall at least include an adequate transparent organisational structure with a clear allocation and segregation of responsibilities and effective transmission of information. The system shall ensure compliance with the requirements of this Chapter.

An insurance undertaking shall review its governance system regularly.

The Board of Directors of an insurance undertaking shall at least adopt a written policy on risk management, internal control, internal audit and, if applicable, outsourcing. The Board shall ensure the implementation of the above policies. These written policies shall be reviewed at least annually, considering any significant changes to the governance system and the area covered by the policies.

Insurance undertakings shall take steps to ensure continuity and regularity in their activities, including the development of contingency plans.

The Financial Supervisory Authority shall assess the system of governance of insurance undertakings and emerging risks identified by the undertakings which may affect their financial

soundness. If the Financial Supervisory Authority considers the management system of an insurance undertaking to be unacceptable given the requirements of this Chapter, it shall demand improvements from the insurance undertaking in question.

#### **Art. 40**

##### *[Directors and managing director]<sup>1)</sup>*

An insurance undertaking that has been granted an operating licence in Iceland shall have a Board of Directors composed of at least three members, elected at the annual general meeting in accordance with the provisions of the undertaking's Articles of Association. There shall be at least two alternates on the Board of an insurance undertaking.

The Board of an insurance undertaking shall not participate in decisions on individual transactions unless their scope is significant relative to the size of the undertaking. Individual directors shall not involve themselves in decisions on individual transactions.

The directors of an insurance undertaking shall not take part in the handling of a case if the case concerns:

- a. their own transactions or the transactions of undertakings of which they are directors, represent or otherwise have significant interests in;
- b. transactions of competitors of the parties referred to in point a.

The same shall apply to transactions of parties [considered to be acting in concert with a director]<sup>1)</sup>.

Business dealings of directors, as well as [parties with whom they are considered to be acting in concert]<sup>1)</sup>, shall be submitted to the Board of an insurance undertaking for approval or rejection. The Board of Directors of an insurance undertaking may, however, set general rules on the handling of such matters, deciding in advance which business dealings require, or do not require, special consideration by the Board before they are dealt with.

Directors must reside in a Member State or a state party to the Organization for Economic Co-operation and Development (OECD). [The managing director]<sup>1)</sup> shall be resident in a Member State. The Financial Supervisory Authority may grant an exemption from the residence requirements.

An insurance undertaking shall devote sufficient funds and manpower to present the undertaking's activities to the directors and ensure that they receive appropriate training for their directorship.

Should the directors or [managing director]<sup>1)</sup> receive commissions or other remuneration from insurance which the undertaking takes over or cedes, due to participation in agency or brokerage activities or due to any financial interest in such activity, the Financial Supervisory Authority must be sent notification thereof.

The Board of Directors and [the managing director]<sup>1)</sup> shall immediately notify the Financial Supervisory Authority if they are aware of matters of decisive importance for the undertaking's continued operations.

<sup>1)</sup>Act no. 82/2021, Art. 8.

#### **Art. 41**

##### *Requirements for suitability and competency*

[An insurance undertaking shall ensure that its boards members, managing director and those responsible for the undertaking's key functions have a good reputation as well as the knowledge, qualifications and experience to be able to perform their job properly.

An insurance undertaking shall notify the Financial Supervisory Authority of the composition and changes in the composition of the Board of Directors, of the managing director and of those persons responsible for the undertaking's key functions. The managing director, board members and persons responsible for key functions must at all times meet the suitability requirements of this Article, together with Articles 40 and 42 and the rules set pursuant to paragraph 5).<sup>1)</sup>

The Financial Supervisory Authority may at any time examine specifically the suitability of [the managing director],<sup>1)</sup> board members and persons responsible for key functions.

Should a board member, [managing director]<sup>1)</sup> or person responsible for a key function of an insurance undertaking cease work because they do not fulfil the conditions of paragraph 1, this shall be specifically mentioned in a notification to the Financial Supervisory Authority, cf. paragraph 2.

[The Central Bank of Iceland shall set more detailed rules<sup>2)</sup> on the suitability requirements of board members and managing directors, including what constitutes adequate knowledge, competence and experience, a good reputation and financial independence, and how assessment thereof shall be conducted.]<sup>1)</sup>

The board members and [managing director]<sup>1)</sup> of an insurance undertaking must be legally competent and may not have been declared bankrupt in the last five years. They may not, in connection with business operations, have in the last ten years been convicted of a criminal offence under the General Penal Code, the Competition Act, the Act on Public Limited Companies, the Act on Private Limited Companies, the Accounting Act, the Act on Annual Financial Statements, the Act on Bankruptcy etc., the Foreign Exchange Act and the provisions of the Act on Withholding of Public Levies at Source, as well as special laws that apply to parties subject to official supervision of financial activities.

[The board members and managing director shall be financially independent and possess knowledge, qualifications and experience that are useful in the job, including knowledge of the activities that the insurance undertaking carries out. Employees of an insurance undertaking may not sit on the board of the insurance undertaking in question.]<sup>1)</sup>

<sup>1)</sup>Act no. 82/2021, Art. 9. <sup>2)</sup>Reg. 285/2018.

## **Art. 42**

### *Other work of board members*

Board members of an insurance undertaking may not serve on the Board of another supervised entity or an undertaking with close links to [such entity],<sup>1)</sup> nor be the employees, auditors or actuaries of other supervised entities or undertakings with close links to them. Board members of an insurance undertaking may only work as legal counsel for another insurance undertaking if this could not give rise to conflicts of interest between the two undertakings or in the insurance market. Board members who intend to serve as legal counsel for another insurance undertaking shall obtain the written approval of the Board of the insurance undertaking where they are board members before they may undertake the work in question ...<sup>1)</sup> The board member bears the onus of proof to demonstrate that the legal work undertaken for another insurance undertaking does not violate this provision. The Financial Supervisory Authority may demand any sort of documentation and information from a board member in order to assess whether there has been a violation of this provision.

Notwithstanding the provisions of paragraph 1, a board member or employee of an insurance undertaking may take a seat on the Board of Directors of another [supervised entity or undertaking with close links to it]<sup>1)</sup> if the [legal entity] in question is partly or wholly owned by the insurance undertaking or is a [legal entity]<sup>1)</sup> partly or wholly owned by an undertaking exercising control over the insurance undertaking.

Serving as a board member, as referred to in paragraph 2, shall be subject to the condition that it will not, in the estimation of the Financial Supervisory Authority, give rise to risk of conflicts of interest in the financial market. In this context, consideration shall be given, among other things, to the parties' holdings and the links of the undertaking in question with other entities in the financial market, as well as whether such links could be detrimental to the sound and prudent operation of the insurance undertaking. The majority of board members shall, however, always be independent of undertakings within the same group of undertakings.

The chairman of the Board of Directors of an insurance undertaking may not take on duties for the undertaking other than those regarded as a normal part of the work of chairman, with the exception of special tasks entrusted to the chairman by the Board.

<sup>1)</sup>Act no. 82/2021, Art. 10.



### **Art. 43**

#### *Annual general meeting of an insurance undertaking*

The Board of Directors shall convene its annual general meeting. If the annual general meeting is not convened in as provided for by law, the Articles of Association or the decision of an annual general meeting, the Financial Supervisory Authority shall convene it at the request of a board member, [managing director],<sup>1)</sup> auditor or a party eligible to vote at the annual general meeting. The Financial Supervisory Authority shall appoint a chair for the meeting and the Board shall provide the chair with a list of eligible voters, the minutes of annual general meetings and the book of auditor's notes. The undertaking shall bear the cost of the annual general meeting.

<sup>1)</sup>Act no. 82/2021, Art. 11.

### **Art. 44**

#### *Risk Management*

An insurance undertaking shall have in place an effective risk-management system comprising strategies, processes and reporting procedures necessary to identify, measure, manage and monitor and report on an ongoing basis the impending risks which could affect the undertaking's activities and their interdependencies.

An insurance undertaking shall organise its risk management function to enable it to achieve its objectives.

The risk-management system shall be effective and well-integrated into the undertaking's organisational structure and decision-making processes, and shall guide the work of the Board, [the managing director]<sup>1)</sup> and those persons responsible for the undertaking's key functions.

Risk management shall include those factors used in the calculation of the solvency capital requirement as provided for in Art. 97 as well as risk factors that are not entirely included in those calculations.

Risk management shall cover at least the following aspects:

- a. risks assumed in connection with underwriting and settling claims,
- b. asset and liability management,
- c. investment risk, in particular of derivatives,
- d. liquidity risk and concentration risk,
- e. operational risk,
- f. reinsurance and other risk mitigation techniques.

The Board's risk management policy as provided for in Art. 39 shall address each risk factor referred to in paragraph 5.

An insurance undertaking shall demonstrate that its investment risk complies with this Act.

If an insurance undertaking uses a credit rating agency's credit rating when calculating technical provisions and solvency capital requirements, it shall be part of the undertaking's risk management to assess whether the credit rating is appropriate by using other assessment methods wherever practicably possible in order to reduce the automatic impact of external assessment.

[The Central Bank of Iceland]<sup>2)</sup> shall set rules<sup>3)</sup> on the methods to be followed in assessing credit ratings from external parties, such as credit rating agencies, based on the implementing technical standards of the European Insurance and [Occupational Pensions Authority].<sup>4)</sup>

If an insurance undertaking uses a partial or full internal model, approved by the Financial Supervisory Authority, its risk management shall:

- a. design and implement its internal model;
- b. test and validate the model;
- c. document the internal model and any subsequent changes made to it;
- d. analyse the performance of the internal model and produce reports thereof;
- e. inform the undertaking's Board of the efficacy of the internal model, suggest areas needing improvement, and report on changes made to the model to improve previously identified weaknesses.

<sup>1)</sup>Act no. 82/2021, Art. 12. <sup>2)</sup>Act no. 91/2019, Art. 120. <sup>3)</sup>Reg. 690/2018. <sup>4)</sup>Act no. 36/2018, Art. 5.

#### **Art. 45**

##### *Own risk and solvency assessment*

Part of the risk-management system of every insurance undertaking shall be to conduct its own risk and solvency assessment concerning the following:

1. the undertaking's overall solvency needs, considering the risk profile, approved risk tolerance limits and the business strategy of the undertaking. The insurance undertaking shall have in place processes which are proportionate to the nature, scale and complexity of the risks inherent in its business and which enable it to adequately identify and assess those risks which could arise in the shorter and longer term. The undertaking shall describe the processes and methods it uses in its assessment;
2. how it will satisfy solvency capital requirements, requirements for minimum capital and requirements regarding technical provisions;
3. whether and to what extent the risk profile of the undertaking deviates from the assumptions underlying the solvency capital requirement, cf. Art. 97, whether based on the standard formula or its internal model. If an internal model is used, the outcome shall also be recalibrated to transform the internal risk numbers into the solvency capital requirement risk measure and calibration.

Own-risk and solvency assessment shall be an integral part of the undertaking's business strategy.

The insurance undertaking shall perform the assessment referred to in paragraph 1 regularly and without delay following any significant change in its risk profile

The outcome of the own-risk and solvency assessment is not a statutory solvency capital requirement.

[The Central Bank of Iceland]<sup>1)</sup> shall set more detailed rules on carrying out own-risk and solvency assessment based on the implementing technical standards of the European Insurance and Occupational Pensions Authority].<sup>2)</sup>

<sup>1)</sup>Act no. 91/2019, Art. 120. <sup>2)</sup>Act no. 36/2018, Art. 5.

#### **Art. 46**

##### *Internal control*

An insurance undertaking shall have an effective internal control system including at least administrative and accounting procedures, organised and appropriate reporting arrangements at all levels of the undertaking. An insurance undertaking shall also have a compliance function.

The compliance function shall include advising the Board of Directors on compliance with this Act and regulations and administrative provisions adopted on its basis. It shall also include assessing the impact of any changes in the legal environment on the activities of the undertaking [and the identification and assessment of compliance risk].<sup>1)</sup>

<sup>1)</sup>Act no. 82/2021, Art. 13.

#### **Art. 47**

##### *Internal Audit*

An insurance undertaking shall have an effective internal audit function which includes an evaluation of the efficacy and quality of the internal control system and other elements of the system of governance.

The internal audit function shall be objective and independent of the insurance undertaking's operational functions.

Any findings and recommendations of internal audit shall be reported to the Board of Directors, which shall determine what actions are to be taken and see that they are implemented.

## **Art. 48**

### *Actuarial function*

Insurance undertakings shall have an actuarial function that:

- a. is responsible for calculating technical provisions;
- b. ensures the use of appropriate assumptions, methods and underlying models in the calculation of technical provisions;
- c. assesses the sufficiency and quality of the data used in the calculation of technical provisions;
- d. compares best estimates of technical provisions with experience;
- e. informs the Board of the reliability and adequacy of the technical provisions;
- f. oversees the calculation of technical provisions when calculated on a case-by-case basis;
- g. gives an opinion on the undertaking's risk taking in underwriting;
- h. gives an opinion on the undertaking's reinsurance protection;
- i. works with the risk management division to ensure that the undertaking's risk management system as referred to in Art. 44 is efficient, especially with respect to the risk modelling underlying the calculation of the solvency capital requirements and own risk and solvency assessment.

The actuarial function shall be carried out by persons who have knowledge of actuarial and financial mathematics, commensurate with the nature, scale and complexity of the risks inherent in the business of the insurance undertaking, and who are able to demonstrate their relevant experience with applicable professional and other standards.

A life insurance undertaking that falls under the exemption provisions of this Act as provided for in paragraph 3 of Art. 3 shall ensure that an actuary or an expert with comparable knowledge undertakes the following duties for the undertaking:

1. to monitor compliance with the basis for calculation of premiums, premium reserves and bonus distributions;
2. to monitor compliance with established rules on determining the surrender value and the amounts of paid-up life insurance policies and health and sickness insurance operated on a technical basis.

The actuary of a life insurance undertaking as referred to in paragraph 3 may demand all data and information from the undertaking necessary for their work. The actuary may demand that a Board meeting be convened and shall have as a rule the right to be present and express an opinion at Board meetings. If the actuary disagrees with a decision of the Board, they have the right to have an opinion recorded in the minutes.

If the actuary of an insurance undertaking as referred to in paragraph 3 discovers through their work that the undertaking they work for does not comply with the established rules regarding the above matters, the actuary shall immediately notify this to the Financial Supervisory Authority. The Financial Supervisory Authority may require an actuary of a life insurance undertaking to provide the information necessary for the supervision of the undertaking's premium basis, life insurance provisions and financial position.

Only persons approved by the Financial Supervisory Authority may undertake the tasks referred to in paragraphs 3-5 for a life assurance undertaking.

## **Art. 49**

### *Outsourcing*

An insurance undertaking that outsources a function or part of its insurance operations is responsible for compliance with this Act.

Outsourcing of important tasks and key functions shall not result in:

- a. materially impairing the quality of the system of governance of the undertaking concerned;
- b. unduly increasing the operational risk;
- c. impairing the ability of the Financial Supervisory Authority to monitor the compliance of the undertaking with its obligations;

d. undermining continuous and satisfactory service to policy holders.

An insurance undertaking shall inform the Financial Supervisory Authority in advance of the outsourcing of important tasks and key functions, as well as of changes that occur in that outsourcing.

[The Central Bank of Iceland]<sup>1)</sup> shall set rules on the conditions for outsourcing, in particular to third country service providers, based on the implementing technical standards of the European Insurance and [Occupational Pensions Authority].<sup>2)</sup>

<sup>1)</sup>Act no. 91/2019, Art. 120. <sup>2)</sup>Act no. 36/2018, Art. 5.

## **Art. 50**

### *Regulation*

The Minister shall issue a regulation<sup>1)</sup> detailing further requirements for:

- a. risk management, in particular as regards asset and liability management and the investment policy of an insurance undertaking,
- b. governance,
- c. internal control,
- d. internal audit,
- e. the actuarial function.

[The Central Bank of Iceland]<sup>2)</sup> shall set rules<sup>3)</sup> on the suitability requirements for the Board of Directors, [the managing director]<sup>4)</sup> and those persons who are responsible for key functions as referred to in Art. 41, and the conditions for outsourcing, in particular to third country service providers, based on the implementing technical standards of the European Insurance and [Occupational Pensions Authority].<sup>5)</sup>

[The Central Bank of Iceland]<sup>2)</sup> shall set rules on the assessment of the insurance undertaking's total solvency capital requirement in its own risk and solvency assessment referred to in point 1 of paragraph 1 of Art. 45, based on the implementing technical standards of the European Insurance and [Occupational Pensions Authority].<sup>5)</sup>

<sup>1)</sup>Reg. 1077/2017. Reg. 55/2022. <sup>2)</sup>Act no. 91/2019, Art. 120. <sup>3)</sup>Reg. 285/2018. <sup>4)</sup>Act no. 82/2021, Art. 14. <sup>5)</sup>Act no. 36/2018, Art. 5.

## **Art. 51**

### *Bonuses and severance agreements*

An insurance undertaking may provide bonuses or incentive payments. Decisions on bonuses shall take into account the insurance undertaking's overall income over the longer term, its underlying risk and cost of capital. The total bonus granted to an employee, on an annual basis, may not exceed 25% of the person's annual salary without a bonus.

The Minister shall issue a regulation on the remuneration policy of an insurance undertaking providing for the details of bonuses and incentive payments.

Severance agreements may be concluded if the undertaking's operations have returned a profit over the past three consecutive years. A severance agreement within the meaning of this Article refers to any type of agreement made between a [managing director]<sup>1)</sup> or employee responsible for a key function, on the one hand, and an insurance undertaking, on the other hand, which may confer upon persons ending their employment benefits or rights in excess of traditional wage payments during a period of notice. Such agreements shall be in the form of direct wage payments and shall not last longer than 12 months after termination of employment.

Severance agreements shall be accounted for specifically in notes to the annual financial statements. Further provisions on the conditions for and implementation of severance agreements may be laid down by the Minister in a regulation.

<sup>1)</sup>Act no. 82/2021, Art. 15.

## **Art. 52**

### *Restrictions on dividends*

Only profit, as indicated by the approved annual financial statements for the last financial year, profit brought forward from previous years and free reserves, net of any losses not offset, and other retained earnings, may be distributed as dividends, provided that the undertaking clearly satisfies its solvency capital requirement and minimum capital requirement.

## **CHAPTER IX**

### **Public disclosure**

## **Art. 53**

### *Annual Financial Statements*

An insurance undertaking's accounting year shall be the calendar year. The annual financial statements must present a clear picture of the financial position and operating performance of the insurance undertaking and must be prepared in accordance with International Financial Reporting Standards, cf. Chapter VIII of the Act on Annual Financial Statements.

The annual financial statements, together with the report of the Board of Directors, shall be accessible to the public, for example on the undertaking's website.

The Financial Supervisory Authority shall monitor that any information not standardised in accordance with International Financial Reporting Standards is presented in a harmonised manner.

## **Art. 54**

### *Report on solvency and financial position*

An insurance undertaking shall, no later than 14 weeks after the end of the financial year, publish a report on solvency and financial position. The report shall include a description of:

1. the activities and performance of the insurance undertaking;
2. the undertaking's system of governance and its adequacy for the risk profile of the undertaking;
3. risk exposure, concentration, mitigation and sensitivity for each category of risk separately;
4. the bases and methods used for the valuation of assets, technical provisions and other liabilities, together with an explanation of deviations from their valuation in financial statements, if applicable;
5. capital management, including at least a discussion of:
  - a. the structure, amount and quality of own-fund items;
  - b. the amounts of the solvency capital requirement and of the minimum capital requirement;
  - c. if applicable, an explanation of the differences between the underlying assumptions of the standard formula and those of the internal model;
  - d. if applicable, the amount of any non-compliance with the minimum capital requirement during the reporting period, even if it had been resolved, with an explanation of its origin and consequences as well as any remedial measures taken. The same applies to significant deviations from the solvency capital requirement during the reporting period.

The description referred to in point 5 of paragraph 5 shall include an analysis of any significant changes from the previous reporting period and an explanation of any major differences in comparison with financial statements. It shall also give an account of how capital can be transferred to or from the undertaking and within the undertaking. The information on the solvency capital requirement referred to in subparagraph d of point 5 of paragraph 1 shall make a distinction between the solvency capital requirement, as assessed pursuant to Chapter XVI, and the capital add-on provided for in Art. 32 and the impact of any specific parameters the insurance undertaking is required to use by the Financial Supervisory Authority pursuant to Art. 102. It shall include a reservation, where applicable, explaining that the final amount of the solvency capital requirement is still subject to confirmation by the Financial Supervisory Authority, cf. provisions of Chapter XVI on the Authority's involvement in determining the solvency capital requirement.

## **Art. 55**

### *Report on solvency and financial position: exemption provisions and reference to public disclosure of information*

The Financial Supervisory Authority may grant an insurance undertaking an exemption from publishing information in the report provided for in Art. 54 if competitors would gain unfair advantage from the disclosure or if the undertaking has obligations to policyholders or other counterparties concerning secrecy and confidentiality. The insurance undertaking must state the reason for the exemption in the report.

An insurance undertaking is authorised to use or refer to information that is made public on the basis of a statutory obligation, provided that the information is equivalent to the minimum requirements under paragraph 1 of Art. 54.

The provisions of paragraph 1 do not apply to information made public under point 5 of paragraph 1 of Art. 54.

## **Art. 56**

### *Report on solvency and financial position: updates and additional voluntary information*

In the event of any major developments significantly affecting information made public, insurance undertakings shall disclose appropriate information on the nature and effects of those major developments. At least the following shall be regarded as major developments:

1. The insurance undertaking does not comply with the requirements for minimum capital and the Financial Supervisory Authority does not expect the undertaking will be able to submit a realistic financing plan or does not receive such a plan within a month.
2. There is significant non-compliance with the solvency capital requirement and the Financial Supervisory Authority does not receive a realistic recovery plan within two months.

With regard to point 1 of paragraph 1, the Financial Supervisory Authority shall require the undertaking concerned to make public immediately the amount of non-compliance, together with an explanation of the origin and consequences of non-compliance with the minimum capital requirement, including any remedial measures taken. If, in spite of a financing plan initially considered to be realistic, non-compliance with the minimum capital requirement has not been resolved within three months, it shall be disclosed publicly before the end of that period, together with an explanation of the origin and consequences including any remedial measures planned.

With regard to point 2 of paragraph 1, the Financial Supervisory Authority shall require the undertaking concerned to make public immediately the amount of non-compliance, together with an explanation of its origin and consequences of non-compliance with the solvency capital requirement, including any remedial measures taken. If, in spite of a recovery plan initially considered to be realistic, non-compliance with the solvency capital requirement has not been resolved within six months, it shall be disclosed publicly at the end of that period, together with an explanation of its origin and consequences including any remedial measures planned.

The insurance undertaking may publish in the report, on a voluntary basis, further information and explanations regarding solvency and financial position in addition to the requirements of this provision.

## **Art. 57**

### *Report on solvency and financial position: policy and approval by the Board*

An insurance undertaking shall have in place systems and structures to provide a satisfactory report on solvency and financial position. The undertaking must also have a written policy that ensures that the information in the report is correct at all times.

The report on solvency and financial position shall be subject to approval by the Board of Directors of the insurance undertaking prior to publication.

The Minister shall issue a regulation<sup>1)</sup> further specifying what information is to be included in the report on solvency and financial position and what deadlines apply to the publication of the report.

[The Central Bank of Iceland]<sup>2)</sup> shall set rules<sup>3)</sup> on the processes of insurance undertakings in reporting on solvency and financial position and what form the report shall take, based on the implementing technical standards of the European Insurance and [Occupational Pensions Authority].<sup>4)</sup>

<sup>1)</sup>Reg. 55/2022. <sup>2)</sup>Act no. 91/2019, Art. 120. <sup>3)</sup>Reg. 1115/2021. <sup>4)</sup>Act no. 36/2018, Art. 5.

## CHAPTER IX

### Qualifying holdings. Shareholdings. Lending

#### Art. 58

##### *Notification to the Financial Supervisory Authority*

A party that intends to acquire, alone or acting in concert with others, a qualifying holding in an insurance undertaking with an operating licence issued in Iceland must notify the Financial Supervisory Authority in advance of its plans. The same applies if a party, alone or in concert with others, intends to increase its holding to such extent that a qualifying holding would reach or exceed 20%, 30% or 50% or would amount to such a large holding that the insurance undertaking would be considered its subsidiary.

The acquisition of a qualifying holding cannot be carried out until the deadline allowed by the Financial Supervisory Authority under the first sentence of paragraph 2 of Art. 59, cf. Art. 60, has passed or the Financial Supervisory Authority has notified the party intending to acquire or increase a qualifying holding that it is eligible to exercise the holding.

The written notification to the Financial Supervisory Authority must include the following information:

1. the name and address of the party intending to acquire or increase a qualifying holding;
2. the name of the insurance undertaking in which investment is planned;
3. the size of the holding or voting rights which is the target of the investment;
4. plans for changes in the pursuits of the insurance undertaking;
5. financing of the investment;
6. the financial situation of the party intending to acquire or increase a qualifying holding;
7. the proposed business relationship of the party intending to acquire or increase a qualifying holding with the insurance undertaking in question;
8. the experience of the party intending to acquire or increase a qualifying holding in insurance and financial activities;
9. the ownership, service as director or other participation by the party intending to acquire or increase a qualifying holding in the activities of a legal entity;
10. any criminal sanctions judicially imposed on the party intending to acquire or increase a qualifying holding, and whether the party concerned is subject to criminal investigation;
11. any close links of the party intending to acquire or increase a qualifying holding with other legal entities;
12. Other information that the Financial Supervisory Authority deems necessary and makes public disclosure of.

[Voting rights shall be determined in accordance with Chapter III of the Act on the Disclosure Obligation of Issuers of Securities and Notification of Major Holding. However, voting rights shall not include shares or voting rights which an investment firm or credit institution holds in connection with the underwriting of financial instruments and/or an offering of financial instruments as provided for in [subparagraph f of point [16]<sup>3)</sup> of paragraph 1 of Art. 4 of the Act on Markets in Financial Instruments],<sup>1)</sup> provided that these rights are not exercised or used in any other manner to intervene in the management of the issuer of the financial instruments and that they are disposed of within one year of acquisition.]<sup>2)</sup>

<sup>1)</sup>Act no. 115/2021, Art. 148. <sup>2)</sup>Act no. 82/2021, Art. 16. <sup>3)</sup>Act no. 50/2022, Art. 26.

## **Art. 59**

### *Assessment and notification by the Financial Supervisory Authority*

Should the Financial Supervisory Authority consider a party intending to acquire or increase a qualifying holding to be suitable to exercise the holding, the party concerned must be so notified, giving grounds for the conclusion. Should the Financial Supervisory Authority consider the suitability of the party intending to acquire or increase a qualifying holding to be in doubt, it may, however, set conditions for not rejecting the investment in question, including that the party concerned take measures to limit any detrimental influence of its ownership; that the exercise of the holding be delegated to a special holding company not handling any other business, or that the party appoint as its representatives on the Board of Directors individuals assessed as suitable by the Financial Supervisory Authority. These conditions shall be set out in the Financial Supervisory Authority's confirmation to the party intending to acquire or increase a qualifying holding that the Financial Supervisory Authority does not oppose the planned investment.

The Financial Supervisory Authority's decision shall be in writing and shall be communicated to the party intending to acquire or increase a qualifying holding not later than two business days after the decision became available. If the Financial Supervisory Authority's decision is not available within the time limit provided for in Art. 60, it shall be assumed that the Authority has no objections to the plans of the party intending to acquire or increase a qualifying holding in the insurance undertaking in question. If the Financial Supervisory Authority sets conditions for the party intending to acquire or increase a qualifying holding to exercise the holding, indicated in a notification addressed to the party, the party must confirm that it will fulfil the Authority's conditions.

If a party intending to acquire or increase a qualifying holding has not undertaken the investments notified to the Financial Supervisory Authority within six months from the time that the latter's conclusion was made available, such party shall notify the Authority once more of its proposed investment. The provisions of Articles 58, 60 and 61 shall apply to that notification and the Financial Supervisory Authority's response to it.

If the party intending to acquire or increase a qualifying holding is an insurance undertaking or a financial undertaking holding an operating licence in another Member State, or is the parent undertaking of such party or a natural or legal person exercising control over such party, and if the undertaking in which this party intends to acquire a qualifying holding would become its subsidiary or come under its control following the acquisition of this holding, the Financial Supervisory Authority shall consult with the appropriate supervisory authorities before making its decision known.

A party exercising a qualifying holding must at all times be considered qualified to own a qualifying holding in an insurance undertaking. If there are any changes to the information provided for in Art. 58 which could affect the assessment of the Financial Supervisory Authority under Art. 61, the Financial Supervisory Authority is authorised to re-examine the party's suitability to exercise a qualifying holding in an insurance undertaking.

## **Art. 60**

### *Confirmation by the Financial Supervisory Authority*

No later than two working days after receipt of a notification as provided for in Art. 58, the Financial Supervisory Authority must confirm its receipt. The confirmation shall state the date by which the conclusion of the Financial Supervisory Authority can be expected. If the Financial Supervisory Authority is of the opinion that more detailed information needs to be obtained than is listed in paragraph 3 of Art. 58 from a party intending to acquire or increase a qualifying holding, it may request such information from the party in question. Such a request must be made no later than fifty working days after confirmation of the notification and shall specify the information requested. The Financial Supervisory Authority has sixty working days from the confirmation of the notification referred to in the first sentence to assess whether it considers the party intending to acquire or increase a qualifying holding eligible to exercise the holding. If additional information is requested from the party in question,



as provided for in the third sentence, a waiting period for information is added to the number of days provided for in the fifth sentence of a maximum of twenty working days, however.

The Financial Supervisory Authority may repeat its request for additional information. Such a request does not lengthen the above mentioned time limits. If the party intending to acquire or increase a qualifying holding is located outside a Member State or is not subject to official financial supervision in a Member State, a waiting period for information is added to the number of days provided for in the fifth sentence of paragraph 1, to a maximum of thirty working days, however.

If the party intending to acquire or increase a qualifying holding is a legal entity, the information provided for in paragraph 3 of Art. 58 shall apply to the legal entity itself, its board members, [managing director]<sup>1)</sup> and those individuals and legal entities who own a qualifying holding in the legal entity. Information on the auditor of the legal entity shall then also be provided. This information shall be supported by documentation as appropriate.

The Financial Supervisory Authority may grant exemptions from provision of information pursuant to paragraph 3 of Art. 58 if the legal entity is unable to obtain it or if the party intending to acquire or increase a qualifying holding is subject to official financial supervision in another state and comparable information can be obtained from the supervisory authority of that state.

[[The Central Bank of Iceland]<sup>2)</sup> may set rules based on the implementing technical standards of the European Insurance and Occupational Pensions Authority with exhaustive information on what should be stated in a notification of the proposed acquisition or increase of a qualifying holding.

[The Central Bank of Iceland]<sup>2)</sup> shall set rules based on the implementing technical standards of the European Insurance and Occupational Pensions Authority, which further specify the factors that must be considered when assessing eligibility pursuant to Art. 61.]<sup>3)</sup>

<sup>1)</sup>Act no. 82/2021, Art. 17. <sup>2)</sup>Act no. 91/2019, Art. 120. <sup>3)</sup>Act no. 36/2018, Art. 9.

## **Art. 61**

### *Criteria*

The Financial Supervisory Authority shall assess whether the party intending to acquire or increase a qualifying holding is suitable to own the holding in consideration of the sound and prudent operation of an insurance undertaking. In assessing the party's suitability, the following shall be considered:

1. the reputation of the party intending to acquire or increase a qualifying holding;
2. the reputation and experience of the person who will direct the business of the insurance undertaking as a result of the proposed acquisition or increase;
3. the financial soundness of the party intending to acquire or increase a qualifying holding in an insurance undertaking, in particular having regard to the type of operations the undertaking pursues;
4. whether the ownership of the party intending to acquire or increase a qualifying holding creates a risk of conflicts of interest in the financial market;
5. the size of the holding or voting rights in which the party intending to acquire or increase a qualifying holding intends to invest;
6. whether the ownership of the party intending to acquire or increase a qualifying holding can be expected to render supervision of the insurance undertaking in question difficult. In making this assessment, consideration shall be given, among other things, to any previous dealings of the party intending to acquire or increase a qualifying holding with the Financial Supervisory Authority or other public authorities; to whether any close links between the party intending to acquire or increase a qualifying holding and individuals or legal entities may, in the opinion of the Financial Supervisory Authority, impede its normal supervisory actions, and whether laws and regulations that apply to the party intending to acquire or increase a qualifying holding impede normal supervision;
7. whether there are grounds to suspect that ownership by the party intending to acquire or increase a qualifying holding could lead to money laundering or terrorist financing, or that it

could increase the likelihood of such conduct being tolerated within the insurance undertaking in question;

8. whether the party intending to acquire or increase a qualifying holding has provided the Financial Supervisory Authority with the information requested, along with accompanying documentation, and whether such information has proved correct.

#### **Art. 62**

##### *Party fails to send notification*

If a party intending to acquire or increase a qualifying holding fails to notify the Financial Supervisory Authority of its proposed acquisition or increase of a qualifying holding, despite the requirement to do so pursuant to Art. 58, the voting rights attached to the shares exceeding its previous holding shall be cancelled. The Financial Supervisory Authority may require the party concerned to submit a notification as provided for in Art. 58. In other respects, the procedure shall comply with Articles 59-61. If the Financial Supervisory Authority does not object to the acquisition or increase in qualifying holding by the party in question, the party shall acquire voting rights in proportion to its holding. If notification from the party in question is not received within four weeks from the time that the Financial Supervisory Authority requested notification the Authority may require such party to sell that part of its holding which exceeds its previous holding. The Financial Supervisory Authority shall set a deadline for so doing, with this time limit being at least two months. If the holding has not been sold by the specified time, the Financial Supervisory Authority may apply per diem fines in accordance with the Act on Official Supervision of Financial Activities.

#### **Art. 63**

##### *Acquisition by an incompetent party*

If a party acquires or increases a qualifying holding despite the conclusion of the Financial Supervisory Authority that he is not suitable to acquire or increase his holding, the voting rights of the party in excess of the minimum holding constituting a qualifying holding shall be cancelled. The party concerned must sell that part of the holding which exceeds the authorised limit and which was the subject of the Financial Supervisory Authority's decision. The Financial Supervisory Authority shall set a deadline for so doing, with this time limit being at least two months. If the holding has not been sold by the specified time, the Financial Supervisory Authority may apply per diem fines in accordance with the Act on Official Supervision of Financial Activities. The party shall regain its previous voting rights after the sale.

#### **Art. 64**

##### *Owner's notice of transfer of ownership.*

Should the owner of a qualifying holding intend to reduce his shareholding or voting rights to such an extent that he will no longer own a qualifying holding, the owner shall notify the Financial Supervisory Authority in advance, indicating what his holding will become. Should the holding fall below 20%, 30%, 50%, or decrease to the extent where the insurance undertaking ceases to be a subsidiary of the party concerned, notification thereof must also be given. The same applies if the proportional holding or voting rights decrease due to an increase in share capital.

#### **Art. 65**

##### *Notice of transfer of ownership by an insurance undertaking*

When an insurance undertaking receives notification of a transfer of shares in the undertaking, causing the shareholding to exceed or fall below the limits specified in Art. 58, its Board of Directors shall notify the Financial Supervisory Authority thereof without undue delay.

#### **Art. 66**

##### *Disclosure obligations and ongoing assessment of suitability of owners of qualifying holdings*

The Financial Supervisory Authority may require documentation and information of any type from individuals or legal entities owning or exercising holdings in an insurance undertaking in order to assess their suitability to exercise a qualifying holding pursuant to this Chapter. The Financial Supervisory Authority may require the same information from individuals or legal entities who have sold a holding or served as an intermediary in transactions with holdings. Statutory provisions on confidentiality do not limit the obligation to provide information and access to data.

At least once a year, an insurance undertaking must notify the Financial Supervisory Authority of shareholders who have qualifying holdings in the undertaking and of the shareholdings of each of them.

If an individual or legal entity is no longer considered suitable to exercise a qualifying holding, a reasonable period of time may be granted for rectification, if this is possible in the opinion of the Financial Supervisory Authority. If rectification is not effected or the time limit granted by the Financial Supervisory Authority provided for in the first sentence has elapsed, the party is obliged to sell its holding, cf. Art. 63.

#### **Art. 67**

##### *Beneficial owner*

If, in the opinion of the Financial Supervisory Authority, there is doubt as to who is, or will be, the beneficial owner of a qualifying holding, it shall notify the party in question and the insurance undertaking that it does not consider the party in question to be qualified to exercise the holding.

#### **Art. 68**

##### *Measures relating to a qualifying holding*

If the situation of a party owning a qualifying holding in an insurance undertaking, or its exercise of that holding, prove detrimental to the undertaking's sound and proper operation, in the estimation of the Financial Supervisory Authority, the Authority shall take appropriate measures to prevent this. Appropriate measures could include deciding that a holding does not convey voting rights; instructing the insurance undertaking concerned to take measures to reduce the shareholder's detrimental influence, such as an injunction; or instructing the Board of the insurance undertaking concerned to convene a shareholders' meeting where the shareholder's conduct shall be discussed. A representative of the Financial Supervisory Authority shall be authorised to attend and address such a meeting.

In assessing whether to take measures as provided for in paragraph 1, regard shall be had for those aspects listed in Art. 61. In addition, special consideration shall be given to whether the situation or conduct of the party in question is likely to undermine public trust in the insurance undertaking in question if it becomes publicly known.

The Financial Supervisory Authority may simultaneously take more than one of the measures referred to in paragraph 1.

If the Financial Supervisory Authority deems that close links impede supervision of the activities of an insurance undertaking, it shall request that the links be severed immediately, unless it deems other measures sufficient.

#### **Art. 69**

##### *Shares. Lending*

An insurance undertaking itself may never own more than 10% of its own share capital. Shares owned by the insurance undertaking do not convey voting rights.

An insurance undertaking may not grant loans secured by shares or bonds it has issued. The same applies to other contracts where the underlying exposure is to own shares.

If new shares issued through an increase in share capital may be paid for through debt set-off or by means other than cash payment, the rules pertaining thereto must be laid down in the decision by the shareholders' meeting on the increase; the provisions of Art. 14 shall apply as applicable. A decision to

allow payment of new shares with a debt set-off must be approved by the Financial Supervisory Authority.

All decisions to reduce an insurance undertaking's share capital shall be notified in advance to the Financial Supervisory Authority. [The Financial Supervisory Authority must approve in advance decisions that result in a reduction to the own-fund items of an insurance undertaking, including share buy-back programmes.]<sup>1)</sup>

<sup>1)</sup>Act no. 36/2018, Art. 10.

## CHAPTER XI

### **Auditing**

#### **Art. 70**

##### *Auditing*

The annual financial statements of an insurance undertaking must be audited by an auditor. The Annual General Meeting shall elect auditors or an auditing firm in accordance with the undertaking's Articles of Association. If an insurance undertaking is part of a group of undertakings, the entire group shall have the same auditor. In the case of an undertaking of the type referred to in paragraph 2 of Art. 2, the Financial Supervisory Authority may require at least one auditor to be shared by all the undertakings. [...] <sup>2)</sup>

An auditor may not serve as a director, be an employee of an insurance undertaking or carry out work other than auditing on its behalf. [...] <sup>2)</sup>

The undertaking's auditors have the right to attend board and shareholders' meetings of the insurance undertaking and are obliged to attend its annual general meeting.

[...] <sup>1)</sup>

<sup>1)</sup>Act no. 94/2019, Art. 56.

<sup>2)</sup> Act no. 38/2022, Art. 164.

#### **Art. 71**

##### *Auditor's disclosure and notification obligations*

An insurance undertaking's auditors must provide the Financial Supervisory Authority with such information on the conduct and conclusions of audits as it may request

They are also obliged to alert the Financial Supervisory Authority without delay should they, in the course of their work for the undertaking or for those with whom the undertaking has close links, become aware of the following matters or decisions:

- a. significant breach of the legislation governing the undertaking's operations;
- b. issues that may be of decisive significance for the undertaking's continuing operations;
- c. refusal to endorse the undertaking's annual financial statements, or endorsement with reservations;
- d. failure to meet the solvency capital requirement or the minimum capital requirement.

The auditors are also obliged to provide the Financial Supervisory Authority with the information referred to in paragraphs 1 and 2 in connection with parties with whom the insurance undertaking has close links and which the auditors have become aware of in their work.

Information provided by an auditor to the Financial Supervisory Authority pursuant to the provisions of this Article shall not be considered a breach of statutory or contractual confidentiality.

## CHAPTER XII

### **Pursuit of life and non-life insurance activities**

#### **Art. 72**

##### *Separation of life and non-life insurance*

Life and non-life insurance activities may not be conducted simultaneously. However, a life insurance undertaking may be granted an operating licence for accident and sickness insurance. In addition, a non-life insurance undertaking that only operates in accident and health insurance may also be granted an operating licence in life insurance and is then considered a life insurance undertaking

under this Act. Care must be taken to ensure that the operation of life and non-life insurance activities is kept separate.

If a non-life insurance undertaking has financial, commercial or administrative links with a life insurance undertaking, it must be ensured that the finances of the undertakings concerned are not distorted by agreements between those undertakings or by other agreements which could affect the apportionment of expenses and income between them.

### **Art. 73**

#### *Separation of life and non-life insurance activities.*

The separation of life and non-life insurance activities referred to in Art. 72 shall be organised in such a way that the life insurance activities are kept separate from non-life insurance activities so that the interest of policy holders do not overlap. Profits from life insurance shall benefit life policy holders as if the life insurance undertaking only pursued the activity of life insurance.

In addition to the calculation of the solvency capital requirement as provided for in Art. 97 and the minimum capital as provided for in Art. 112, an insurance undertaking authorised to pursue life and non-life insurance as referred to in paragraph 1 of Art. 72 shall calculate the following:

1. a notional minimum capital requirement, calculated solely on the basis of that part of its activities considered to be life insurance;
2. a notional minimum capital requirement, calculated solely on the basis of that part of its activities considered non-life insurance.

The notional minimum capital requirement for life insurance activities referred to in point 1 of paragraph 2 cannot be satisfied through non-life insurance activities and vice versa.

If the minimum requirements under paragraph 2 are satisfied, any eligible own-fund items may be used to meet the solvency capital requirement referred to in Art. 97. The Financial Supervisory Authority shall be notified of such a measure.

When preparing annual financial statements and other results, care shall be taken to ensure that the results of life insurance operations, on the one hand, and non-life insurance operations, on the other, are kept separate. All income, in particular premiums, payments from reinsurers and investment income, shall be broken down according to origin. Expenditure, in particular claims and compensation payments, additions to technical provisions, reinsurance premiums and operating costs shall also be broken down according to origin. Items common to both aspects of activities shall be apportioned using methods approved by the Financial Supervisory Authority.

Insurance undertakings shall, on the basis of the results, explain how the eligible basic own-fund items cover the notional minimum capital requirement for life insurance activities, on the one hand, and for non-life insurance activities, on the other, as provided for in paragraph 2, cf. Chapter XV, on the classification of own-fund items.

If the amount of eligible basic own-fund items in one of the activities is insufficient to cover the minimum capital as referred to in paragraph 3, the provisions of Chapter XIX on special measures shall apply to that part of the activities regardless of the result in the other activity. For that purpose, an exemption may be granted from paragraph 3 providing an authorisation to transfer eligible basic own-fund items from one activity to the other.

## **CHAPTER XIII**

### **Balance sheet valuation**

#### **Art. 74**

#### *Valuation of assets and liabilities*

The assets and liabilities of an insurance undertaking shall be valued for assessing its solvency so that their value reflects a price which could be agreed upon between knowledgeable willing parties in an arm's length transaction;

The provisions of paragraph 1 shall also apply to groups.

The Minister shall issue a regulation<sup>1)</sup> further specifying the methods to be used in valuation of the assets and liabilities of an insurance undertaking and of groups.

<sup>1)</sup>Reg. 55/2022.

## CHAPTER XIV Technical provisions

### Art. 75

#### *General provisions on financial obligations in connection with insurance contracts*

Insurance undertakings must evaluate their obligations arising from insurance contracts concluded. Such financial obligation is called technical provisions.

The value of technical provisions shall correspond to the amount an insurance undertaking would currently have to pay if were to transfer its insurance obligations at short notice to another insurance undertaking.

The calculation of technical provisions shall make use of and be consistent with information provided by financial markets and generally available data on underwriting risks

Technical provisions shall be calculated in a prudent, reliable and objective manner.

### Art. 76

#### *Calculation of technical provisions.*

Technical provisions shall be equal to the sum of a best estimate of liabilities and a risk margin.

The best estimate shall correspond to the probability-weighted average of future cash-flows, taking account of the expected present value of future cash-flows, using the relevant risk-free interest rate term structure.

The calculation of the best estimate of liabilities shall be based on up-to-date and reliable information and realistic assumptions and be performed using applicable and relevant actuarial and statistical methods.

The cash-flow projection used in the calculation of the best estimate of liabilities shall take account of all the cash in- and out-flows required to settle obligations of insurance contracts.

The best estimate of technical provisions shall be calculated excluding amounts recoverable from reinsurance contracts and contracts with special purpose vehicles. The impact of those contracts shall be calculated separately, as provided for in Art. 82.

The risk margin shall be the amount that, together with the best estimate, is intended to ensure that the technical provisions are equivalent to the amount that other insurance undertakings would be expected to require in order to take over and meet the undertaking's obligations which its technical provisions are intended to cover.

Insurance undertakings shall value the best estimate and the risk margin separately.

Where insurance obligations that technical provisions are to cover can be replicated using financial instruments for which a reliable market value is observable, the value of technical provisions associated with those future cash flows shall be determined on the basis of the market value of those financial instruments. In this case, the best estimate and the risk margin need not be kept separate in the calculation of technical provisions.

The risk margin shall be calculated as the cost of providing own funds equivalent to the solvency capital requirement necessary to support the insurance obligations over their lifetime.

The interest rate used in assessing the cost of capital to provide eligible own-funds items to cover the amount referred to in paragraph 6 shall be the same for all insurance undertakings.

### Art. 77

#### *Calculation of risk-free interest rate term structure*

The determination of the risk-free interest rate term structure referred to in paragraph 2 of Art. 76 shall make use of information on relevant financial instruments with maturities over the specified time

on deep, liquid and transparent markets. When such information is not available, the risk-free interest rate time structure shall be determined by interpolation or extrapolation.

The extrapolated part of the interest rate term structure shall be based on information extending to the longest maturities in a deep, liquid and transparent market. This interest rate path shall be extrapolated to the ultimate forward rate.

#### **Art. 78**

##### *Data for valuation of technical provisions*

[[The Central Bank of Iceland]<sup>1)</sup> shall set rules<sup>2)</sup> which provide information on a risk-free interest rate term structure for the relevant currencies in order to calculate the best estimate of technical provisions for quarterly data reporting. In setting the rules, ...<sup>3)</sup> reference may be made to the publication of implementing regulations containing this information in the *Official Journal of the European Union* in English.

The Financial Supervisory Authority shall publish the information referred to in paragraph 1 on its website.]<sup>4)</sup>

<sup>1)</sup>Act no. 91/2019, Art. 120. <sup>2)</sup>Reg. 480/2019. Reg. 767/2019. Reg. 1363/2019. Reg. 322/2020. Reg. 860/2020. Reg. 964/2020. Reg. 1501/2021. <sup>3)</sup>Act no. 91/2019, Art. 121. <sup>4)</sup>Act no. 26/2019, Art. 1.

#### **Art. 79**

##### *Other aspects concerning valuation of technical provisions*

In addition to those aspects mentioned in Art. 76, an insurance undertaking shall take the following into account in valuation of technical provisions:

1. all expenses incurred due to the administration of insurance obligations;
2. inflation, including changes in settlement costs and claims payments;
3. all payments to policy holders and beneficiaries, including discretionary bonuses, which insurance and reinsurance undertakings expect to make, whether or not those payments are contractually guaranteed.

#### **Art. 80**

##### *Valuation of financial guarantees and contractual options in insurance contracts*

In calculating technical provisions, insurance undertakings shall take account of the value of financial guarantees and any contractual options in insurance contracts.

Any assumptions made with respect to the likelihood that policy holders will exercise contractual options, including termination and surrender, shall be realistic and based on experience and credible information. Such assumptions shall take account of the impact that eventual changes in financial and non-financial conditions may have on the exercise of those options.

#### **Art. 81**

##### *Segmentation*

Insurance undertakings shall segment their insurance obligations into homogeneous risk groups when calculating their technical provisions.

#### **Art. 82**

##### *Recoverable from reinsurance contracts and special purpose vehicles*

The valuation by insurance undertakings of amounts recoverable from reinsurance contracts and special purpose vehicles shall comply with Articles 75 to 81.

The valuation shall consider the difference between the time a recovery arises and the time of its payment.

The result shall be adjusted to take account of potential losses due to the default of the counterparty. That adjustment shall be based on probability of counterparty default and the expected loss resulting (loss-given-default).

### **Art. 83**

#### *Data reliability and approximations for valuation of technical provisions*

Insurance undertakings must have internal processes and procedures in place to ensure the appropriateness, completeness and accuracy of the data used in the valuation of their technical provisions.

If, in specific circumstances, insurance undertakings have insufficient data to apply reliable actuarial methods to a part of their insurance obligations or amounts recoverable from reinsurance contracts and special purpose vehicles, approximations, including case-by-case approaches, may be used in the calculation of the best estimate.

### **Art. 84**

#### *Comparison against experience*

Insurance undertakings shall have processes and procedures in place to ensure that best estimates, and the assumptions underlying the calculation of best estimates, are regularly compared against experience.

Where there is a systematic deviation between experience and the best estimate calculations of the insurance undertaking, appropriate adjustments must be made to the actuarial methods used and/or the assumptions made.

### **Art. 85**

#### *Supervision of technical provisions*

Insurance undertakings must be able to demonstrate to the Financial Supervisory Authority the appropriateness of their determination of their technical provisions, as well as the applicability and relevance of the methods applied, and the adequacy of the underlying statistical data used.

### **Art. 86**

#### *Increase of technical provisions.*

If an insurance undertaking's calculation of its technical provisions does not comply with Articles 75 to 84, the Financial Supervisory Authority may require it to increase its technical provisions to comply with the requirements.

### **Art. 87**

#### *Regulation*

The Minister shall issue a regulation<sup>1)</sup> detailing further requirements for:

1. actuarial and statistical methodologies to calculate the best estimate referred to in paragraph 2 of Art. 76;
2. [methods used for calculating a risk-free interest rate term structure to determine the present valuation of the best estimate of technical provisions, as provided for in paragraph 2 of Art. 76, including the conditions for using adjustment of the risk-free interest rate term structure due to harmonisation, the calculation of the adjustment due to harmonisation and the adjustment of the risk-free interest rate term structure due to volatility;<sup>2)3)</sup>
3. the circumstances in which the best estimate and risk margin need not be calculated separately and what methods should be used in such cases;
4. the methods and assumptions to be used in the calculation of the risk margin, including what eligible own-fund items can cover insurance obligations and the determination of the cost-of-capital rate;
5. the classes of insurance into which insurance obligations are segmented in calculating technical provisions, as referred to in Art. 81;
6. the standards to be met with respect to ensuring the appropriateness, completeness and accuracy of the data used in the calculation of technical provisions, and the specific



- circumstances in which it would be authorised to use approximations, including case-by-case approaches;
7. methods of calculating counterparty risk in valuation of recoverable from reinsurers and special purpose vehicles, as referred to in Art. 82;
  8. where necessary, simplified methods and techniques to calculate technical provisions, in order to ensure the actuarial and statistical methods provided for in points 1 and 4 are proportionate to the nature, scale and complexity of the risks borne by insurance undertakings;
  - [9. the procedure to be followed for approval of an application for an adjustment due to harmonisation.]<sup>3)</sup>
- <sup>1)</sup>Reg. 55/2022. <sup>2)</sup>Reg. 1077/2017. <sup>3)</sup>Act no. 26/2019, Art. 2.

## CHAPTER XV

### Own funds

#### Art. 88

##### *Own funds*

An insurance undertaking's own funds shall comprise the sum of basic own funds, cf. Art. 89, and ancillary own funds, cf. Art. 90.

#### Art. 89

##### *Basic own funds*

Basic own funds are, firstly, those assets in excess of liabilities valued as provided for in Chapter XIII and technical provisions as provided for in Chapter XIV, and secondly subordinated liabilities.

The excess amount referred to in paragraph 1 shall be reduced by the own shares held by the insurance undertaking.

#### Art. 90

##### *Ancillary own funds*

Ancillary own funds shall consist of items other than basic own-fund items which can be used to cover losses

The following items can comprise ancillary own funds to the extent that they do not satisfy requirements to be considered basic own-fund items:

- a. unpaid share capital,
- b. letters of credit and guarantees,
- c. other legally binding commitments held by insurance undertakings.

If an ancillary own-fund item has been paid in or called up, it shall be treated as an asset and cease to form part of the undertakings ancillary own-funds.

The amount of ancillary own-fund items is subject to the approval of the Financial Supervisory Authority.

#### Art. 91

##### *Classification of own funds and characteristics*

Own funds are classified into three tiers. The classification depends upon whether they are basic own-fund items or ancillary own-fund items and the extent to which they possess the following characteristics:

1. the item is available, or can be called up on demand, to fully absorb losses both on a going-concern basis as well as in the case of winding-up (permanent availability);
2. in the case of winding-up, the total amount of the item is available to absorb losses and the repayment of the item is refused to its holder until all other obligations, including obligations towards policy holders and beneficiaries under insurance contracts, have been met (subordination).

In assessing whether own-fund items possess or will possess the characteristics set out in points 1 and 2 of paragraph 1, consideration shall be given to the duration of the item, in particular to whether the item has a specific end date. Where an own-fund item is dated, the relative duration of the item as compared to the duration of the insurance obligations of the undertaking shall be considered (sufficient duration). In addition, consideration shall be given to whether the own-fund item has:

- a. requirements or incentives to redeem the nominal sum (absence of incentives to redeem);
- b. mandatory fixed charges (absence of mandatory servicing costs);
- c. other encumbrances (absence of encumbrances).

#### **Art. 92**

##### *Main criteria for classification into tiers*

Basic own-fund items shall be classified in Tier 1 where they substantially possess the characteristics set out in points 1 and 2 of paragraph 1 of Art. 91, considering the characteristics specified in paragraph 2 of Art. 91.

Basic own-fund items shall be classified in Tier 2 when they substantially possess the characteristics set out in point 2 of paragraph 1 of Art. 91, considering the characteristics specified in the second paragraph of Art. 91.

Ancillary own-fund items shall be classified in Tier 2 where they substantially possess the characteristics set out in points 1 and 2 of paragraph 1 of Art. 91, considering the characteristics specified in the second paragraph of Art. 91.

All ancillary own-fund items which do not fall under paragraph 3 shall be classified in Tier 3.

In addition, the following shall apply to the classification of own funds:

1. Retained earnings of a life insurance undertaking that are considered equity shall be classified in Tier 1.
2. Letters of credit and guarantees which are held in trust for the benefit of insurance creditors by an independent trustee and are issued by a commercial bank, savings bank or credit institutions as defined in the Act on Financial Undertakings, shall be classified in Tier 2.

#### **Art. 93**

##### *Classification of own funds in tiers*

The Financial Supervisory Authority shall monitor that insurance undertakings classify own-fund items as provided for in Art. 92. For this purpose, an insurance undertaking shall, where applicable, refer to a list of own-fund items specified in a regulation issued by the Minister. If an own-fund item is not on that list, the insurance undertaking shall evaluate it and classify it as provided for in Art. 92. Such classification is subject to the approval of the Financial Supervisory Authority.

#### **Art. 94**

##### *Limits applicable to own-fund tiers*

Own-fund items eligible to satisfy the solvency capital requirement set out in Art. 96 shall be the sum of own-funds Tiers 1 to 3.

Own-fund items eligible to satisfy the minimum capital requirement set out in Art. 111 shall be the sum of Tier 1 and Tier 2.

#### **Art. 95**

##### *Regulation*

The Minister shall issue a regulation<sup>1)</sup> on the following aspects:

1. the criteria used by the Financial Supervisory Authority in assessing whether ancillary own-fund items may be used as provided for in Art. 90;
2. the treatment of holdings in financial undertakings in determining own funds, whether in the form of direct holdings or subordinated claims on financial undertakings;

3. the procedure that the Financial Supervisory Authority shall follow when processing applications for the use of own-fund items;
4. a list of eligible own-fund items meeting the requirements of Art. 92, where the criteria for classification are stated for each eligible own-fund item;
5. methods that the Financial Supervisory Authority shall use to approve the classification of own-fund items that are not on the list referred to in point 4;
6. a special adjustment of limits intended to reflect limited possibilities of transferring own-fund items that may only be used to cover losses arising from a specific segment of the undertaking's liabilities or due to a particular risk, i.e., ring-fenced funds;
7. limits on the use of Tier 2 and Tier 3 to satisfy solvency capital requirements and minimum capital requirements,

<sup>1)</sup>Reg. 55/2022.

## CHAPTER XVI

### **Solvency capital requirement**

#### **Art. 96**

##### *Solvency capital requirement General provisions*

Insurance undertakings must hold eligible own funds covering their solvency capital requirement. The solvency capital requirement shall be calculated, either in accordance with the standard formula or using an internal model, as provided for in this Chapter.

#### **Art. 97**

##### *Calculation of the solvency capital requirement*

The solvency capital requirement shall be calculated on the presumption that the undertaking is a going concern. The solvency capital requirement shall be a measure of all measurable risks of the insurance undertaking. The solvency capital requirement shall cover agreements already concluded as well as new insurance contracts expected to be written over the next 12 months. In calculations in connection with existing business the solvency capital requirement shall cover only unexpected losses. The solvency capital requirement shall correspond to the Value-at-Risk of the basic own funds of an insurance undertaking based on a confidence level of 99.5 % over a one-year period.

The solvency capital requirement shall cover at least the following risks:

- a. non-life underwriting risk,
- b. life underwriting risk,
- c. health underwriting risk,
- d. market risk,
- e. credit risk,
- f. operational risk.

Operational risk as referred to in point f of paragraph 2 shall include legal risk and exclude risks arising from strategic decisions, as well as reputational risk.

When calculating the solvency capital requirement, insurance undertakings shall take account of the effect of risk-mitigation techniques, provided that credit risk and other risks arising from the use of such techniques are properly reflected in the solvency capital requirement.

#### **Art. 98**

##### *Frequency of calculation of solvency capital requirement*

Insurance undertakings shall calculate the solvency capital requirement at least once a year and report the result to the Financial Supervisory Authority. The insurance undertaking's eligible own-fund items shall cover at least the last reported solvency capital requirement. Insurance undertakings shall monitor the amount of their eligible own-fund items and solvency capital requirement on an ongoing basis. If the risk profile of an insurance undertaking deviates significantly from the assumptions

underlying the last reported solvency capital requirement, the undertaking shall recalculate the solvency capital requirement without delay and notify this to the Financial Supervisory Authority.

If the Financial Supervisory Authority has evidence to suggest that the risk profile of an insurance undertaking has altered significantly since the date the solvency capital requirement was last reported, the Authority may require the undertaking concerned to recalculate its the solvency capital requirement.

#### **Art. 99**

##### *Structure of the standard formula*

The solvency capital requirement calculated on the basis of the standard formula shall be the sum of the following items:

- a. the basic solvency capital requirement as laid down in Art. 100;
- b. the solvency capital requirement for operational risk;
- c. the adjustment for the portion of technical provisions that can be used to cover losses and deferred taxes.

#### **Art. 100**

##### *Composition of the basic solvency capital requirement*

The basic solvency requirement shall be calculated based on risk modules covering at least non-life underwriting risk, life underwriting risk, health underwriting risk, market risk and counterparty risk.

The solvency capital requirement for each risk module shall be calculated separately. A Value-at-Risk measure with a 99.5% confidence level over a one-year period shall be used. When the solvency capital requirements of individual risk modules for a one-year period are added together consideration shall be given to the effects of diversification.

After obtaining the approval of the Financial Supervisory Authority, an insurance undertaking may use parameters that reflect its risk profile when calculating the solvency capital requirement for underwriting risk.

#### **Art. 101**

##### *Harmonised calculation assumptions of the standard formula*

[The Central Bank of Iceland]<sup>1)</sup> shall set rules<sup>2)</sup> on the correspondence between the credit assessments of external credit assessment institutions to credit quality steps based on the implementing technical standards of the European Insurance and Occupational Pensions Authority.<sup>3)</sup>

In order to ensure harmonised conditions for the application of the standard formula and to facilitate the calculation of the market risk module referred to in Art. 100, counterparty risk as referred to in Art. 100, [health underwriting risk as referred to in Art. 100],<sup>4)</sup> risk mitigation techniques as referred to in paragraph 4 of Art. 97 and the calculation of technical provisions, [the Central Bank of Iceland]<sup>1)</sup> may issue rules<sup>2)</sup> based on the implementing technical standards of the European Insurance and [Occupational Pensions Authority],<sup>3)</sup> including the following:

1. a list of regional governments and local authorities, the exposures of which are to be treated as similar to the central government because of specific revenue-raising powers and institutional arrangements which reduce the risk of default;
2. the equity index which is used for symmetrical adjustment when calculating equity risk;
3. provisions on pegging of currencies to the euro to clarify the calculation of currency risk;
- [4. standard deviations for premium and fund risk in connection with specified national legislative measures which permit the sharing of claims payments in respect of health underwriting risk amongst insurance and reinsurance undertakings.]<sup>4)</sup>

<sup>1)</sup>Act no. 91/2019, Art. 120. <sup>2)</sup>Reg. 1113/2021. Reg. 1500/2021. <sup>3)</sup>Act no. 36/2018, Art. 5. <sup>4)</sup>Act no. 82/2021, Art. 18.

## **Art. 102**

### *Significant deviations from assumptions of the standard formula*

Where it is inappropriate to calculate the solvency capital requirement using the standard formula because the risk profile of the insurance undertaking concerned deviates significantly from the assumptions underlying the standard formula calculation, the Financial Supervisory Authority may, stating its grounds, require the undertaking concerned to replace certain parameters in the standard formula with parameters specific to that undertaking when calculating underwriting risk, cf. paragraph 3 of Art. 100. These parameters shall be determined so as to ensure that the provisions of paragraph 1 of Art. 97 are satisfied.

## **Art. 103**

### *Regulation*

The Minister shall issue a regulation<sup>1)</sup> which further specifies the following aspects regarding the calculation of the solvency capital requirement using the standard formula:

1. the structure of the standard formula;
2. the sub-modules necessary to elaborate more precisely the risk modules listed in paragraph 1 of Art. 100, as well as how to update the calculation of risk modules and sub-modules;
3. the methods, assumptions and standard parameters used in the calculation of each of the risk modules and sub-modules of the basic solvency capital requirement;
4. the correlation parameters for risk factors and procedures for updating them;
5. methods and assumptions used to assess changes in the risk profile of the insurance undertaking when risk mitigation techniques are used and what effect this has on the solvency capital requirement;
6. methods and parameters used to assess counterparty risk in connection with exposures to qualifying central counterparties;
7. methods and parameters used to assess the solvency capital requirement in connection with operational risk;
8. methods and adjustments to be used to reflect the insurance undertaking's reduced scope for risk diversification relating to ring-fenced funds;
9. the method to be used when calculating the adjustment for the loss absorbing scope of technical provisions or deferred taxes;
10. parameters in the life, non-life and health underwriting risk modules of the standard formula that may be replaced by undertaking-specific parameters, as set out in paragraph 3 of Art. 100;
11. the standardised methods that an insurance undertaking is to use to calculate the undertaking-specific parameters referred to in point 10 and any criteria with respect to the completeness, accuracy and appropriateness of the data used that must be met before supervisory approval is given;
12. simplified calculations for specific risk modules and sub-modules, as well as the criteria that insurance undertakings, including captive insurance undertakings, shall be required to fulfil in order to be authorised to use such simplifications;
13. methods to be used for assessment of related undertakings, in particular when calculating the solvency capital requirement for the equity risk sub-module of market risk. Consideration shall be given to the likely reduction in the volatility of the value of those related undertakings arising from the strategic nature of those investments and the influence exercised by the insurance undertaking on the operation of the related undertaking;
14. how to use external credit assessments from external credit assessment institutions (ECAIs) in the calculation of the solvency capital requirement using the standard formula and how the assessment is converted to a scale of credit quality steps;
- [15. procedures to be followed for the application of the conversion measure for the sub-module equity risk based on duration.]<sup>2)</sup>

The Minister shall issue a regulation<sup>1)</sup> on the procedure to be followed for the approval of undertaking-specific parameters based on the implementing technical standards of the European Insurance and [Occupational Pensions Authority].<sup>3)</sup>

[The Central Bank of Iceland]<sup>4)</sup> shall set rules, specifying the limits of assets involving risks that are not sufficiently taken into account in the standard formula, which are based on the implementing technical standards of the European Insurance and [Occupational Pensions Authority].<sup>3)</sup>

<sup>1)</sup>Reg. 55/2022. <sup>2)</sup>Act no. 82/2021, Art. 19. <sup>3)</sup>Act no. 36/2018, Art. 5. <sup>4)</sup>Act no. 91/2019, Art. 120.

#### **Art. 104**

##### *General provisions for the approval of full and partial internal models*

In calculating the solvency capital requirement insurance undertakings may use a full or partial internal model approved by the Financial Supervisory Authority.

Insurance undertakings may use partial internal models in the calculation of one or more of the following:

- a. one or more risk modules, or sub-modules, of the basic solvency capital requirement;
- b. the solvency capital requirement for operational risk;
- c. adjustment due to the loss absorbing capacity of technical provisions or deferred taxes.

In addition, partial model may be applied to one or more major business units across risk modules.

The Financial Supervisory Authority shall authorise the use of an internal model and an application to do so shall be processed within six months of receipt of a valid application. An insurance undertaking's application can only be approved if its systems for identifying, measuring, monitoring, managing and recording risks are acceptable and its internal model meets the requirements for use, statistical quality, calibration, profit and loss distribution, confirmation and documentation. The Minister shall issue a regulation defining the requirements.

Despite having approved the use of an internal model, the Financial Supervisory Authority may require an insurance undertaking to estimate a solvency capital requirement in accordance with the standard formula.

#### **Art. 105**

##### *Specific provisions for the approval of partial internal models*

The Financial Supervisory Authority shall only grant approval for a partial internal model where that model fulfils the requirements set out in Art. 104 and the following additional conditions:

1. The undertaking can justify that the scope of the model is limited.
2. The resulting solvency capital requirement reflects more appropriately the risk profile of the undertaking than the standard formula:
3. Its design is consistent with the principles for solvency capital requirement set out in Articles 99-101, so that the partial internal model will be fully compatible with the standard formula.

#### **Art. 106**

##### *Role of the Board of Directors in connection with an internal model*

The Board of an insurance undertaking decides whether to send an application to the Financial Supervisory Authority to use an internal model, as provided for in Art. 104. The same applies to applications for approval of major changes to the model.

The Board is responsible for implementing systems that ensure that the internal models always work satisfactorily.

#### **Art. 107**

##### *Reversion to the standard formula*

After having received approval to use its own model for calculating the solvency capital requirement, as provided for in Art. 104, an insurance undertaking may not revert to calculating its

solvency capital requirement, in part nor in full, using the standard formula, unless grounds are given for so doing and this is approved by the Financial Supervisory Authority.

#### **Art. 108**

##### *Non-compliance of the internal model*

If, after having received approval from the Financial Supervisory Authority to use an internal model, an insurance undertaking ceases to comply with the requirements concerning it, it must present to the Financial Supervisory Authority a plan showing that the requirements will be met within a reasonable period of time or provide information showing that the effect due to non-compliance is immaterial.

If the insurance undertaking fails to fulfil the conditions of paragraph 1 the Financial Supervisory Authority may require it to calculate the solvency capital requirement in accordance with the standard formula.

#### **Art. 109**

##### *Significant deviations from assumptions of the standard formula*

Where it is inappropriate to calculate the solvency capital requirement using the standard formula because the risk profile of the insurance undertaking concerned deviates significantly from the assumptions underlying the standard formula, the Financial Supervisory Authority may, stating its grounds, require the undertaking in question to use its internal model for calculating the solvency capital requirement as a whole or for specified risk modules.

#### **Art. 110**

##### *Regulation*

The Minister shall issue a regulation<sup>1)</sup> on the following:

1. what conditions and tests internal models are expected to satisfy;
2. how the conditions and tests referred to in point 1 apply to partial models in view of their limited scope;
3. how the model is compatible with the standard formula, i.e., how the result of the portion of the solvency capital requirement calculated according to the standard formula and the result of the partial internal model are integrated into the total solvency capital requirement;
4. the process that the Financial Supervisory Authority shall follow in:
  - a. approving an insurance undertaking's internal model,
  - b. approving extensive changes to the insurance undertaking's internal models and changes to the undertaking's policy on changes to the model.

<sup>1)</sup>Reg. 55/2022.

### **CHAPTER XVII**

#### **Minimum capital requirement**

##### **Art. 111**

##### *General provisions on minimum capital requirement*

An insurance undertaking's basic own-fund items shall at least cover its minimum capital requirement, determined as provided for in Art. 112.

##### **Art. 112**

##### *Determination of minimum capital requirement*

The minimum capital of an insurance undertaking shall:

1. correspond to 85% of the Value-at-Risk of its basic own-fund items for one year;

2. not be less than 25% and not higher than 45% of its solvency capital requirement. Any capital add-on imposed shall be added to the solvency capital requirement before the above proportions are calculated;
3. not be lower than the equivalent of EUR 3.7 million in ISK for non-life insurance undertakings with an operating licence for insurance classes listed in points 10-15 of paragraph 1 of Art. 20;
4. not be lower than the equivalent of EUR 2.5 million in ISK for non-life insurance undertakings with an operating licence for insurance classes listed in paragraph 1 of Art. 20, other than those insurance classes listed in points 10-15];<sup>1)</sup>
5. not be lower than the equivalent of EUR 3.7 million in ISK for life insurance undertakings;
6. not be lower than the equivalent of EUR 3.6 million in ISK for reinsurance undertakings;
7. not be lower than the equivalent of EUR 1.2 million in ISK for captive reinsurance undertakings.

Insurance undertakings shall calculate their minimum capital requirement at least quarterly and report the results of that calculation to the Financial Supervisory Authority. As a rule, it is not necessary to calculate the solvency capital requirement on a quarterly basis in order to determine the limits in point 2 of paragraph 1. Where the proportions determine an undertaking's minimum capital requirement, the undertaking shall provide the Financial Supervisory Authority with satisfactory information on the reasons for this.

The Minister shall issue a regulation<sup>2)</sup> which further elaborates how the minimum capital requirement is determined.

<sup>1)</sup>Act 82/2021, Art. 20. <sup>2)</sup>Reg. 55/2022.

## **Chapter XVIII**

### **Investments**

#### **Art. 113**

##### *Prudent person principle*

An insurance undertaking shall ensure that its asset composition accords with the prudent person principle as set out in paragraphs 2-4.

An insurance undertaking may only have in its portfolio assets and financial instruments whose risks the undertaking concerned can properly identify, measure, monitor, manage and handle, and respond to appropriately. Consideration shall be given to the undertaking's overall solvency needs, in accordance with point 1 of paragraph 1 of Art. 45. The composition of an insurance undertaking's assets, in particular those covering the minimum capital and solvency capital requirements, shall be such as to ensure their safety, quality, liquidity and profitability. In addition, the localisation of those assets shall be such as to ensure their availability. Assets held to cover the technical provisions shall also be invested in a manner appropriate to the nature and duration of the insurance liabilities. Those assets shall be invested in the best interest of all policy holders and beneficiaries, taking into account the terms and conditions of insurance contracts. If there is a risk of conflicts of interest, insurance undertakings, or the party which manages their asset portfolio, shall ensure that the asset portfolio accords with the interests of policy holders and beneficiaries. The provisions of this paragraph shall also apply to assets intended to cover life insurance liabilities where the investment risk is borne by the policy holder.

Where the liability under a life insurance contract is directly linked to the value of units in a UCITS as defined in the [Act on UCITS], or to the value of units in an internal fund in the custody of the insurance undertaking, the liability must be covered by units which match as closely as possible those units provided for in the contract or, in the case where such units do not exist, the same underlying assets. Where the liability under a life insurance contract is directly linked to share prices or some other reference value other than that referred to in the first sentence, the technical provisions in respect of this liability shall, as far as possible, be covered either by units deemed to match the assets referred to in the contract or, when such units are not available, with reasonably secure and liquid assets that correspond as closely as possible to those on which the contract is based. Where benefits include a guarantee of



investment performance or are guaranteed by other means, the assets held to cover the corresponding additional technical provisions shall be subject to the provisions of paragraph 4.

In addition to the provisions of paragraph 2, the provisions of this paragraph shall apply to assets other than those discussed in paragraph 3. The use of derivative instruments is only possible insofar as they reduce risk or facilitate efficient portfolio management. Investment and assets which are not admitted to trading on a regulated [market]<sup>2)</sup> shall be kept to prudent levels. Assets shall be suitably diversified so that the insurance undertaking avoids excessive reliance on any particular asset, issuer or group of undertakings, or geographical area and excessive accumulation of risk in the portfolio as a whole. Investments in assets issued by the same issuer, or by issuers belonging to the same group, shall not expose the insurance undertaking to excessive risk concentration.

<sup>1)</sup>Act no. 45/2020, Art. 120. <sup>2)</sup>Act no. 115/2021, Art. 148.

#### **Art. 114**

##### *Regulation*

The Minister shall issue a regulation<sup>1)</sup> on the following:

1. the identification, measurement, monitoring and managing of risks linked to investments referred to in Art. 113;
2. the identification, measurement, monitoring and managing of specific risks arising from investments in derivative instruments and assets referred to in Art. 113;
3. requirements that undertakings issuing securitisation contracts must meet in order for an insurance undertaking to be allowed to invest in such contracts issued after 1 January 2011, including requirements to ensure that the issuer's sponsor or original lender holds at all times at least 5% of the value itself;
4. requirements that an insurance undertaking investing in contracts as referred to in point three must satisfy;
5. under what circumstances a capital add-on may be imposed if the requirements of points 3 and 4 are not met and how that add-on should be calculated.

<sup>1)</sup>Reg. 55/2022.

### **CHAPTER XIX**

#### **Special measures**

##### **Art. 115**

##### *Procedures in connection with a deteriorating financial situation*

Insurance undertakings shall have procedures in place to identify a deteriorating financial situation and shall immediately notify the Financial Supervisory Authority if there is considered to be a risk that the solvency capital requirement or minimum capital requirement will not be met.

##### **Art. 116**

##### *Measures for non-compliance with technical provisions*

The Financial Supervisory Authority may restrict or prohibit an insurance undertaking's disposition of its funds and assets if it does not satisfy the requirements of Chapter XIV on technical provisions. The Financial Supervisory Authority shall notify the supervisory authorities of the host Member State of the insurance undertaking, if applicable, of the proposed measure. The Financial Supervisory Authority shall designate the assets to be covered by such measures.

##### **Art. 117**

##### *Measures for non-compliance with solvency capital requirement*

If an insurance undertaking does not meet its solvency capital requirement or considers that there is a risk of this happening within three months, it shall notify the Financial Supervisory Authority of the situation.

The insurance undertaking shall, within two months, draw up a plan for financial recovery, stating when and by what means the solvency capital requirement will be met. The plan shall be submitted to the Financial Supervisory Authority, which shall assess whether it is considered satisfactory.

The plan referred to in paragraph 2 shall be aimed at achieving financial recovery within six months and shall specify how eligible own-fund items are to be increased or the undertaking's risk reduced so that the solvency capital requirement is met. The Financial Supervisory Authority may extend the time limit by three months if it deems this necessary.

Under exceptional and adverse situations, affecting a substantial number of insurance undertakings representing a significant share of the market or specific classes of insurance, the Financial Supervisory Authority may extend the time limit for financial recovery by up to seven years in addition to the time limit provided for in paragraph 3, considering all the relevant factors including the average duration of the technical provisions. [The EFTA Surveillance Authority shall take a decision, at the request of the Financial Supervisory Authority, as to whether the circumstances are considered to be exceptional or adverse. The EFTA Surveillance Authority shall, in consultation with the Financial Supervisory Authority, assess whether the circumstances still exist and the EFTA Surveillance Authority, in consultation with the Financial Supervisory Authority, shall declare when circumstances are no longer considered exceptional or adverse.]<sup>1)</sup>

Exceptional and adverse circumstances, as referred to in paragraph 4, are considered to exist in one or more of the following cases:

- a. unforeseen collapse on financial markets,
- b. persistent low interest rates,
- c. a high-impact catastrophic event.

An insurance undertaking operating according to a long-term plan as provided for in paragraph 4 shall send an interim report to the Financial Supervisory Authority every three months, outlining the undertaking's actions and the results that have been achieved.

The extension of the time limit provided for in paragraph 4 shall be cancelled if the interim report referred to in paragraph 6 shows, in the opinion of the Financial Supervisory Authority, unsatisfactory results in meeting its solvency capital requirement, rebuilding its finances or limiting risk.

[If the Financial Supervisory Authority considers that the financial position of an insurance undertaking that has been given a time limit to rebuild its finances under exceptional and adverse circumstances will deteriorate further, it may restrict or prohibit the insurance undertaking's free disposition of its funds and assets. The Financial Supervisory Authority shall notify the supervisory authorities of the Member States in which the insurance undertaking has a branch or activities of the measures it takes, as appropriate. If the Financial Supervisory Authority receives such a notification concerning a branch or activity of an insurance undertaking in Iceland from the supervisory authorities of other Member States, it shall take the same action towards the undertaking in Iceland. The Financial Supervisory Authority shall specify the assets covered by such measures.]<sup>1)</sup>

<sup>1)</sup>Act no. 36/2018, Art. 11.

## **Art. 118**

### *Measures for non-compliance with minimum capital requirement*

An insurance undertaking that has been granted an operating licence in Iceland shall immediately notify the Financial Supervisory Authority if it does not satisfy requirements for minimum capital or considers there to be a risk that this may occur within the next three months.

The insurance undertaking shall, within one month, draw up a short-term financing plan showing when and by what means it will achieve its target; the plan shall be submitted to the Financial Supervisory Authority, which shall decide whether the measures to be taken are considered satisfactory. Such a plan shall be based on refinancing which is to take no longer than three months and shall specify how eligible own-fund items are to be increased or the undertaking's risk reduced so that the minimum capital requirement is met.

The Financial Supervisory Authority may limit or prohibit the disposition of the funds and assets of an insurance undertaking that has been granted an operating licence in Iceland if this is part of the undertaking's refinancing. The Financial Supervisory Authority shall then designate the assets to be covered by such measures. Furthermore, the Financial Supervisory Authority may restrict or prohibit the issuance of new insurance policies and take such other measures as it deems necessary. A decision to this effect shall be notified to the supervisory authorities of host Member States, as appropriate. If the Financial Supervisory Authority is a host State supervisory authority, it shall take the same actions as the supervisory authority of the home State at the latter's request.

#### **Art. 119**

##### *Authorisations of the Financial Supervisory Authority under deteriorating financial conditions*

Notwithstanding the provisions of Articles 117 and 118, if it is foreseeable that the financial position of an insurance undertaking will continue to deteriorate, the Financial Supervisory Authority may take all measures it deems necessary to safeguard the interests of policy holders.

The actions of the Financial Supervisory Authority shall be proportionate to the level of severity and duration of the situation.

#### **Art. 120**

##### *Recovery and refinancing plan*

Plans referred to in Articles 117 and 118 shall include at least:

- a. estimated operating expenses, including current general expenses and commissions;
- b. a plan showing a breakdown of income and expenses in direct insurance, reinsurance acceptances and reinsurance cessions;
- c. a forecast balance sheet;
- d. a statement of capital intended to meet technical provisions, the solvency capital requirement and the minimum capital requirement;
- e. the undertaking's reinsurance policy.

If the Financial Supervisory Authority has required a plan for financial recovery as provided for in paragraph 2 of Art. 117 or a plan for refinancing as provided for in paragraph 2 of Art. 118 it shall not allow the undertaking to take over an insurance portfolio from another undertaking if it considers the interests of policyholders to be threatened.

#### **Art. 121**

##### *Regulation*

The Minister shall issue a regulation<sup>1)</sup> specifying in more detail what shall be taken into account when a longer time limit for financial recovery as provided for in paragraph 4 of Art. 117 is decided on.

[The Central Bank of Iceland]<sup>2)</sup> shall set detailed rules on financial recovery as provided for in Articles 117 and 118, considering the authorisations of Art. 119, which are based on the implementing technical standards of the European Insurance and [Occupational Pensions Authority].<sup>3)</sup> Care must be taken to avoid pro-cyclical effects.

<sup>1)</sup>Reg. 55/2022. <sup>2)</sup>Act no. 91/2019, Art. 120. <sup>3)</sup>Act no. 36/2018, Art. 5.

#### **Art. 122**

##### *Withdrawal of an operating licence*

If an insurance undertaking does not comply with the Financial Supervisory Authority's recommendations on measures to adequately assess its technical provisions or ensure a secure return on funds intended to meet it, [or if it]<sup>1)</sup> commits a major violation of acts, [regulations or rules]<sup>1)</sup> which apply to the activities of insurance undertakings or the Articles of Association under which it operates, the Financial Supervisory Authority shall set the undertaking a specific time limit for making the necessary rectification.

If adequate measures have not been taken within the set time limit, the Financial Supervisory Authority may withdraw the undertaking's operating licence. The Financial Supervisory Authority may, however, extend the time limit if it considers it likely that the measures that the undertaking has already taken will result in the required improvements within a short period.

The Financial Supervisory Authority may withdraw an operating licence if an undertaking does not use the licence within twelve months of its issuance or if its activities have been suspended for six months or more.

The Financial Supervisory Authority shall withdraw the operating licence of an insurance undertaking that does not meet minimum capital requirements if it considers the plan for financial recovery to be clearly unsatisfactory or the undertaking does not implement the plan within three months of failing to meet the minimum capital requirement.

The Financial Supervisory Authority shall withdraw an insurance undertaking's operating licence if the undertaking no longer fulfils the conditions of the operating licence or grossly neglects its obligations under acts and regulations on the activities of insurance undertakings, jeopardising the interests of policyholders and beneficiaries.

Detailed grounds must always be provided for the withdrawal of an operating licence and written notice given to the undertaking concerned.

If the Financial Supervisory Authority withdraws an operating licence, it shall notify the supervisory authorities of the Member States thereof. [The Financial Supervisory Authority shall also notify the European Insurance and Occupational Pensions Authority of any withdrawal of an operating licence.]<sup>2)</sup>

With a view to the interests of policyholders and beneficiaries, and in consultation with other relevant supervisory authorities, the Financial Supervisory Authority shall limit, as necessary, the free disposition of the undertaking's assets when technical provisions are underestimated, the conditions for solvency are not met and there is a risk of the undertaking's financial position deteriorating if no measures are taken.

The Financial Supervisory Authority shall notify the Board of Directors of an insurance undertaking of the withdrawal of its operating licence, publish the announcement in the Legal Gazette (*Lögbirtingablaðið*) and advertise in the media.

<sup>1)</sup>Act no. 82/2021, Art. 21. <sup>2)</sup>Act no. 36/2018, Art. 12.

## CHAPTER XX

### Branch establishment and free movement of services

#### Art. 123

##### *Insurance undertaking with its head office in Iceland. Establishment of a branch in another Member State*

A direct insurance undertaking that has been granted an operating licence in Iceland and wishes to operate a branch in another Member State shall notify the Financial Supervisory Authority and provide the following information and documentation:

1. information on the Member State in which the branch will operate;
2. a plan for the branch's operations and structural organisation, together with a list of the insurance classes and subclasses that the undertaking intends to pursue;
3. the name of the person who represents the branch and is authorised to bind the undertaking towards third parties and represent it in relations with the authorities of the Member State;
4. a declaration that the undertaking is a member of a national motor insurance bureau and, as appropriate, that it is a member of a guarantee fund for motor vehicle insurance in the Member State in question when it proposes to pursue activities provided for in point 10 of paragraph 1 of Art. 20.

Changes to documentation referred to in paragraph 1 shall be notified to the Financial Supervisory Authority in writing and to the supervisory authorities of the state in which the branch operates at least one month in advance.

If the Financial Supervisory Authority raises no objections to the proposed activities, financial position or the suitability and qualifications of the management or the appointed representative of the branch, the Financial Supervisory Authority shall, within three months of receiving all documentation, send the documentation to the supervisory authority of the host State, together with a certificate that the undertaking fulfils the solvency capital requirement and minimum capital requirement. The undertaking shall also be notified that the documentation has been sent.

The Financial Supervisory Authority may refuse to send the documentation provided for in paragraphs 1 and 2 if it sees cause to doubt that the operational structure or financial situation of the proposed activity is appropriate. Written notification that the documentation will not be sent to the supervisory authorities of the Member State concerned shall be sent to the undertaking within three months, stating the reasons. An insurance undertaking can refer such refusal by the Financial Supervisory Authority to the courts.

Once notification has been received from the supervisory authority of the host State that the conditions of that State are met in order for the undertaking to start operating a branch there, the undertaking may establish the branch and commence operations. If no such notification is received, the branch's operations may commence two months after the supervisory authority of the host State has received the documentation referred to in paragraph 1 from the Financial Supervisory Authority.

#### **Art. 124**

*An insurance undertaking with its head office in another Member State.*

*Establishment of a branch in Iceland*

An insurance undertaking with its head office in another Member State that has been granted an operating licence by the relevant supervisory authority may establish a branch in Iceland, provided that it is permitted to operate insurance activities in the same insurance classes and subclasses in its home State.

If a direct insurance undertaking as referred to in paragraph 1 applies to establish a branch in Iceland as provided for in Art. 7, the Financial Supervisory Authority shall obtain the following information and documentation from the supervisory authorities of its home State:

1. a plan for the proposed activities and structural organisation of the branch in Iceland and confirmation that the undertaking holds an operating licence for those insurance classes and subclasses that it intends to pursue in Iceland;
2. the address of the branch where the undertaking's appointed representative is located, data may be obtained on the activities and all data shall be sent to;
3. the name of the appointed representative of the branch authorised to bind the undertaking towards third parties and to represent it in court in Iceland;
4. confirmation of its membership in the relevant guarantee fund and of participation in the activities of a claims settlement centre and information centre, as provided for in traffic legislation, if application is made for a licence as provided for in point 10 of paragraph 1 of Art. 20. Information must also be provided as to the claims settlement representative in each Member State outside Iceland;
5. a certificate from the supervisory authority attesting that the solvency capital requirement and minimum capital requirement for the undertaking's operations as a whole are met, together with any comments on the proposed activities;

Before the branch of a direct insurance undertaking commences operations in Iceland, the Financial Supervisory Authority shall inform the supervisory authorities of the home State of any general conditions that are to apply to the insurance activities of the branch in Iceland, together with provisions concerning the public interest.

The Financial Supervisory Authority shall notify the insurance undertaking, through the intermediation of the supervisory authority in its home State, that it may establish the branch within two months. The direct insurance undertaking shall notify the Financial Supervisory Authority of any

changes to information and documentation referred to in points 1-4 of paragraph 2 with at least one month's notice.

#### **Art. 125**

##### *Insurance undertaking with its head office in Iceland. Services in another Member State without an establishment*

If a direct insurance undertaking that has been granted an operating licence in Iceland intends to provide services in another Member State without having an establishment there, the undertaking shall notify the Financial Supervisory Authority thereof together with information on those insurance classes and subclasses in which it intends to provide services. The Financial Supervisory Authority shall send the following documentation to the supervisory authorities of the Member State concerned within one month, at the same time notifying the undertaking that the information has been sent:

1. a certificate attesting that the solvency capital requirement and minimum capital requirement for the undertaking's operations as a whole are met;
2. a list of the insurance classes and sub-classes which the undertaking is authorised to provide;
3. a list of insurance classes and subclasses which the undertaking intends to provide in the Member State;
4. a declaration that the undertaking is a member of a national motor insurance bureau and, as appropriate, that it is a member of a guarantee fund in the Member State in question when it proposes to provide services as referred to in point 10 of paragraph 1 of Art. 20, together with the name and address of a special representative who handles claims settlement in that class of insurance.

Any changes that the undertaking intends to make to the information submitted shall be in accordance with the provisions of paragraph 1.

If the Financial Supervisory Authority does not send the information within a month, it must inform the undertaking of its reasons within the same time limit. Refusal or inaction by the Financial Supervisory Authority can be referred to the courts.

The insurance undertaking may begin providing services from the date on which it is notified that information referred to in paragraph 1 has been sent.

#### **Art. 126**

##### *An insurance undertaking with its head office in another Member State. Services in Iceland without an establishment*

An insurance undertaking with its head office in another Member State, that has been granted an operating licence by the relevant supervisory authority, may provide services in Iceland without an establishment, provided that it is permitted to operate insurance activities in the same insurance classes and subclasses in its home State.

If a direct insurance undertaking intends to provide services in Iceland without an establishment, the Financial Supervisory Authority shall obtain the following information and documentation from the supervisory authorities of the home State:

1. a certificate attesting that the solvency capital requirement and minimum capital requirement for the undertaking's operations as a whole are met;
2. a list of the insurance classes and sub-classes which the undertaking is authorised to provide;
3. a list of the types of risk the undertaking proposes to insure in Iceland;
4. confirmation of its membership in the relevant guarantee fund and of participation in the activities of a claims settlement centre and information centre, as provided for in traffic legislation, if application is made for a licence as provided for in point 10 of paragraph 1 of Art. 20. Information must also be provided as to the claims settlement representative in each Member State outside Iceland.

The undertaking may provide services in Iceland when the Financial Supervisory Authority has announced that all documentation provided for in paragraph 2 has been received by the Authority.

The undertaking must notify the Financial Supervisory Authority of any changes regarding points 2-4 of paragraph 2 at least one month in advance.

An undertaking that provides services without an establishment as referred to in point 10 of paragraph 1 of Art. 20 shall ensure that those who are entitled to compensation for damage in Iceland are not in a less favourable situation than others due to the lack of an establishment. The representative referred to in point 4 of paragraph 2 shall collect all necessary documentation in relation to claims and shall have all authority to pay claims and represent the country in Iceland. He must also provide the competent authorities in Iceland with information as to whether compulsory vehicle insurance has been provided and its period of validity.

#### **Art. 127**

##### *Non-compliance of insurance undertakings.*

##### *Disclosure obligation of the Financial Supervisory Authority*

The Financial Supervisory Authority shall require an insurance undertaking which has its head office in another Member State and has a branch or provides services in Iceland, which does not comply with [the laws applicable to the activity]<sup>1)</sup> to remedy those deficiencies.

The Financial Supervisory Authority shall provide the supervisory authorities of the respective home States with information on the activities of branches of insurance undertakings in Iceland and on their non-compliance with [the laws that apply to the activities].<sup>1)</sup> The same applies to insurance undertakings that provide services in Iceland.

The Financial Supervisory Authority may take the measures necessary to safeguard the interests of policyholders and beneficiaries if the undertaking does not meet requirements concerning solvency or technical provisions. If necessary, it shall take measures to prohibit the undertaking from freely disposing of assets in Iceland or to restrict this pursuant to provisions of this Act and after consultation with the supervisory authorities of the home State if possible.

The Financial Supervisory Authority may prohibit an insurance undertaking that operates a branch in Iceland or provides services there from continuing to operate if it grossly [or repeatedly]<sup>1)</sup> violates the provisions of this Act or regulations issued on its basis, or the provisions of other acts that apply to the activities of insurance undertakings and it has not been possible, by applying requirements or actions provided for under this Act, to remedy whatever is deficient.

If the Financial Supervisory Authority receives information from a supervisory authority of another Member State that an insurance undertaking, which has its head office in Iceland and has a branch or provides services in that Member State, does not comply with the law there, it shall take appropriate measures and notify the supervisory authority of those measures.

[The Financial Supervisory Authority may request the assistance of the European Insurance and Occupational Pension Authority or the EFTA Surveillance Authority, as appropriate, pursuant to Art. 19 of Regulation (EU) no. 1094/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (the European Insurance and Occupational Pensions Authority) if the supervisory authorities of other Member States fail to cooperate with it concerning deficiencies in the compliance of branches in Iceland with this Act. The same applies to the supervisory authorities of other Member States if the Financial Supervisory Authority does not cooperate with them concerning branches there.

The Financial Supervisory Authority shall notify the European Insurance and Occupational Pensions Authority and the EFTA Surveillance Authority of a refusal to allow the establishment of a branch in Iceland as provided for in Art. 124 and to allow activities in Iceland as provided for in Art. 126. The Financial Supervisory Authority shall also give notice of the measures which have been taken pursuant to paragraphs 3 and 4.]<sup>2)</sup>

<sup>1)</sup>Act no. 82/2021, Art. 22. <sup>2)</sup>Act no. 36/2018, Art. 13.

#### **Art. 128**

*An insurance undertaking with its head office in another Member State.*

*Activities in Iceland. On-site inspection*

The supervisory authorities of Member States or their designated representatives may, after notifying the Financial Supervisory Authority, carry out on-site inspections of an insurance undertaking, to which they have granted an operating licence and which pursues activities in Iceland, that are necessary to enable lawful supervision of the activities of branches in Iceland of [undertakings established in the] Member States. The Financial Supervisory Authority may participate in these inspections.

[Supervisory authorities of Member States may request the assistance of the European Insurance and Occupational Pensions Authority or the EFTA Surveillance Authority, as appropriate, pursuant to Art. 19 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (the European Insurance and Occupational Pensions Authority) if they are not permitted to carry out an on-site inspection in Iceland as provided for in paragraph 1. The same applies to the Financial Supervisory Authority if it is not allowed to take part in an on-site inspection by the supervisory authorities of other Member States in Iceland or is not allowed to carry out an on-site inspection at a branch of an insurance undertaking in another Member State.

The European Insurance and Occupational Pensions Authority is authorised pursuant to Art. 21 of Regulation (EU) no. 1094/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (the European Insurance and Occupational Pensions Authority) to participate in an on-site inspection as provided for in paragraph 1 in Iceland if two or more supervisory authorities carry this out jointly.]<sup>1)</sup>

<sup>1)</sup>Act no. 36/2018, Art. 14.

#### **Art. 129**

*An insurance undertaking with its head office in another Member State.*

*Withdrawal of an operating licence*

If the supervisory authority of the home State withdraws the operating licence of an undertaking that has a branch or provides services in Iceland, the Financial Supervisory Authority shall, after receiving notification thereof, take appropriate measures to prevent the undertaking from entering into further insurance contracts in Iceland. It shall co-operate with the relevant supervisory authorities in order to safeguard the interests of policyholders and beneficiaries as far as possible; the provisions of Art. 127 regarding limits on or prohibition against the free disposition of assets shall apply as necessary.

#### **Art. 130**

*Insurance undertaking licensed to operate in Iceland. Third-country activities*

If a direct insurance undertaking that has been granted an operating licence in Iceland intends to commence activities outside Member States, this shall be notified to the Financial Supervisory Authority in advance, together with a description of the planned activities and other information that the Financial Supervisory Authority requests and deems necessary.

[The Financial Supervisory Authority shall notify the European Insurance and Occupational Pensions Authority of any difficulties arising from the proposed activities third-country activities of an insurance undertaking.]<sup>1)</sup>

The provisions of Articles 123 and 125 also apply to direct insurance undertakings with head offices in third countries that have been licensed in Iceland to operate a branch but intend to commence activities in another Member State. The Financial Supervisory Authority may take a longer period for processing cases than specified therein. The supervisory authorities of the Member States concerned shall be consulted before a decision is taken on the application.

[The Financial Supervisory Authority shall notify the European Insurance and Occupational Pensions Authority of the proposed activities of an insurance undertaking, which has its head office in a third country and a branch in Iceland, in other Member States. The Financial Supervisory Authority



shall also send notification if an undertaking with its head office in a third country acquires a share in an insurance undertaking and as a result that undertaking is considered a branch in Iceland.] <sup>1)</sup>

<sup>1)</sup>Act no. 36/2018, Art. 15.

## CHAPTER XXI

### **An insurance undertaking with head office in a third country.**

#### **Establishment of a branch in Iceland**

##### **Art. 131**

###### *Requirements for establishment of a branch in Iceland*

An insurance undertaking with head office in a third country, licensed to pursue insurance activities in its home State, may obtain a licence from the Financial Supervisory Authority to operate a branch in Iceland in accordance with this Act, provided that Icelandic insurance undertakings are accorded no less favourable rights in the undertaking's home State.

Before an operating licence is granted in Iceland, the Financial Supervisory Authority shall consult with the supervisory authorities of other Member States on the granting of the licence.

An application for an operating licence in Iceland for a branch of an insurance undertaking with its head office in a third country shall be sent to the Financial Supervisory Authority with documentation as provided for in Chapter VI, *mutatis mutandis*, which are necessary for the Authority's evaluation of the application.

An insurance undertaking must satisfy the following conditions for obtaining an operating licence:

1. be registered in Iceland and have an authorised agent approved by the Financial Supervisory Authority;
2. have an office in Iceland and have accounting data and other documentation on the branch's operations stored in the branch itself;
3. possess suitable financial strength for its activities in Iceland, as appropriate; however, its assets in Iceland may never amount to less than half of the minimum capital requirement provided for in Art. 112 and the equivalent of one-fourth of the minimum capital requirement in Art. 112 must be deposited in Iceland as security. The security deposit shall only be used to ensure that the branch can meet its obligations under insurance contracts written in this country. Individual insured parties, or other beneficiaries under an insurance contract, may not claim payment in full except to the extent that, in the estimation of the Financial Supervisory Authority, this does not prejudice the right of other insured parties or beneficiaries to obtain full payment of the undertaking's insurance obligations. The deposit shall be included in eligible own-fund items to cover the minimum capital requirement;
4. solvency capital requirement and minimum capital requirement;
5. provide information on the names and addresses of claims settlement representatives in other Member States if an application is made for a licence to provide motor vehicle third-party liability insurance as referred to in point 10 of paragraph 1 of Art. 20;
6. a plan for its activities, as provided for in Art. 132, must be available;
7. governance requirements, as provided for in Chapter VIII.

Agreements may be concluded with one or more third countries to apply other provisions on the supervision of the branch's activities than are provided for in this Act, provided that the insured are ensured sufficient and comparable protection. Such agreements may not apply less stringent requirements to branches of undertakings with head offices in a third country than apply to branches of insurance undertakings with head offices in Member States.

##### **Art. 132**

###### *Branch business plan*

An insurance undertaking which has its head office in a third country and intends to establish a branch in Iceland shall submit a business plan along with its application for an operating licence. The plan shall include the following:

1. what insurance coverage the branch intends to provide;
2. the main points of the branch's reinsurance coverage;
3. an estimate of the branch's solvency capital requirement, based on a balance sheet, together with the calculation methods on which the estimate is based;
4. an estimate of the branch's minimum capital requirement, based on the balance sheet together with the calculation methods on which the estimate is based. The undertaking must have assets in Iceland to cover the minimum capital requirement and assets in excess of the minimum capital requirement to cover the solvency capital requirement in Iceland or in another Member State;
5. an estimate of the branch's own-fund items with a view to its solvency capital requirement and minimum capital requirement;
6. that the undertaking meets the requirements for technical provisions and eligible own-fund items, as provided for in Chapters XIV–XVI. The valuation of assets and liabilities other than technical provisions shall be as provided for in Chapter XIII;
7. an estimate of the cost of establishing the branch, how those costs are to be covered and, if an operating licence is applied for assistance to travellers, as referred to in point 18 of paragraph 1 of Art. 20, in what manner assistance to travellers is to be provided;
8. branch governance information.

In addition, for the first three years of the branch's operation, an estimate shall be given of its balance sheet and operating costs and a forecast of its capital that will cover the technical provisions, minimum capital requirement and solvency capital requirement.

The plan of non-life insurance undertakings for the next three years shall include an estimate of operating expenses and commissions and estimates of premiums and claims.

The plan of life insurance undertakings for the next three years shall include an estimate of income and expenses for direct insurance and for reinsurance purchased and sold.

The provisions of Art. 73 on the separation of life and non-life insurance activities shall apply to the activities of branches referred to in paragraph 1.

[The Central Bank of Iceland]<sup>1)</sup> may set more detailed rules on the activities of branches in Iceland of an insurance undertaking with its head office in a third country.

<sup>1)</sup>Act no. 91/2019, Art. 120.

### **Art. 133**

#### *Transfer of an insurance portfolio*

The Financial Supervisory Authority may authorise the transfer of an insurance portfolio from a branch of an insurance undertaking with its head office in a third country that has been granted an operating licence in Iceland and wishes to transfer its insurance portfolio here in part or in full to another undertaking with an establishment in another Member State, if the supervisory authority of the home State of the receiving undertaking confirms that the solvency capital requirement and the minimum capital requirement are met, taking into account the transferred portfolio. When the underwriting risk is in Iceland, the approval of the Financial Supervisory Authority is always required for the transfer to take place.

The provisions of Art. 34 shall apply to official notifications regarding the insurance portfolio that is transferred when the underwriting risk is in Iceland.

The rights and obligations of policyholders, beneficiaries and others under the insurance contracts of direct insurance undertakings shall be governed by paragraph 5 of Art. 34 and the Act on Insurance Contracts.

The Financial Supervisory Authority shall give its opinion within three months of receipt of the request for the transfer, failing this, its position on the transfer shall be considered positive.

#### **Art. 134**

##### *Equalising the situation of an insurance undertaking with activities in more than one Member State*

An insurance undertaking with its head office in a third country, which operates a branch in more than one Member State, may apply for the following concessions, which shall then apply to all branches:

1. that its solvency capital requirement as provided for in Chapter XVI be calculated considering all the undertaking's activities in the European Economic Area;
2. that the deposit referred to in point 3 of paragraph 4 of Art. 131 will only be stored in one Member State where the insurance undertaking has activities;
3. that assets which are to cover the minimum capital requirement be preserved in one of the Member States where the insurance undertaking has activities.

An application as referred to in paragraph 1 shall be sent to the Financial Supervisory Authority. The application shall state which supervisory authority will be responsible for supervising the solvency position of all the undertaking's branches in the European Economic Area and the reasons for this shall be specified. The deposit referred to in point 3 of paragraph 4 of Art. 131 shall be located in that Member State. If the undertaking fulfils the conditions of this Article, the relevant supervisory authority shall be treated as the supervisory authority of a Member State.

Concessions are not granted without the consent of all the supervisory authorities concerned.

The concession takes effect when the supervisory authority that monitors the solvency position confirms this to other supervisory authorities. If the supervisory authority is not the Financial Supervisory Authority, the latter shall provide the supervisory authority concerned with relevant information.

#### **Art. 135**

##### *Authorised agent*

The authorised agent of a branch of an insurance undertaking, which has its head office in a third country and establishes a branch in Iceland, acts on behalf of the branch in matters concerning its operations and is authorised to bind the undertaking in connection with its activities in Iceland. The agent must be resident in Iceland, be legally competent, have a [good reputation]<sup>1)</sup> and may not have been declared bankrupt in the last five years or have been convicted, in connection with business operations, of a criminal offence under the General Penal Code or the Act on Public Limited Companies, the Act on Private Limited Companies, the Accounting Act, the Act on Annual Financial Statements, the Act on Bankruptcy etc., acts on public levies or the Act on Insurance Activities.

The authorised agent shall immediately notify the Financial Supervisory Authority in writing if the supervisory authority where the undertaking has its head office raises objections to its activities, if a moratorium has been decided, a decision has been made to liquidate the undertaking or its estate has been placed in liquidation.

<sup>1)</sup>Act no. 141/2018, Art. 39.

#### **Art. 136**

##### *Notification to the Financial Supervisory Authority*

An insurance undertaking operating a branch in Iceland shall notify the Financial Supervisory Authority of any significant changes in its operations, the composition of the Board of Directors and the persons responsible for key functions. If a new plan for business activities, as referred to in Art. 24, is prepared it shall also be sent to the Financial Supervisory Authority.

All documentation sent to the Financial Supervisory Authority shall be in Icelandic or another language agreed to by the Financial Supervisory Authority.

#### **Art. 137**

##### *Powers of the Financial Supervisory Authority*

If the undertaking violates laws and regulations on insurance activities or neglects its obligations under them, thereby jeopardising the interests of policyholders and beneficiaries, the Financial

Supervisory Authority shall grant the undertaking a specific time limit to take the necessary remedial measures. If adequate measures have not been taken within that period and the Financial Supervisory Authority considers that the interests of policyholders and beneficiaries are in jeopardy, the Authority may appoint a new authorised agent to conclude transactions and settlement in connection with operations in Iceland. To this end, the agent is authorised to dispose of the undertaking's assets in Iceland to the extent permitted by the Financial Supervisory Authority.

The provisions of Articles 34-36 and Chapter XIX shall apply *mutatis mutandis* to the branch.

#### **Art. 138**

##### *Withdrawal of the operating licence of an undertaking with its head office in a third country*

The Financial Supervisory Authority may withdraw the operating licence of an undertaking with its head office in a third country if it no longer fulfils the conditions for the operating licence or grossly neglects its obligations under this Act.

When an undertaking's operating licence is revoked, the Financial Supervisory Authority shall decide whether an attempt should be made to transfer the insurance portfolio to one or more insurance undertakings that operate insurance activities in Iceland, or whether the undertaking should endeavour by other means to terminate its obligations under insurance contracts it has written. When life insurance operations are concerned, the Financial Supervisory Authority may decide to place the life insurance portfolio under special management, cf. Art. 156.

When an undertaking's operating licence is withdrawn, the Financial Supervisory Authority may limit or prohibit the undertaking from controlling its funds and assets.

If the Financial Supervisory Authority withdraws the operating licence of a branch of an insurance undertaking which has a branch in more than one Member State, it shall notify the relevant supervisory authorities of the withdrawal. The Financial Supervisory Authority must withdraw a branch's operating licence if it receives notification from another supervisory authority that that authority has revoked the operating licence of a branch of the same insurance undertaking.

If the reason for withdrawal is the unsatisfactory solvency position of all branches of the undertaking in Member States, the authorisation for equalising its situation provided for in Art. 134 shall be revoked.

#### **Art. 139**

##### *Settlement of an insurance undertaking which has lost its operating licence*

If an undertaking gives notice that it wishes to cease operations in Iceland, this shall only be done if the Financial Supervisory Authority considers that the establishment does not need to continue operating due to obligations resting upon it. The same applies if there is no authorised agent of the undertaking in Iceland and no one has been appointed within the time limit set by the Financial Supervisory Authority. In such case the Authority may appoint an authorised agent as provided for in Art. 137.

Funds placed on deposit, as referred to in Art 131, may only be withdrawn after the undertaking's operating licence has been revoked and the undertaking can prove that it has fulfilled all its obligations in Iceland or that satisfactory security for the obligations has, in the estimation of the Financial Supervisory Authority, been provided.

CHAPTER XXII  
**Co-insurance within the European Economic Area**  
**Art. 140**

*Co-insurance conditions*

Activities are considered to be in co-insurance within the European Economic Area if the risk falls under points 3–16 of paragraph 1 of Art. 20 and meets the following conditions:

1. the risk is considered a large risk;
2. the risk is covered by a single contract at an overall premium and for the same period by two or more direct insurers of the risk, each for its own part as co-insurer. One of the direct insurers shall be considered the leading insurance undertaking;
3. the risk is situated in a Member State;
4. for the purpose of covering the risk, the leading insurance undertaking shall act as if it were the insurance undertaking covering the whole risk;
5. at least one of the co-insurers participates in the contract through a head office or a branch established in a Member State other than that of the leading insurance undertaking;
6. the leading insurance undertaking fully assumes the leader's role in co-insurance practice and in particular determines the premiums and the terms of the insurance.

The provisions of Chapter XX on establishment of branches and freedom to provide services shall apply if the leading insurance undertaking is established in Iceland.

**Art. 141**

*Technical provisions*

The amount of the technical provisions shall be determined by the different co-insurers according to the rules fixed by their home Member State or, in the absence of such rules, according to customary practice in that State.

The technical provisions shall, however, be at least equal to those determined by the leading insurer according to the rules of its home Member State.

**Art. 142**

*Statistical data*

Co-insurers shall keep a statistical record showing the extent of co-insurance operations in European Economic Area in which they participate and specifying the Member States concerned.

**Art. 143**

*Treatment of co-insurance contracts in winding-up proceedings*

If an insurance undertaking is wound up, liabilities arising from participation in co-insurance within the European Economic Area shall be met in the same way as those arising under other direct insurance liabilities without distinction as to the nationality of the policyholder and of the beneficiaries.

**Art. 144**

*Exchange of information between supervisory authorities*

The Financial Supervisory Authority shall provide other supervisory authorities in Member States with all necessary information regarding co-insurance.

CHAPTER XXIII  
**Reorganisation measures**

**Art. 145**

*Financial reorganisation*

Financial reorganisation measures shall mean measures involving any intervention by a court which are intended to preserve or restore the financial situation of an insurance undertaking and which

affect rights of parties other than the insurance undertaking itself. Such measures include moratoriums and composition.

Except as provided for in this Act, the Act on Bankruptcy etc., no. 21/1991, shall apply to the authorisation of an insurance undertaking to obtain a moratorium and to seek a composition with its creditors. The court shall ensure that the Financial Supervisory Authority is notified immediately of the insurance undertaking's request for a moratorium or to seek a composition.

Financial reorganisation of an insurance undertaking does not preclude the opening of winding-up proceedings.

The ruling of a court in another Member State on the financial reorganisation of an insurance undertaking with its head office in that Member State applies to branches of the insurance undertaking in Iceland.

#### **Art. 146**

##### *Information to supervisory authorities.*

The court shall immediately notify the Financial Supervisory Authority of a ruling on a moratorium of an insurance undertaking or its authorisation to seek a composition. The Financial Supervisory Authority shall notify the supervisory authorities of other Member States as soon as possible of such a ruling.

#### **Art. 147**

##### *Publication of a ruling*

A ruling on the financial reorganisation of an insurance undertaking shall be published in the Legal Gazette (*Lögbirtingablað*). An extract from the ruling shall also be published in the Official Journal of the European Union. The extract shall state who issued the ruling, the applicable law and the appointee in moratorium or co-ordinator for composition, as provided for in Act no. 21/1991, on Bankruptcy etc.

A ruling on the financial reorganisation of an insurance undertaking shall apply from the ruling date, notwithstanding the provisions on publication in paragraph 1, and shall have full effect towards creditors, unless the court provides otherwise.

Where the financial reorganisation measures of an insurance undertaking affect exclusively the rights of shareholders or employees of an insurance undertaking, in their respective capacities, paragraphs 1 and 2 shall not apply unless otherwise provided for in Act no. 21/1991, on Bankruptcy etc.

The Financial Supervisory Authority is authorised to publish rulings on reorganisation from the supervisory authorities of other Member States, cf. Art. 146.

#### **Art. 148**

##### *Notifications to known creditors*

Creditors shall be notified of a ruling authorising a moratorium for an insurance undertaking or authorising it to seek a composition pursuant to provisions of Art. 13 and Art. 44 of Act no. 21/1991, on Bankruptcy etc.

A creditor who is domiciled or has a habitual residence or head office in another Member State may lodge a claim under Art. 45 of the Act on Bankruptcy etc. in the language of that State.

Notification as provided for in paragraph 1 to policyholders, beneficiaries and others who have a claim against an insurance undertaking in connection with insurance contracts and are domiciled or have their habitual residence or head office in another Member State shall state specifically the effect of a ruling on a moratorium or to seek composition on an insurance contract and provide information on their rights and obligations. The notification shall be in the language of the State in which the party is domiciled or has its habitual residence or head office.

## **Art. 149**

### *Implementation of financial reorganisation*

The financial reorganisation shall be governed by the Act on Bankruptcy etc., Act no.21/1991, unless otherwise prescribed in this provision.

An employment contract shall be governed by the law of the state which applies to the employment contract and employment relationship.

A contract for the use or purchase of real property shall be governed by the law of the state where the property is located.

The rights of an insurance undertaking in respect of real estate, vessels or [aircraft]<sup>3)</sup> shall be governed by the law of the state in which their official registration was effected.

The authorisation of a moratorium for an insurance undertaking or for it to seek composition shall not affect the mortgagee's entitlement to property rights existing in another Member State when the authorisation is granted. Icelandic law, however, shall apply to the rights and obligations of parties subject to official supervision in Iceland.

If an insurance undertaking has purchased a property with a reservation of title, the insurance undertaking's authorisation for a moratorium or to seek composition does not affect the seller's rights based on the reservation if the property is in another Member State. The insurance undertaking's authorisation for a moratorium or to seek composition does not affect the insurance undertaking's sale of an asset if the delivery has already taken place and the asset was in another Member State when the authorisation was granted.

[Without prejudice to paragraph 5, the effect of the financial reorganisation of an insurance undertaking on the rights and obligations of parties to a regulated securities market shall be determined by the law of the state that applies to the market.]<sup>1)</sup>

Notwithstanding the provisions of [paragraphs 5-7]<sup>1)</sup> the provisions of Chapter III of the Act on Conclusion of Contracts, Power of Attorney and Invalidity of Legal Acts, no. 7/1936, may be applied to invalid legal acts, unless the law of the host State does not permit this.

If an insurance undertaking has sold real estate, a vessel or an [aircraft]<sup>3)</sup> that is subject to official registration, or transferable securities or other securities on a regulated [market],<sup>2)</sup> after authorisation for a moratorium or to seek composition was obtained, the law of the state where the property is located or where the official registration has taken place shall apply to the validity of the legal act.

The effect of an insurance undertaking's authorisation for a moratorium or to seek composition on a court action concerning an asset or other rights relinquished by an insurance undertaking shall be governed by the law of the Member State in which the action was brought.

The remedies that the debtor's Appointee in moratorium and the coordinator of the composition agreement can apply according to Icelandic law are also available to these parties in other Member States. However, the application of such remedies in another Member State shall be governed by the law of that Member State as appropriate.

<sup>1)</sup>Act no. 82/2021, Art. 23. <sup>2)</sup>Act no. 115/2021, Art. 148. <sup>3)</sup>Act no. 80/2022, Art. 269.

## **CHAPTER XXIV**

### **Winding-up proceedings of an insurance undertaking**

#### **Art. 150**

##### *Decision on winding-up proceedings*

The Financial Supervisory Authority shall take the decision to commence winding-up proceedings of an insurance undertaking, including its branch in another Member State. The decision shall be independent of whether a request has been submitted for the financial reorganisation of the insurance undertaking or a ruling issued to that effect.

The Financial Supervisory Authority shall, as promptly as possible, inform the supervisory authorities of the Member States of the decision to commence winding-up proceedings and the effects of such measures.

### **Art. 151**

#### *Conditions for and commencement of winding-up proceedings*

The Financial Supervisory Authority is authorised to take a decision on the commencement of winding-up proceedings:

1. if it has withdrawn the operating licence of the insurance undertaking;
2. at the request of the undertaking's Board of Directors, if the undertaking must be wound up in accordance with its Articles of Association;
3. at the request of the undertaking's Board of Directors, if the undertaking can no longer meet all obligations to creditors when their claims fall due and it is considered unlikely that its payment difficulties will be alleviated in the short-term;
4. at the request of the undertaking's Board of Directors and with the approval of the Financial Supervisory Authority if it has been decided to wind up the undertaking at a shareholders' meeting, provided the motion on winding-up was approved there with at least 2/3 of the votes cast and by shareholders controlling at least 2/3 of the share capital represented at the meeting.

If the Financial Supervisory Authority has made a decision to commence the winding-up proceedings of an insurance undertaking, cf. Art. 150, the undertaking's operating licence shall be withdrawn as provided for in Art. 122.

### **Art. 152**

#### *Appointment of a Resolution Board*

If a decision is taken to wind up an insurance undertaking, the Financial Supervisory Authority shall appoint a Resolution Board, comprised of [up to]<sup>1)</sup> three persons to handle the winding-up proceedings. The Resolution Board assumes all the authorisations of the Board of Directors, whose authorisations are simultaneously cancelled. In addition, shareholders' rights to make decisions on the undertaking's affairs based on their holdings are no longer in effect. The Resolution Board shall immediately convene a shareholders' meeting and inform shareholders of the situation. The Resolution Board shall, as soon as possible, take the necessary measures to obtain an overview of the undertaking's finances.

While the Resolution Board controls the undertaking, the same restrictions apply regarding the right to apply enforcement measures and other coercive measures against it as if it had been granted a moratorium. The Resolution Board shall only take measures concerning major interests of the undertaking if there is an urgent need to do so.

The remuneration to the Resolution Board and its costs shall be paid from the assets of the insurance undertaking in question in advance of the order of priority. The same applies to the costs of processing the Financial Supervisory Authority's claim for liquidation. The Financial Supervisory Authority and the Resolution Board are exempt from the provisions of paragraph 2 of Art. 67 of Act no. 21/1991, on Bankruptcy etc., on providing security of a certain amount to cover costs.

<sup>1)</sup>Act no. 27/2019, Art. 1.

### **Art. 153**

#### *Winding-up and continuing operations.*

The Financial Supervisory Authority shall, in consultation with the Resolution Board, take a decision on whether to request the liquidation of the undertaking or whether it should continue to operate. The Financial Supervisory Authority may restrict or prohibit an undertaking's disposition of its funds and require the undertaking to be placed in liquidation if it considers it likely that the interests of policyholders and beneficiaries will otherwise be jeopardised.

If a decision is taken to continue operating the undertaking, the Financial Supervisory Authority shall, after consultation with the Resolution Board, decide whether the undertaking should seek to transfer its insurance portfolio to one or more insurance undertakings or whether the undertaking should attempt to complete its settlement by other means. The Financial Supervisory Authority may, in the



case of a life insurance undertaking, decide that the life insurance portfolio should be subject to special treatment as provided for in Art. 156.

If the Financial Supervisory Authority considers that the interests of policyholders and beneficiaries will be best safeguarded by continuing to operate the undertaking and completing the settlement of the insurance portfolio, the undertaking's Resolution Board will be exempt from the provisions of paragraph 2 of Art. 64, of the Act on Bankruptcy etc., no. 21/1991, and paragraph 1 of Art. 105 of the Act on Public Limited Companies, no. 2/1995.

If a decision is made to complete the settlement of the insurance portfolio, the Resolution Board shall submit a plan for how this settlement shall be concluded to the Financial Supervisory Authority for approval, including the settlement of claims and the estimated time limit for settlement. [The Central Bank of Iceland]<sup>1)</sup> may set rules on the preparation and contents of such a plan and what documentation shall accompany it.

<sup>1)</sup>Act no. 91/2019, Art. 120.

#### **Art. 154**

##### *Supervision of continuing operations*

The Financial Supervisory Authority shall oversee the operations of an insurance undertaking managed by a Resolution Board, despite the withdrawal of its operating licence. A subsidiary of an insurance undertaking in winding-up proceedings that manages its assets shall also be subject to the supervision of the Financial Supervisory Authority. This supervision shall include, among other things, business practices and whether the undertaking's treatment of its customers accords with general business practices of insurance undertakings with a valid operating licence.

Transactions with and disposition of the assets of an insurance undertaking managed by a Resolution Board or the Resolution Board's transactions with individual members of the Resolution Board or parties closely associated with such a party, shall comply with the rules of normal and sound business practices and custom. The Financial Supervisory Authority shall, on its own initiative or acting on creditors' suggestions, monitor such transactions.

Refusal to deliver documentation to the Financial Supervisory Authority at its request may be liable to dismissal from the Resolution Board.

The Financial Supervisory Authority may dismiss the Resolution Board entirely or partially in cases where the Resolution Board in question is deemed not to have performed its duties in accordance with paragraphs 2 and 3 or, as the case may be, in accordance with other statutory provisions.

#### **Art. 155**

##### *Transfer of an insurance portfolio*

If a decision has been taken, that the interests of policyholders and beneficiaries are best served by transferring the insurance portfolio in part or in full to one or more insurance undertakings, the main contents of the agreement concerning this shall be made public.

The Resolution Board shall notify policyholders, beneficiaries and others, who have a claim against an insurance undertaking in connection with insurance contracts and are domiciled or have their habitual residence or head office in another Member State, of the proposed transfer of the insurance portfolio. This notification shall be in the language of the state in which the party is domiciled or has its habitual residence or head office.

The Resolution Board shall publicly invite comments from policyholders and beneficiaries, to be received within one month of the publication of the notice.

After taking the comments into consideration, the Resolution Board shall make a decision in consultation with the Financial Supervisory Authority as to whether insurance portfolios can be transferred in the manner proposed.

#### **Art. 156**

##### *Separate treatment of a life insurance portfolio*

If a Resolution Board is appointed for an undertaking which pursues life assurance activities and it is decided that its life assurance portfolio should be handled separately, the Financial Supervisory Authority shall immediately take custody of the assets set aside to cover life insurance provisions, have the provisions recalculated and the value of the assets re-assessed. The settlement of payable and reported life assurance claims shall be completed according to the rules in effect prior to the appointment of the Resolution Board. Life assurance claims which are not yet due for payment may be paid to the extent deemed defensible by the Financial Supervisory Authority in view of the undertaking's equity status. Surrenders are not allowed except as settlement of loans secured by the undertaking's life assurance policies.

Immediately upon the completion of the revaluation provided for in paragraph 1, the Financial Supervisory Authority shall seek other life assurance insurance undertakings willing to take over the life insurance portfolio and technical provisions. The Financial Supervisory Authority shall evaluate any offers received and choose that which it deems most advantageous for the beneficiaries. The Financial Supervisory Authority shall publicly announce the main features of the offer it has chosen, at the same time seeking comments from policyholders and beneficiaries, to be received by the Authority in writing within one month of the publishing of the announcement. Once any comments have been received, the Financial Supervisory Authority may transfer the portfolio to the life insurance undertaking it has chosen, together with assets to cover the technical provisions, provided the recipient thereupon assumes all obligations arising from the life insurance.

Those policyholders or beneficiaries who have submitted comments and are unwilling to agree to the transfer shall be entitled to a reimbursement of the value of their life insurance, insofar as this can be covered by their proportion of the assets.

Should no offer be received for the life insurance portfolio, or none which the Financial Supervisory Authority is willing to recommend, the assets of the insured shall be paid to them in direct proportion to the value of their life insurance.

#### **Art. 157**

##### *Publication of a decision*

The Resolution Board shall publish a decision to commence winding-up proceedings in the Legal Gazette (*Lögbirtingablað*). Furthermore, it shall publish an extract from the decision on winding-up in the Official Journal of the European Union, together with information on the legislation applicable to winding-up. The parties comprising the Resolution Board shall also be specified.

#### **Art. 158**

##### *Disclosure of information to known creditors*

The Winding-up Board shall notify all known creditors of the winding-up proceedings of an insurance undertaking.

The notification shall invite creditors to lodge claims against the undertaking or provide the opportunity to comment on claims, state the time limits for submitting claims or making comments and whether there will be consequences, and if so what, if these time limits are not respected. The notification shall also state what party is authorised to receive claims or comments on them and other specific measures that may be involved. The notification shall also state whether creditors who hold preferential claims or rights secured in rem need to lodge their claims.

The title of the notification provided for in paragraph 1 shall indicate that it is a call or invitation to lodge or comment on a claim, and that time limits must be respected; it shall be in all the official languages of the Member States. Notification to creditors domiciled in another Member State or who have their habitual residence or head office there shall be in the official language of that state or in one of the official languages of that state.

Notification to parties who base their right on an insurance contract shall be subject to paragraphs 2 and 3 as applicable and shall be in the official language or one of the official languages of the Member State in which the party is domiciled or has their habitual residence or head office.

#### **Art. 159**

##### *Claims and comments on claims*

Claims or comments based on Art. 158 shall state:

1. the nature and amount of the claim,
2. the date on which the claim arose,
3. whether the claim should be preferential, is secured in rem or has a reservation of title,
4. what assets are covered by any security, if applicable.

A creditor who is domiciled in or has their habitual residence in another Member State may file a statement of claim or comment on a claim in the official language of that state or in one of the official languages of that state. The title of the statement of claim or a document containing comments on claims shall, however, be in Icelandic.

Parties who base their rights on an insurance contract do not have to account for the precedence of those claims.

#### **Art. 160**

##### *Regular information to creditors*

The Resolution Board shall, in an appropriate manner, keep creditors regularly informed on the progress of the winding-up.

The supervisory authorities of the Member States may request information on the progress of winding-up proceedings from the Financial Supervisory Authority.

#### **Art. 161**

##### *Winding-up proceedings and liquidation of an insurance undertaking*

An insurance undertaking shall not be placed in liquidation except at the request of the Financial Supervisory Authority. The Act on Bankruptcy etc., no. 21/1991, shall apply to the liquidation of an insurance undertaking in other respects than those laid down in this Act.

Insurance claims against an insurance undertaking shall take precedence over claims pursuant to Art. 113 of Act no. 21/1991, on Bankruptcy etc. An insurance undertaking must always be able to demonstrate the extent of those claims that take precedence over insurance claims.

When an insurance undertaking is placed in winding-up proceedings or a ruling is issued on the undertaking's liquidation, it shall not affect mortgagees' property rights in another Member State. Icelandic law, however, shall apply to the rights and obligations of parties subject to official supervision in Iceland.

If an insurance undertaking has purchased a property with a reservation of title, it shall not affect the seller's rights based on the reservation if the property is in another Member State when the insurance undertaking is placed in winding-up proceedings or a ruling is pronounced on the undertaking's liquidation. The winding-up proceedings and liquidation of an insurance undertaking shall not affect the insurance undertaking's sale of a property if delivery has already taken place and the property was in another Member State when the winding-up proceedings began or a ruling on liquidation was pronounced.

[Without prejudice to paragraph 3, the effect of the commencement of the winding up or liquidation of an insurance undertaking on the rights and obligations of parties to a regulated securities market shall be determined by the law of the state that applies to the market.]<sup>1)</sup>

Notwithstanding the provisions of [paragraphs 3-5],<sup>1)</sup> the provisions of Chapter III of the Act on Conclusion of Contracts, Power of Attorney and Invalidity of Legal Acts, no. 7/1936, or the provisions of Chapter XX of the Act on Bankruptcy etc., no.21/1991, may be applied, unless the law of the host State does not permit this.

If an insurance undertaking has sold real estate, a vessel or an [aircraft]<sup>3)</sup> that is subject to official registration, or transferable securities or other securities listed on a regulated [market],<sup>2)</sup> after the insurance undertaking was placed in winding-up proceedings or a ruling on its liquidation pronounced, the law of the state where the property is located or where the official registration has taken place shall apply to the validity of the legal act.

The effect of the placing of the estate of an insurance undertaking in winding-up or the pronouncement of a ruling on liquidation on a court action concerning an asset or other rights relinquished by an insurance undertaking shall be governed by the law of the Member State in which the action was brought.

The provisions of paragraphs 2-4 of Art. 149 shall apply to the liquidation and winding-up of an insurance undertaking *mutatis mutandis*.

An insurance undertaking shall keep a special register of the assets used to cover the technical provisions calculated and which it has invested. Once winding-up proceedings or liquidation has commenced, the composition of the assets entered in the register may not be changed and no alteration other than the correction of purely clerical errors shall be made to the register, except with the authorisation of the Financial Supervisory Authority. However, the Resolution Board or liquidator shall add to those assets the yield therefrom and the value of the net premiums received in respect of the class of insurance concerned between the opening of the winding-up proceedings and the time of payment of the insurance claims or until any transfer of portfolio is affected. If the product of the realisation of assets is less than their estimated value in the register, the Resolution Board or liquidator shall justify this to the Financial Supervisory Authority.

<sup>1)</sup>Act no. 82/2021, Art. 24. <sup>2)</sup>Act no. 115/2021, Art. 148. <sup>3)</sup>Act no. 80/2022, Art. 269.

#### **Art. 162**

##### *Winding-up proceedings and liquidation of an undertaking with life insurance activities*

The provisions of Art. 161 on winding-up proceedings and liquidation of an insurance undertaking shall apply to winding-up proceedings and liquidation of an undertaking with life insurance activities, unless otherwise provided for in this provision.

The provisions of Art. 156 on specific treatment of the life insurance portfolio apply when it is decided to wind up an undertaking with life insurance activities and the Financial Supervisory Authority may demand all necessary documentation from the undertaking to be able to complete the settlement and disposal of the portfolio. In addition to public notification as provided for in paragraph 2 of Art. 156, the Financial Supervisory Authority shall notify policyholders, beneficiaries and others, who have a claim against an insurance undertaking in connection with insurance contracts and are domiciled or have their habitual residence or head office in another Member State, of the proposed transfer of the insurance portfolio. This notification shall be in the language of the state in which the party is domiciled or has their habitual residence or head office.

In the winding-up proceedings or liquidation of a life insurance undertaking, the assets that are to meet the life insurance liability shall not be included in the undertaking's assets, nor shall its life insurance provisions be included with its debts. If payment of a life insurance claim cannot be concluded with the assets which are to cover the life insurance provisions, the claim against the undertaking shall be subject to paragraph 2 of Art. 161.

#### **Art. 163**

##### *Treatment of branches of an insurance undertaking with its head office in a third country*

When an insurance undertaking which has its head office in a third country has a branch in more than one Member State, its branch in Iceland shall be regarded as an independent entity in the event of its financial reorganisation or winding-up. The Financial Supervisory Authority shall endeavour to coordinate reorganisation measures and winding-up proceedings with the relevant supervisory bodies.

## **Art. 164**

### *Voluntary winding-up*

When a decision is taken on voluntary winding-up, in accordance with the Articles of Association of an insurance undertaking which has obtained an operating licence in Iceland, the undertaking shall submit to the Financial Supervisory Authority a report of its residual insurance liabilities and how it intends to settle these.

The Financial Supervisory Authority shall assess and decide whether the interests of policyholders and beneficiaries are deemed best served by the transfer of the insurance portfolio to one or more other undertakings and, in cases where a life assurance portfolio is involved, whether that portfolio shall be handled separately, cf. Art. 156.

In other respects, the provisions of Articles 157-162 shall apply *mutatis mutandis* to the voluntary winding-up of an insurance undertaking.

## CHAPTER XXV

### **Sanctions**

## **Art. 165**

### *Administrative fines*

The Financial Supervisory Authority may levy administrative fines on any party violating:

1. the second sentence of paragraph 1 of Art. 2 concerning activities subject to operating licence;
2. Articles 4-5 on authorised activities;
3. Art. 8 on restrictions on intermediation in connection with direct insurance activities;
4. paragraph 3 of Art. 10 on the instructions of the Financial Supervisory Authority to correct any deficiencies;
5. paragraph 4 of Art. 10, cf. Art. 9, on complying with the rules of [the Central Bank of Iceland]<sup>1)</sup> on sound and proper business practices of insurance undertakings;
6. Art. 11 on authorisation to bear a name that indicates insurance activities;
7. Art. 16 to the effect that any amendments to an insurance undertaking's Articles of Association must be sent to the Financial Supervisory Authority for its approval within a week of their adoption;
8. paragraph 1 of Art. 27 on application to the Financial Supervisory Authority if an insurance undertaking with an operating licence in Iceland proposes to take up another class or subclass of insurance, or intends to substantially change its activities;
9. Art. 31 on submission of data to the Financial Supervisory Authority;
10. Articles 35 and 36 on mergers;
11. paragraph 6 of Art. 39 on the instructions of the Financial Supervisory Authority on improvements;
12. paragraphs 2-5 of Art. 40 on transactions of board members or related parties with the insurance undertaking;
13. paragraph 7 of Art. 40 on notification of remuneration to board members or [the managing director];<sup>2)</sup>
14. paragraph 8 of Art. 40 on the obligation to give notice of matters that may have a decisive effect on the undertaking's continuing operations;
15. paragraphs 2 and 4 of Art. 41 on notification of the composition and subsequent changes to the Board of Directors, [managing director]<sup>2)</sup> and persons responsible for key functions;
16. paragraph 4 of Art. 42 on restrictions on the work of the Chairman of the Board;
17. Art. 44 on risk management;
18. Art. 45 on own risk and solvency assessment;
19. Art. 48 on the suitability of parties carrying out an actuarial function;
20. Art. 49, on outsourcing;
21. Art. 52 on limits to dividends;
22. Art. 53, on annual financial statements;

23. Art. 54 on a report on solvency and financial position;
24. Art. 58 on notification of a qualifying holding;
25. Art. 63 on acquisition of a qualifying holding by an ineligible party;
26. Art. 64 on owner's notice of transfer of ownership;
27. Art. 65 on notice of transfer of ownership by an insurance undertaking;
28. Art. 66 on disclosure obligations;
29. paragraph 1 of Art. 69 on maximum holding of own shares;
30. paragraph 2 of Art. 69 on loans secured by own shares;
31. Articles 70 and 71 on the eligibility and disclosure obligations of the auditor;
32. Art. 72 on separation of life and non-life insurance;
33. Art. 75 on technical provisions;
34. Art. 90 on use of ancillary own-fund items;
35. paragraph 3 of Art. 100 on the approval of the Financial Supervisory Authority for the use of own parameters;
36. Art. 104 on the approval of the Financial Supervisory Authority for the use of an internal model;
37. paragraph 2 of Art. 112 on the quarterly calculation of the minimum capital requirement;
38. Art. 123 on the authorisation of an insurance undertaking with an operating licence in Iceland to open a branch in another Member State;
39. Articles 124 and 126 in connection with activities of foreign parties in Iceland;
40. Art. 125 on the authorisation of an insurance undertaking with an operating licence in Iceland to provide services in another Member State without an establishment;
41. Art. 130 on the authorisation of an insurance undertaking with an operating licence in Iceland to commence operations in a third country;
42. Art. 133 on authorisation to transfer an insurance portfolio;
43. Art. 139 on settlement of an insurance undertaking which has lost its operating licence;
44. paragraph 1 of Art. 164 on the submission of a report to the Financial Supervisory Authority regarding a decision on voluntary winding-up.

Fines which are levied on individuals may range from ISK 10,000 to ISK 20 million. Fines levied on legal entities can range from ISK 100,000 to ISK 50 million. In determining the amount of the fine, regard shall be had, for instance, for the seriousness of the infringement, how long it has prevailed, the readiness of the offending party to co-operate and whether this is a repeat infringement. [Decisions of the Financial Supervisory Authority's on administrative fines are enforceable by execution.]<sup>3)</sup> Fines accrue to the Treasury net of the cost of collection. If administrative fines are not paid within one month of the decision of the Financial Supervisory Authority, penalty interest shall be paid on the amount of the fine. The Act on Interest and Indexation shall apply to a decision on and calculation of penalty interest.

Administrative fines may be applied regardless of whether infringements are committed deliberately or through negligence.

A legal entity may be fined for infringements of this Act and rules issued on the basis thereof, regardless of whether the guilt of a specific representative, employee or other party working on behalf of the legal entity is proven. If a representative, employee or other party acting on behalf of the legal entity has committed a criminal infringement of this Act or rules issued on the basis thereof, in the activities of the legal entity, that party may be punished in addition to the fine levied on the legal entity.

<sup>1)</sup>Act no. 91/2019, Art. 122. <sup>2)</sup>Act no. 82/2021, Art. 25. <sup>3)</sup>Act no. 91/2019, Art. 123.

## **Art. 166**

### *Settlement*

If a party has violated the provisions of this Act or decisions by the Financial Supervisory Authority based upon it, the Financial Supervisory Authority may conclude the case with a settlement with the party's consent, provided no major offence is involved subject to criminal punishment. A settlement is

binding upon the party once its contents have been accepted and endorsed with a signature. [The Central Bank of Iceland]<sup>1)</sup> shall set detailed rules<sup>2)</sup> on the implementation of this provision.

<sup>1)</sup>Act no. 91/2019, Art. 120. <sup>2)</sup>Reg. 326/2019.

#### **Art. 167**

##### *Rights of individuals*

In a case directed against an individual, which may conclude with the levying of an administrative fine or a complaint to the police, a person who there is reasonable grounds to suspect is guilty of an offence has the right to refuse to answer questions or deliver data or objects unless the possibility can be excluded that this may be of significance for determining the person's offence. The Financial Supervisory Authority shall inform the suspect of this right.

#### **Art. 168**

##### *Statute barring of administrative fines*

The authorisation of the Financial Supervisory Authority to levy administrative fines under this Act shall expire once five years have elapsed from the time the behaviour concluded.

Calculation of the time limit provided for in paragraph 1 shall be suspended when the Financial Supervisory Authority notifies a party of the initiation of an investigation of an alleged offence. Suspension of the time limit shall have legal effect for all parties involved in an offence.

#### **Art. 169**

##### *Fines or imprisonment*

Infringements of the following provisions shall be liable to fines or imprisonment of up to two years, unless more severe punishment is provided for in other Acts:

1. the second sentence of paragraph 1 of Art. 2 concerning activities subject to operating licence;
2. paragraph 3 of Art. 10 on failure to comply with the instructions of the Financial Supervisory Authority to correct any deficiencies;
3. paragraph 4 of Art. 10, cf. Art. 9, on complying with the rules of [the Central Bank of Iceland]<sup>1)</sup> on sound and proper business practices of insurance undertakings;
4. paragraph 5 of Art. 48 on the obligation of an actuary to notify the Financial Supervisory Authority;
5. Art. 52 on limits to dividends;
6. Art. 53, on annual financial statements;
7. Art. 58 on failure to notify a qualifying holding;
8. Art. 63 on acquisition of a qualifying holding by an ineligible party;
9. Art. 66 on disclosure obligations;
10. paragraph 1 of Art. 69 on maximum holding of own shares;
11. paragraph 2 of Art. 69 on loans secured by own shares;
12. Articles 70 and 71 on the eligibility and disclosure obligations of the auditor;
13. paragraph 1 of Art. 117 on notification in connection with insufficient own-funds;
14. paragraphs 1 and 2 of Art. 118 on measures due to insufficient minimum capital;
15. Art. 139 on settlement of an insurance undertaking which has lost its operating licence.

Deliberately giving false or misleading information on the situation of an insurance undertaking or other aspects concerning it, publicly or to the Financial Supervisory Authority, other public bodies or customers is subject to the same penalty.

<sup>1)</sup>Act no. 91/2019, Art. 122.

#### **Art. 170**

Infringements of this Act which are liable to fines or imprisonment shall be punishable whether committed deliberately or through negligence.

Any direct or indirect gain acquired through an infringement of the provisions of this Act liable to fines or imprisonment may be confiscated by a court judgement.

An attempt to commit or participation in an infringement of this Act is punishable as prescribed in the General Penal Code.

#### **Art. 171**

##### *Decision on complaints and delivery of documentation*

Infringements of this Act shall only be subject to a criminal investigation following a complaint from the Financial Supervisory Authority to the police.

If an alleged infringement of this Act is liable to both administrative fines and punishment, the Financial Supervisory Authority shall assess whether to submit a complaint to the police or conclude the case with an administrative decision by the Authority. In the case of major infringements, the Financial Supervisory Authority should refer these to the police. An infringement is considered major if it involves significant amounts or if the act is committed in a particularly reprehensible manner or in circumstances that greatly increase the culpability of the infringement. Furthermore, the Financial Supervisory Authority may, at any stage of the investigation, refer infringements of this Act for a criminal investigation. Care shall be taken to ensure consistency in resolving comparable cases.

Complaints submitted by the Financial Supervisory Authority shall be accompanied by copies of the documentation supporting the suspicion of an infringement. The provisions of Chapters IV-VII of the Public Administration Act shall not apply to a decision by the Financial Supervisory Authority to submit a complaint to the police.

The Financial Supervisory Authority may provide the police and prosecution with information and documentation which the Authority has acquired and is connected with the infringements referred to in paragraph 2. The Financial Supervisory Authority may participate in actions by the police concerning their investigation of infringements referred to in paragraph 2.

The police and prosecuting authority may provide the Financial Supervisory Authority with information and documentation which they have obtained relating to the infringements listed in paragraph 2. The police may participate in actions by the Financial Supervisory Authority concerning their investigation of infringements referred to in paragraph 2.

If the prosecution is of the opinion that there is insufficient cause for bringing suit concerning alleged punishable behaviour which furthermore is liable to administrative penalties, it may send or return the case to the Financial Supervisory Authority for handling and a decision.

#### CHAPTER XXVI

#### **Miscellaneous provisions**

#### **Art. 172**

##### *Amounts in euros*

The amounts in euros referred to in this Act shall be updated every five years. Updates shall be based on changes in the Harmonised Index of Consumer Prices in the European Union, with the base index of 31 December 2015. If the change in the index during the period is less than 5%, the amounts shall remain unchanged. The Financial Supervisory Authority shall publish updated ISK amounts.

#### **Art. 173**

##### *Transposition*

Having regard to the Decision of the EEA Joint Committee no. 78/2011, of 1 July 2011, published on 6 October 2011 in the EEA Supplement to the *Official Journal of the European Union*, no. 54, this Act transposes the provisions of Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of insurance and reinsurance. It also transposes provisions of Directive 2014/51/EU amending Directive 2009/138/EC, with the exception of provisions concerning the powers of the European Insurance and [Occupational Pensions Authority]<sup>1)</sup> (EIOPA) and provisions on insurance groups.



[This Act transposes the provisions of Directive 2014/51/EU of the European Parliament and of the Council amending, inter alia, Directive 2009/138/EC and Regulation (EU) no. 1094/2010, which were not already transposed into Icelandic law.]<sup>2)</sup>

<sup>1)</sup>Act no. 36/2018, Art. 5. <sup>2)</sup>Act no. 36/2018, Art. 16.

#### **Art. 174**

##### *Entry into force*

This Act shall enter into force on 1 October 2016.

...

Act no. 56/2010, on Insurance Activities, shall, however, apply to insurance companies that are under the management of a Resolution Board upon the entry into force of this Act [with the exception of paragraph 3 of Art. 91 a].<sup>1)</sup>

<sup>1)</sup>Act no. 36/2018, Art. 17.

#### **Transitional provisions**

If an insurance undertaking meets the requirements for minimum solvency under the provisions of Articles 31-34 of the Act on Insurance Activities, no. 56/2010, as of 31 December 2015, without having sufficient eligible own-fund items to meet the minimum capital requirement provided for in Chapter XVII of this Act, the undertaking shall have until 31 December 2016 to meet the requirements under Chapter XVII. If the undertaking does not meet the requirements within that time, its operating licence will automatically be cancelled.

If an insurance undertaking meets the requirements for minimum solvency under the provisions of Articles 31-34 of the Act on Insurance Activities, no. 56/2010 as of 31 December 2015, without having sufficient eligible own-fund items to meet the solvency capital requirement provided for in Chapter XVII of this Act, the undertaking shall have until 31 December 2017 to meet the requirements. Every three months, the insurance undertaking shall submit a progress report to the Financial Supervisory Authority stating what measures have been taken and what progress has been made. This exemption shall expire if the progress report reveals that satisfactory progress has not been made in meeting the solvency requirement.

Notwithstanding the provisions of paragraph 10 of Art. 31 on the time limits for submitting data to the Financial Supervisory Authority, the time limits for submitting annual data for the years 2016–2018 shall be as follows:

1. Data for the financial year ending 31 December 2016 must be submitted no later than 20 weeks after the end of the year.
2. Data for the financial year 2017 must be submitted no later than 18 weeks after the end of the year.
3. Data for the financial year 2018 must be submitted no later than 16 weeks after the end of the year.

Notwithstanding the provisions of paragraph 1 of Art. 54, insurance undertakings shall publish a report on solvency and financial position as follows:

1. The report for the financial year 2016 must be published no later than 20 weeks after the end of the year.
2. The report for the financial year 2017 must be published no later than 18 weeks after the end of the year.
3. The report for the financial year 2018 must be published no later than 16 weeks after the end of the year.

Notwithstanding the provisions of paragraph 11 of Art. 31 on the time limits for submitting data to the Financial Supervisory Authority, the time limits for submitting quarterly data for the years 2016–2018 shall be as follows:

1. Data for the quarters of the financial year 2016 must be submitted no later than 8 weeks after the end of the quarter.

2. Data for the quarters of the financial year 2017 must be submitted no later than 7 weeks after the end of the quarter.
3. Data for the quarters of the financial year 2018 must be submitted no later than 6 weeks after the end of the quarter.

Notwithstanding the provisions of Art. 92, basic own-fund items shall be classified as Tier 1 for ten years from the entry into force of this Act on the condition that:

1. the items were issued before the entry into force of this Act;
2. prior to the entry into force of this Act, the items could be used to satisfy up to 50% of the minimum solvency margin under Act no. 56/2010, on Insurance Activities;
3. the items would not otherwise be classified as Tier 1 or 2 pursuant to Art. 92.

Notwithstanding the provisions of Art. 92, basic own-fund items shall be classified as Tier 2 for ten years from the entry into force of this Act on the condition that:

1. the items were issued before the entry into force of this Act;
2. prior to the entry into force of this Act, the items could be used to satisfy up to 25% of the minimum solvency margin under Act no. 56/2010, on Insurance Activities.