

Pursuant to Article 112, paragraph 4, Article 147, paragraph 3 and Article 189, paragraph 3 of the Insurance Law ("RS Official Gazette", No. 139/2014), and Article 15, paragraph 1 and Article 64, paragraph 2 of the Law on the National Bank of Serbia ("RS Official Gazette", No. 72/2003, 55/2004, 85/2005 – other law, 44/2010, 76/2012, 106/2012, 14/2015 and 40/2015 – CC decision), the Executive Board of the National Bank of Serbia hereby issues the following

**DECISION**  
**ON THE CONDITIONS AND MANNER OF SUPERVISION OF**  
**OPERATIONS OF INSURANCE/REINSURANCE UNDERTAKINGS AND**  
**OTHER SUPERVISED ENTITIES IN THE INSURANCE BUSINESS**

**Introductory provision**

1. This decision sets out in detail the conditions and manner of supervising operations of insurance/reinsurance undertakings (hereinafter: undertaking) and of performance of outsourced activities of the undertaking, which is carried out by the National Bank of Serbia, in conformity with the Insurance Law (hereinafter: Law) and other law subject to which the National Bank of Serbia is mandated to supervise operations of the undertaking.

The provisions of this decision shall accordingly apply to supervision of operations of insurance brokerage/agency undertakings and insurance agents, and insurance agency activities which, based on the prior approval of the National Bank of Serbia, are performed by a bank, financial lessor and public postal operator with the head office located in the Republic of Serbia and established in accordance with law.

**Supervision of operations of the undertaking**

2. The National Bank of Serbia shall supervise the operations of the undertaking through continuous monitoring of such operations and/or the level of solvency of the undertaking, together with an assessment of the risk profile and/or risks to which the undertaking is or may be exposed in the course of its operations, as well as through monitoring the comprehensiveness and reliability of the management system established in the undertaking and its corporate governance, monitoring the transparency of operations and market behaviour, checking accuracy of making entries of business transactions in business books and compliance of the undertaking's operations with law and regulations, and/or operating principles established by the Law, and other matters that are the subject of supervision, during which illegalities and irregularities in the undertaking's operations shall be established.

Illegalities in the operations of an undertaking (hereinafter: illegalities) shall mean such states and/or actions that are not in conformity with regulations governing operations of an undertaking.

Irregularities in the operations of an undertaking (hereinafter: irregularities) shall mean such states and/or actions which are not in conformity with business policies and internal acts of the undertaking, and the rules of the insurance profession and actuarial profession, good business practices and business ethics, and/or inconsistent application of policies and acts, which jeopardises the operations of such undertaking, especially with regard to organizational requirements and the risk management system.

3. Supervision of operations of the undertaking shall be based on the assessment of risks in such operations and shall be performed through on-site and off-site examination, and through imposition of measures of supervision and/or fines on the undertaking.

In the course of supervision, the National Bank of Serbia shall perform qualitative and quantitative assessment of the undertaking's operations, determine its risk profile and significant activities in its operation, identify risks that have occurred or may occur in relation to such activities and evaluate such risks and the quality of risk management.

4. The National Bank of Serbia shall supervise undertakings by examining:

- reports and other documents submitted by the undertaking pursuant to regulations and/or upon request from the National Bank of Serbia;
- analysis of the market behaviour of the undertaking and the complaints of insurance service beneficiaries relating to the operations of the undertaking submitted to such undertaking and/or the National Bank of Serbia;
- data obtained through direct communication, particularly with a member of the executive board and/or supervisory board of an undertaking (hereinafter: member of management), certified actuary or internal auditor and/or in meetings with representatives of the undertaking or with the certified auditor;
- early warning indicators, risk assessment, findings of earlier supervisions of the undertaking's operations and other data on the undertaking available to the National Bank of Serbia;
- data of other competent authorities about the insurance market and/or financial sector, data of association of undertakings and/or other data available to the public or the media.

### **On-site and off-site examination**

5. The National Bank of Serbia shall conduct on-site examination of operations of an undertaking on the premises of such undertaking and/or persons linked with the supervised undertaking by means of property, management or business relationship and/or all participants in the supervised activity, by inspecting business books, supporting documentation and calculations, financial and other statements of the undertaking and/or such person, and acts of the undertaking, by monitoring the management process, and on the basis of communication with members of management, employees and other persons whose engagement in the undertaking is relevant to for such examination.

The undertaking shall designate a person to cooperate with the authorized person referred to in Section 6 hereof during the conduct of on-site examination.

6. On-site examination of activities of an undertaking shall be conducted by employees of the National Bank of Serbia (hereinafter: authorized persons) designated by the decision of the Governor of the National Bank of Serbia (hereinafter: Governor) or a person authorized by the Governor.

The decision referred to in paragraph 1 hereof shall specify the undertaking and/or other persons on whose premises the on-site examination will be performed, subject matter of such examination, date of start of such examination and period of operations of the undertaking to which such examination refers.

Authorized persons of a foreign supervisory authority that oversees and/or supervises the activities of members of the group of undertakings to which the undertaking belongs may also take part in on-site examination of activities of the undertaking, in line with the cooperation agreement between the National Bank of Serbia and such authority.

On-site examination of activities of an undertaking shall be initiated as of the date of the decision referred to in paragraph 1 hereof.

The National Bank of Serbia may notify the undertaking in writing of the initiated procedure of on-site examination of its activities and request that such undertaking provides data and documents necessary for such examination.

The decision shall be delivered to the responsible person of the undertaking upon entry on the undertaking's premises.

The Governor or a person authorized by the Governor may, during on-site examination of an undertaking, supplement and/or amend the decision referred to in paragraph 1 hereof.

7. For the purposes of the Law, an undertaking shall be considered not to have allowed the National Bank of Serbia to conduct on-site examination if the undertaking acts in contravention of Article 192 of the Law, and in particular in the following cases:

- if it fails to make available all requested data and evidence within the specified timeline, including in particular the data it is required to have in accordance with law, regulations and/or operating principles in line with the Law;
- if it makes available incorrect and/or incomplete data intentionally or by gross negligence;
- if it fails to provide conditions necessary for the conduct of on-site examination to authorized persons and/or does not ensure that employees of the undertaking and other persons do not disturb such authorized persons during such examination.

In the case referred to in paragraph 1 hereof, the authorized person shall prepare a report thereon and suggest measures in accordance with the Law.

8. The National Bank of Serbia shall conduct off-site examination of operations of an undertaking by analysing and checking reports and other documentation submitted by the undertaking pursuant to regulations or upon the National Bank's request, and other data on such operations available to it.

If in the process of off-site examination the National Bank of Serbia establishes some irregularities in the operations of the undertaking, it may send a letter of warning to the undertaking with regard to the irregularities and set a deadline for their remedying.

9. If, in the course of off-site examination, the National Bank of Serbia establishes irregularities and/or illegalities of a graver kind in the operations of the undertaking or if the undertaking fails to act in accordance with the letter of warning referred to in Section 8, paragraph 2 hereof, an examination report shall be made.

In the case referred to in paragraph 1 hereof, and before drafting the report referred to therein, the National Bank of Serbia may notify the undertaking in writing of the subject matter of off-site examination and of the employee in charge of such examination on whose request the undertaking is required to submit all data and documents.

The provisions of this decision relating to on-site examination shall accordingly apply to the procedure following the drafting of the report referred to in paragraph 1 hereof.

### **Reports, other acts and their delivery**

10. Based on the findings of on-site examination of the undertaking, authorized persons have an obligation to prepare examination report (hereinafter: report), which the National Bank of Serbia shall submit to the undertaking.

The undertaking may make objections to the report within 20 days from the day of receipt of the report, or within eight days from the day of receipt of the report if this is justified by reasons of urgency.

The undertaking shall submit objections to the report to the National Bank of Serbia, signed by the legal representative of the undertaking.

11. Where verification of the facts stated in the objections referred to in Section 10, paragraph 3 hereof shows a substantially different situation from that stated in the report, the National Bank of Serbia shall make supplements to the report and shall submit such supplements to the undertaking within 20 days from the receipt of such objections. The undertaking may submit objections to the supplements within eight days from their receipt.

If the submitted objections to the report and/or supplements to the report are ungrounded, if they do not change the factual situation established by examination and/or if they do not necessitate a change in the assessment of established illegalities and irregularities, the National Bank of Serbia shall draft an official note thereon and submit such note to the undertaking within 20 days from the day of receipt of such objections.

The National Bank of Serbia may engage in on-site verification of facts stated in the objections referred to in paragraph 1 hereof in the undertaking.

The National Bank of Serbia shall not consider the objections of the undertaking to the report and/or supplements to the report which refer to a change in the factual situation occurring after the period for which examination was conducted (cut-off date), but may take such objections into account when ordering supervision measures prescribed by the Law.

The National Bank of Serbia shall issue a decision on conclusion of the examination procedure and shall submit such decision to the

undertaking if no illegalities and/or irregularities were established in the examination report or minor illegalities and/or irregularities were established or if the undertaking has provided within the legally prescribed timeline reasonable grounds to dispute all of the findings of the report or a part thereof, so that the remaining illegalities and/or irregularities represent only minor illegalities and/or irregularities.

### **Measures of supervision**

12. In the conduct of insurance supervision, the National Bank of Serbia may impose measures of supervision on an undertaking, in accordance with the criteria laid down in law.

13. The letter of warning referred to in Article 199 of the Law (hereinafter: letter of warning) shall be issued against an undertaking whose business activities were found to contain irregularities that have not affected in a substantial or direct manner its financial position, stability of the insurance market and/or rights and interests of insured persons and/or other insurance beneficiaries.

The letter of warning shall include a deadline by which the established irregularities should be remedied and report on remedied irregularities delivered to the National Bank of Serbia, with evidence enclosed.

The National Bank of Serbia shall verify if the undertaking has remedied the established irregularities after the expiry of the deadline for their removal referred to in paragraph 2 hereof or before the expiry of such deadline if it receives a notification from the undertaking that such irregularities have been remedied.

The National Bank of Serbia shall terminate the examination procedure in respect of the undertaking to which it issued a letter of warning when it ascertains that, within the timeline set in such letter of warning, the established irregularities were remedied fully or to a large extent, while, if it finds that they were not removed, it shall issue a new measure against such undertaking under Article 197, paragraph 1 of the Law.

14. The National Bank of Serbia shall issue a decision to publicly disclose information about the undertaking's failure to meet its obligations or failure to meet them in a timely manner, or about the undertaking's non-compliance with the regulations, at the expense of the undertaking, in the cases prescribed in Article 200 of the Law, in accordance with the criteria laid down by law.

The decision referred to in paragraph 1 hereof shall be published on the Internet page of the National Bank of Serbia.

The decision referred to in paragraph 1 hereof shall contain the introduction, reasoning and explanation, and shall not comprise data designated as confidential subject to the Law and other regulations governing data confidentiality.

15. In the cases referred to in Articles 201, 203 and 204 of the Law, the National Bank of Serbia shall issue a decision imposing measures and orders.

The undertaking shall notify the National Bank of Serbia of the implementation of measures and orders referred to in paragraph 1 hereof, in the manner and within the timeline specified in the decision referred to therein.

The National Bank of Serbia shall supervise the implementation of the measures and orders referred to in paragraph 1 hereof after the expiry of the deadline for their implementation or before the expiry of such deadline if it receives a notification from the undertaking that such measures and orders have been implemented.

The decision referred to in paragraph 1 hereof may also designate the body of the undertaking or a member of such body that will be responsible for the implementation of orders and measures from such decision.

16. If the National Bank of Serbia finds that the undertaking has implemented all measures and orders from the decision referred to in Section 15 hereof or that the illegalities and irregularities based on which such orders and measures were pronounced have been remedied to such a degree that only minor illegalities and irregularities remain, the National Bank of Serbia shall terminate the examination procedure, while if it finds that they were not remedied, it shall issue a new measure against such undertaking referred to in Article 197, paragraph 1 of the Law, in accordance with the criteria laid down by the law.

If, on the basis of evidence submitted by the undertaking on the implementation of measures and orders referred to in Section 15 hereof, the National Bank of Serbia establishes that such measures and such orders were not implemented and if, in the process of on-site examination, it establishes that the undertaking has committed new illegalities and irregularities in its operations and/or that it does not act in line with risk management regulations, the National Bank of Serbia may terminate such procedure and start a new procedure of on-site examination.

17. If the National Bank of Serbia issues a decision ordering an interim measure in conformity with Article 205 of the Law, such decision may remain in force until at the latest the day of rendering a decision on imposing measures referred to in Article 197 of the Law and/or completion of the examination procedure during which such interim decision has been rendered.

18. The National Bank of Serbia shall issue a decision to temporarily prohibit the undertaking from engaging in the activities of compulsory traffic insurance, to introduce receivership in the undertaking, to transfer the insurance portfolio of the undertaking to another undertaking and to revoke the undertaking's insurance/reinsurance license, and/or license to engage in compulsory traffic insurance, in the cases prescribed by the law.

19. The National Bank of Serbia shall verify if the undertaking has acted in accordance with its order and/or may again conduct an on-site examination of the undertaking's operations in the scope needed to determine whether the established illegalities and irregularities have been remedied in the adequate manner and to an the adequate degree.

The National Bank of Serbia shall monitor the implementation of measures and orders issued against the undertaking in accordance with this decision and shall assess their effectiveness.

### **Fines**

20. In order for a legally prescribed fine to be imposed on an undertaking, responsible person in such undertaking or chairman and/or member of a body of the undertaking , the undertaking shall submit to the National Bank of Serbia, upon its request and within the specified timeline , details on persons responsible for managing the activities of the undertaking and administration of such activities, and/or data on the division of powers and responsibilities for activities coming under the remit of the executive board and/or supervisory board of the undertaking as defined by the articles of association and internal acts of the undertaking, average earnings of members of management for the period specified in the request of the National Bank of Serbia and other relevant data.

The undertaking, responsible person in the undertaking and chairman and/or member of a body of the undertaking shall submit to the National Bank of Serbia evidence that the fine was paid to a special account of the National Bank of Serbia and/or the incoming payment account to the credit of the budget of the Republic of Serbia, no later than within 15 days from the day of



expiry of the payment deadline specified in the decision on the imposition of the fine.

If an undertaking fails to pay the fine to the special account of the National Bank of Serbia, the National Bank of Serbia shall implement enforced collection from the account of the undertaking.

### **Supervision of outsourced activities of the undertaking**

21. The National Bank of Serbia shall supervise the performance of undertaking's activities outsourced to third persons (service providers), in conformity with the Law and this decision.

The undertaking shall ensure that the supervision conducted by the National Bank of Serbia shall in no way and at no time be prevented, hindered or restricted.

The undertaking shall take all necessary measures to ensure that the following conditions are met:

- 1) the service provider must cooperate with the National Bank of Serbia with regard to the outsourced activities;
- 2) the undertaking, certified auditor of the undertaking and the National Bank of Serbia must have efficient access to data relating to outsourced activities;
- 3) the National Bank of Serbia must have the right of access to business premises of the service provider and must be enabled efficient exercise of such right.

The undertaking shall, at the request of the National Bank of Serbia, submit all data on operations and legal and financial situation of the service provider, and demonstrate that the service provider was selected by applying the principle of cautious and conscientious behaviour and that the undertaking can at all times supervise the performance of the outsourced activities.

22. The undertaking shall ensure that the service provider enables the undertaking, certified auditor of the undertaking and the National Bank of Serbia to have full access to documentation and data that are owned by such service provider and associated with outsourced activities.

23. If, during the examination procedure, the National Bank of Serbia finds that, due to omissions in the work of the service provider, the undertaking does not act in accordance with the Law, this decision and other regulations, the National Bank of Serbia may, in addition to measures laid down in the

Law, order the undertaking to terminate the contract on the outsourcing of activities concluded with such service provider.

### **Closing provision**

24. This decision shall be published in the "RS Official Gazette" and shall enter into force on 27 June 2015.

EB NBS No. 47  
11 June 2015

B e l g r a d e

Chairman of the  
Executive Board of the National Bank of  
Serbia  
G o v e r n o r  
of the National Bank of Serbia

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