



LAW ON INSURANCE
(Amended version as of 18 May 2017)

INTERNATIONAL COOPERATION DEPARTMENT

MAY 2020



LAW ON INSURANCE

30 April, 2004.

Ulaanbaatar city.

CHAPTER ONE. GENERAL PROVISIONS

Article 1. Purpose of this law

- 1.1. The purpose of this law is to regulate relations concerning the establishment of legal grounds for conducting insurance activities, the regulation and monitoring of insurance activities by an authorized state body, the granting of licenses for conducting insurance activities, and the protection of the rights of insured persons.

Article 2. Legislation on Insurance

- 2.1. The legislation on insurance shall consist of the Constitution of Mongolia, Civil Code, Company Law, this law and other legislative acts issued in conformity therewith.
- 2.2. If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail.

Article 3. Scope of this law

- 3.1. Relations concerning social insurance and citizens' health insurance shall be regulated by their respective laws.
- 3.2. Contractual relations between insurers and insured persons shall be regulated by the Civil Code.
- 3.3. The legal status of the insurance broker, insurance agent and loss adjuster shall be governed by the Law on Insurance Intermediaries.
- 3.4. Relations concerning mandatory bank deposit insurance shall be regulated by the Law of Mongolia on Bank Deposit Insurance.
- 3.5. Index-based livestock insurance shall be regulated by law.
- 3.6. This law shall regulate relations concerning insurance activities other than those specified in Paragraphs 3.1. - 3.5. of this law.

Article 4. Definitions

- 4.1. The following terms used in this law shall be interpreted as follows:
 - 4.1.1. *'insurance activities'* shall mean the activities of undertaking liability by the insurer, under a contract of insurance, to pay damages or compensation to the insured person upon the occurrence of an insurance event;
 - 4.1.2. *'related party'* shall mean an insurer and a legal entity that has been engaged in insurance activities and whose controlling stake is owned by them, any citizen or legal entity that owns a controlling stake in such legal entity and an affiliated person specified in Paragraph 97.1. of the Company Law.
 - 4.1.3. *'insured person'* shall mean citizen or legal entity that has insured certain items for its own interest and concluded a contract with an insurer;

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- 4.1.4. *'insurance event'* shall mean the occurrence of a contiguous situation when damage is inflicted on the insured item;
 - 4.1.5. *'insurance fee'* shall mean payment made by the insured person to the insurer for insuring certain items;
 - 4.1.6. *'insurance compensation'* shall mean cash paid by the insurer to the insured person in case of occurrence of an insurance event according to the contract;
 - 4.1.7. *'set of insurance regulations'* shall mean the rules, procedures, instructions conditions and requirements issued by an authorized organization for the purpose of regulating insurance activities;
 - 4.1.8. *'actuary'* shall mean a person with the duties to evaluate insurance risks in advance and who provides activities based on economic and mathematical calculations to ensure the solvency and stable financial condition of the insurer;
 - 4.1.9. *'reinsurance'* shall mean a contract whereby the insurer partially or fully reinsures its liabilities before an insured person;
 - 4.1.10. *'foreign regulatory authority'* shall mean an authority with a jurisdiction outside Mongolia that exercises functions in relation to the supervision of insurance business;
 - 4.1.11. *'authorized officer'* shall mean a person specified in Article 81.1. of Company Law.
- 4.2. Section 4.1.1. of this law shall similarly apply to reinsurance business.
 - 4.3. For the purposes of Section 4.1.1. of this law, business is deemed to be insurance business where the liability to indemnify a person in respect of any loss or damage is calculated with regard to a formula which is intended to approximate his/her loss, whether by reference to an appropriate index or otherwise, but is not dependent upon his/her actual loss.

Article 5. Insurance of foreign individuals, legal entities and stateless persons

- 5.1. Foreign citizens, legal entities, and stateless persons shall enjoy the right to insurance protection of their property and non-material assets to the same extent as citizens and legal entities of Mongolia.

CHAPTER TWO. INSURANCE CLASSIFICATION, TYPES AND FORMS

Article 6. Insurance classification, types and forms

- 6.1. Insurance shall be classified as long-term insurance and ordinary insurance.
- 6.2. Insurance shall be voluntary or mandatory insurance.
- 6.3. Each type of insurance shall have its own forms and the forms of mandatory insurance shall be specified determined by law.
- 6.4. Detailed regulation on the risks and conditions of mandatory insurance shall be regulated by the law defining with mandatory insurance.
- 6.5. The Financial Regulatory Commission shall specify forms of voluntary insurance.
- 6.6. If the Financial Regulatory Commission considers that an insurer's business is different from the classification, types and forms determined by this law, it may direct the insurer to bring his/her business into line with this law.

Article 7. Insurance fees

- 7.1. The level of mandatory insurance fees shall be fixed by the Law of Mongolia.
- 7.2. The level of voluntary insurance fees shall be fixed by the insurer according to the methodology specified in Section 14.2.5 of the present law.

Article 8. Insurance payment

- 8.1. The insurer, according to the conditions specified in the law and contract and based on documents specified in Paragraph 8.4. shall make the insurance payment.
- 8.2. When stipulated in the insurance contract the insurance payment can be paid directly

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- to a third party who has suffered loss due to the fault of an insured person.
- 8.3. If an insurance event occurs after the death of an insured person, the insurance payment shall be paid to his/her legal assessors or assessor by inheritance.
 - 8.4. Insurance payments shall be made based on the following documents:
 - 8.4.1. application of insured person;
 - 8.4.2. insurance policy (original copy);
 - 8.4.3. assessment act on loss written by loss adjuster;
 - 8.4.4. where required a concluding statement from a professional organization.
 - 8.5. The insurer may refuse to make insurance payment in full or partially on the following grounds:
 - 8.5.1. the insured person deliberately caused a loss, or created the conditions or environment to precipitate that;
 - 8.5.2. the insured person gave wrong information to the insurer on the insured item, or forged insurance documents;
 - 8.5.3. the loss occurred due to a reason which was not specified in the insurance contract;
 - 8.5.4. the insured person received compensation from the person who caused his/her loss;
 - 8.5.5. other grounds specified in the law.
 - 8.6. The insurer shall precisely specify the grounds for refusal to make insurance payment and notify the insured person of this in writing.
 - 8.7. If specified in the insurance contract the right of the insured person to claim loss from a guilty person shall cover the insurance payment and related expenses.

Article 9. Rights and duties of the insurer

- 9.1. The insurer shall exercise the following rights and has the following responsibilities:
 - 9.1.1. to refuse to make full or partial insurance payment on the grounds specified in Paragraph 8.5. of this law;
 - 9.1.2. when the rights and duties of an insured person are transferred to another person, to propose to that person to make an alteration in the insurance contract;
 - 9.1.3. if an insured person fails to fulfill his/her duties under the law and contract to demand termination of the contract or alteration to the contract;
 - 9.1.4. on occurrence of an insurance event to make insurance payment within the timeframe and to the amount specified by law and agreed in the contract;
 - 9.1.5. to issue insurance policies to insured persons within the term specified in the contract;
 - 9.1.6. to introduce to insured persons insurance legislation and insurance contract terms;
 - 9.1.7. not to reveal personal information about insured persons unless permitted to do so by law;
 - 9.1.8. to compensate insured persons for expenses made to undertake measures to reduce losses from an insurance risk;
 - 9.1.9. in case of death of an insured person to transfer his/her rights and duties to the legal assessors or assessors by inheritance;
 - 9.1.10. to appeal to the court for the establishment of a guardian if in the duration of the contract, an insured person's incapability has been proven and to supervise his/her activity;
 - 9.1.11. to publish a brief financial report according to the procedure established by the Financial Regulatory Commission.

Article 10. Rights and duties of the insured person

- 10.1. An insured person may exercise the following rights and has the following duties:
 - 10.1.1. to demand insurance payment on occurrence of an insurance event;
 - 10.1.2. to demand termination of a contract or alteration to the contract if the insurer fails to fulfill his/her legal or contractual duties;

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- 10.1.3. when rights and duties of an insured person are transferred to another person to ask the insurer to make alterations in the contract;
- 10.1.4. to pay insurance fees to the insurer within the term specified in the law and the contract;
- 10.1.5. to take measures to remove an insured item from excessive risk and in case of the occurrence of an insurance event to take all measures to decrease the loss and promptly notify the insurer;
- 10.1.6. to submit to the insurer objective information on insurance.

CHAPTER THREE. STATE REGULATION OF INSURANCE BUSINESS

Article 11. The state central administrative organization

- 11.1. The state central administrative organization in charge of insurance matters shall have the following competence in respect of insurance business:
 - 11.1.1. to develop proposals to improve the legislation on insurance;
 - 11.1.2. to provide policy advice to the Government;
 - 11.1.3. other competences as may be assigned to it under the law.

Article 12. Insurance Regulatory Commission

- 12.1. The Insurance Regulatory Commission (hereinafter referred to as the "Regulatory Commission") shall carry out the coordination and supervision of insurance business.
- 12.2. The State Great Khural shall adopt the business strategy and the organizational structure of the Regulatory Commission and its activity shall be financed from the state budget.
- 12.3. The Coordination Committee shall be accountable to the State Great Khural.

Article 12¹. Insurers Association

- 12¹.1 An insurer who has obtained a license to conduct mandatory insurance activities shall become a member of the Association of Mandatory Insurers (hereinafter referred to as 'Association').
- 12¹.2. Every mandatory insurer shall join the Association and the board of the Association shall include representatives of the insurer, the insured, the Financial Regulatory Commission and the state central administrative body responsible for finance, and the structure and composition of the board shall be approved by the Financial Regulatory Commission.
- 12¹.3. The Association shall have an office and fund to undertake/implement of the following core activities:
 - 12¹.3.1. an integrated insurance database with the function of supervising mandatory insurance activities and exchanging information;
 - 12¹.3.2. an emergency unit with the function of collecting information on the insured event from the insurer, the insured, the victim and the citizen that provides the insurer, the insured and the victim with prompt and accurate determination of the insured event;
 - 12¹.3.3. mandatory insurance fund.
- 12¹.4. Relations concerning the formation and disbursement of the insurance fund specified in Section 12.3.3. of this law shall be regulated by the law establishing the form of mandatory insurance.
- 12¹.5. The Association shall exercise the following general rights and responsibilities:
 - 12¹.5.1. ensure coordination of members' activities;

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- 12¹.5.2. protect the interests of members;
- 12¹.5.3. protect the interests of members at the court;
- 12¹.5.4. reduce the number of insurance cases and to conduct mandatory insurance training and promotion.
- 12¹.6. The assets of the Association shall consist of the following main sources:
 - 12¹.6.1. assets transferred from the founder;
 - 12¹.6.2. registration fee, membership fee and other fees;
 - 12¹.6.3. loans, grants and donations;
 - 12¹.6.4. other sources permitted by law.
- 12¹.7. The Financial Regulatory Commission shall approve the rules, regulations and guidelines related to the activities of the Association and monitor the activities of the Association.
- 12¹.8. The Association shall report its activities to the Financial Regulatory Commission annually and shall publish summary financial statements of the Association through the mass media within the first quarter of each year.
- 12¹.9. The Association shall have a charter in accordance with the legislation and approved by the Financial Regulatory Commission.

Article 13. Competence of the Financial Regulatory Commission

- 13.1. The Financial Regulatory Commission has the following competences:
 - 13.1.1. to monitor and supervise the insurance business of an insurer who has been granted an insurance license;
 - 13.1.2. to supervise the issuance, suspension, restoration and revocation of licenses and to monitor compliance with the terms and conditions of the license;
 - 13.1.3. to adopt a set of insurance regulations and to monitor their implementation;
 - 13.1.4. to study foreign and domestic insurance markets, to issue an official notice on insurance;
 - 13.1.5. to maintain a unified register of insurers and insurance intermediaries;
 - 13.1.6. other competences as may be assigned to it under law.
- 13.2. The Financial Regulatory Commission shall provide continuous supervision to protect the insured, and other persons engaged in insurance business, against losses arising from the bankruptcy of insurers or from malpractice or dishonest actions.

Article 14. Insurance Regulations

- 14.1. Insurance activities shall be regulated by the set of insurance regulations adopted by the Financial Regulatory Commission.
- 14.2. The set of insurance regulations shall consist of the following rules, procedures, instructions, conditions and requirements:
 - 14.2.1. the request to persons qualified to act as an insurer and the criteria of an insurer;
 - 14.2.2. the criteria of valuation of insurance solvency and supervision procedure; the regulation on compiling, distributing and supervising mandatory insurance fund, insurance reserve fund, and other funds;
 - 14.2.3. the amount of funds to be accumulated in the insurance reserve fund and the mandatory insurance fund, and the terms and requirements for the funds to be invested;
 - 14.2.4. the amount to be maintained in insurance reserves, and their disposition in investment;
 - 14.2.5. the methodology for estimation of insurance rates and insurance fees;
 - 14.2.6. the methodology for insurance valuation;
 - 14.2.7. the methodology for calculation of the commission or other payment that may be offered or provided directly or indirectly to an insurance intermediary from or by an insurer or by any other person;
 - 14.2.8. requirements of persons qualified to act as an auditor of an insurer;

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- 14.2.9. the granting of the right to act as an actuary, actuarial standards and valuations and procedures for actuarial investigations and reporting;
- 14.2.10. the terms and conditions that shall apply to insurers who carry out business through a branch or a representative office outside Mongolia;
- 14.2.11. the terms and conditions that shall apply to foreign insurers opening, or carrying on business on the territory of Mongolia through a branch or a representative office;
- 14.2.12. the provision by an insurer of documents to the insured and the fees that may be charged for the provision of such documents;
- 14.2.13. the submission of reports, notifications and applications to be made by insurers under this law;
- 14.2.14. the consideration of an application to be made by an insurer to transfer any part of his/her business to others or amalgamate with the business of another person;
- 14.2.15. the list of documentation required for obtaining the license specified in this law;
- 14.2.16. the factors to be taken into account in considering whether to approve the reinsurance arrangements of an insurer;
- 14.2.17. the fees and charges payable to the Financial Regulatory Commission;
- 14.2.18. procedures for the liquidation and re-capitalization of insurers which go outside the provisions of the Company Law and the Law on Bankruptcy in relation to insurers;
- 14.2.19. the conditions of temporary suspension of an insurer's business;
- 14.2.20. the instructions for determination of activities related to insurance;
- 14.2.21. the procedures for the publication of notices specified in this law.

Article 15. Rules of Business Conduct and Procedure

- 15.1. The Financial Regulatory Commission may issue separate rules specifying the conduct expected of an insurer in the operation of its insurance business.
- 15.2. The Rules specified in Paragraph 11.1. of this law shall not be binding on insurers, but the failure of an insurer to follow the rules may be taken into account for the purposes of applying sanctions against the insurer and may be relied upon as evidence that the insurer is not a fit and proper person to hold an insurer's license; or the insurance business is not being carried on in accordance with sound principles.

CHAPTER FOUR. GRANTING OF INSURANCE LICENSE

Article 16. Prohibition of carrying out insurance business without a license

- 16.1. Except as provided in Paragraphs 16.3. and 17.2. of this law, no person may carry out insurance business in or from Mongolia without a license issued by the Financial Regulatory Commission.
- 16.2. For the purposes of Paragraph 16.1. of this law, a legal entity formed under the laws of Mongolia carries on business from Mongolia if it carries on insurance business in a jurisdiction outside Mongolia.
- 16.3. Paragraph 16.1. of this law does not apply to a legal entity formed under the laws of another jurisdiction that carries on reinsurance business under a contract with an insurer.
- 16.4. For the purposes of Paragraph 16.1. of this law, an insurer whose license has been suspended or revoked under this law shall not carry on insurance business.
- 16.5. The Law on Licensing shall apply to relations connected with the granting of insurance licenses other than those specified by this law.

Article 17. Property to be insured by an insurer

- 17.1. An individual, legal entity residing in Mongolia, or a property located within the territory of Mongolia may be insured only by an insurer who holds an insurance license issued according to this law.

- 17.2. An insurance contract may be concluded with a foreign insurer that has not obtained a license in accordance with this law, and authorization shall be obtained from the Financial Regulatory Commission in each case.
- 17.3. The Financial Regulatory Commission may authorize an applicant to enter into a contract of insurance with an insurer specified in Paragraph 17.2. of this law, subject to such conditions as it considers appropriate if it is of the opinion that:
 - 17.3.1. insurers specified in Paragraph 17.1. of this law have insufficient capacity to insure the risk; or
 - 17.3.2. there is some other good reason why the risk should not be insured by an insurer, specified in Paragraph 17.1. of this law.
- 17.4. Paragraph 17.3. of this law does not apply to an insurer that enters into a reinsurance contract with an insurer established outside Mongolia where the reinsurance contract:
 - 17.4.1. is entered into in accordance with reinsurance arrangements approved by the Financial Regulatory Commission under the provision of Paragraph 47.1 of this law; or
 - 17.4.2. is exempted from approval by the Financial Regulatory Commission under Paragraph 47.2. of this law.

Article 18. Eligibility for an insurer's license

- 18.1. The following persons are eligible to submit an application for an insurer's license:
 - 18.1.1. a company established under the Company Law of Mongolia;
 - 18.1.2. a company formed under the laws of another jurisdiction.

Article 19. Application for an insurer's license

- 19.1. A person specified in Paragraph 18 of this law shall submit his/her application for an insurer's license to the Financial Regulatory Commission.
- 19.2. An application for an insurer's license shall be in writing, shall state the class, type and form of insurance business for which the applicant seeks authorization, shall be in the form set by the Financial Regulatory Commission and shall be accompanied by the documentation specified in this law and the set of insurance regulations.
- 19.3. The Financial Regulatory Commission may require the applicant to provide it with any other documentation or information that it considers necessary.

Article 20. Granting or refusal of an insurer's license

- 20.1 The Financial Regulatory Commission may grant an insurer's license to the applicant if it is satisfied with the following conditions and may set additional requirements with regard to the type and form of insurance:
 - 20.1.1. the applicant, its governing person or a person holding solely or collectively 10 percent or more of the applicant's ordinary shares is a fit and proper person to carry out insurance business;
 - 20.1.2. the applicant shall, upon the granting of the license, fully be in compliance with this law and the set of insurance regulations;
 - 20.1.3. The management, organization and financial resources of the applicant are adequate for the carrying out of the relevant insurance business;
 - 20.1.4. issuing the license is not against the interests of an insured person or against the public interest.
- 20.2 The Financial Regulatory Commission may, at any time, vary the conditions attached to an insurer's license with regard to the extent of business or the type or form of the license of an insurer.
- 20.3. The Financial Regulatory Commission shall not issue a license after the date when this law becomes effective that authorizes the insurer to carry on both long-term and general insurance businesses.
- 20.4. A license shall be issued in writing and shall specify the following items:

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- 20.4.1. the name of the licensing authority;
 - 20.4.2. the name and address of the license holder;
 - 20.4.3. the class, type and form of insurance business;
 - 20.4.4. the conditions and requirements for business;
 - 20.4.5. the number and date of the license;
 - 20.4.6. the signature and seal of the authorized official of the licensing authority;
 - 20.4.7. whether the licensed insurer may carry on reinsurance business.
- 20.5. An insurance license shall not be subject to an expiry date but shall be valid until it is suspended under Article 69 or revoked under Article 70.
- 20.6. If the Financial Regulatory Commission refuses to grant a license to the applicant or grants a license but refuses to authorize a certain type or form of insurance business, it shall notify the applicant in writing of the refusal and shall state the reasons for its refusal.
- 20.7. The Financial Regulatory Commission shall determine an application within a period of 45 working days from the date of receipt of the application.
- 20.8. The Financial Regulatory Commission may refuse to grant a license on the following grounds:
- 20.8.1. if the applicant does not satisfy the conditions set forth in Paragraph 20.1. of this law;
 - 20.8.2. if the applicant fails to submit all the documentation specified in the set of insurance regulations;
 - 20.8.3. other reasons specified by law.
- 20.9. Where the Financial Regulatory Commission grants a license, it shall publish a notice in accordance with the set of insurance regulations.
- 20.10. The Financial Regulatory Commission may issue guidance as to the factors that it will take into account in determining whether a person is fit and proper for the purposes of Section 20.1.1 this law.

CHAPTER FIVE. CONTROL OF THE BUSINESS LICENSEE

Article 21. Control on disposition of interest in an insurer

- 21.1. A person owning or holding 10 percent or more of the ordinary shares of an insurer solely or collectively shall not transfer his/her property to others without prior written approval of the Financial Regulatory Commission.
- 21.2. A person shall not, whether directly or indirectly, solely or collectively, acquire or own 10 percent or more of the ordinary shares of an insurer without the prior written approval of the Financial Regulatory Commission.
- 21.3. An insurer, without the prior written approval of the Financial Regulatory Commission, shall be prohibited from taking the following actions with regard to property specified in the provision of Paragraph 21.1. of the present law:
- 21.3.1. to dispose by way of sale or transfer, giving as a security or other way or to give permission to do so;
 - 21.3.2. issue or allot any shares or cause, permit or acquiesce in any other reorganization of its share capital that results in a person acquiring a qualifying interest in the insurer, or a person who already owns or holds a qualifying interest in the insurer, increasing or decreasing the size of his/her interest.
- 21.4. The insurer shall submit an application for approval of activity specified in Paragraph 21.3. of the present law to the Financial Regulatory Commission.
- 21.5. The Financial Regulatory Commission shall grant approval if it is satisfied that a person who seeks to acquire or own 10 percent or more of ordinary shares, solely or collectively, is a fit and proper person to have an interest in an insurer.
- 21.6. Approval under Paragraph 21.5. of this law may be granted by the Financial Regulatory Commission on such other terms and conditions as it considers appropriate.

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CHAPTER SIX. CAPITALIZATION, FINANCIAL RESOURCES AND SOLVENCY

Article 22. Minimum capital to be maintained by the insurance company

- 22.1. The capital of the insurance company shall consist of cash money contributed by shareholders and its minimum amount shall be determined by the Financial Regulatory Commission taking into account the classification of insurance and the specifics of reinsurance. It shall be prohibited to accumulate the capital through loans.
- ~~22.2. With regard to the nature and extent of the insurance business carried out by the insurer, the Financial Regulatory Commission, may set the minimum capital of an insurer at an amount greater than that specified in Paragraph 22.1. of this law. (Revoked Paragraph)~~
- 22.3. A reasonable time period shall be provided to the insurer to attain its minimum capital in an amount specified in Paragraph 22.2. of this law.
- 22.4. If the capital of an insurer falls below the amount that it is required to maintain under Paragraph 22.1. of this law, it shall immediately notify the Financial Regulatory Commission in writing.

Article 23. Shares of the insurance company

- 23.1. Every share of an insurance company issued after the date that this law comes into effect shall be paid by cash.
- 23.2. Article 45 of Company Law does not apply to insurance companies.

Article 24. Minimum solvency margin

- 24.1. An insurer shall ensure that it maintains a solvency margin not less than:
- 24.1.1. the amount specified in the set of insurance regulations; or
 - 24.1.2. the amount set by the Coordination Committee according to the Paragraph 24.2. of this law.
- 24.2. If, with regard to the nature and extent of the insurance business, it considers it appropriate the Financial Regulatory Commission may direct the insurer to maintain a larger solvency margin than that amount specified in Section 24.1.1. of this law.
- 24.3. A reasonable time period shall be provided for the insurer to maintain its solvency margin at an amount specified in Paragraph 24.2. of this law.
- 24.4. If the solvency margin of an insurer falls below the amount that it is required to maintain under Paragraph 24.1. of this law, the insurer shall immediately notify the Financial Regulatory Commission in writing.

Article 25. Insurance reserves

- 25.1. An insurer shall maintain reserves to ensure fulfillment of its contractual obligations.
- 25.2. The amount of reserves, the methods of compiling it and the allocation of the capital shall be determined by the set of insurance regulations.
- 25.3. The insurance reserves specified in Paragraph 25.1. shall be placed in a special account. The Financial Regulatory Commission shall supervise its compilation and disposal.
- 25.4. If the level of insurance reserves falls below the amount that it is required to maintain under Paragraph 25.1. of this law, the insurer shall immediately notify the Financial Regulatory Commission in writing.
- 25.5. It shall be prohibited to spend the cash funds of the insurance reserve fund by means other than those specified in the insurance regulations.

Article 26. Condition for payment of dividends

- 26.1. dividends shall not be paid to shareholders if any of the following conditions arise after the distribution of dividends:

- 26.1.1. to maintain the level of capital that it is required to maintain under Paragraph 22.1 of this law;
- 26.1.2. to maintain the solvency margin that it is required to maintain under Paragraph 24.1 of this law; and
- 26.1.3. to maintain the level of insurance reserves that it is required to maintain under Paragraph 25.2. of this law.

Article 27. Prohibitions relating to advances and loans

- 27.1. From the date on which this law comes into effect an insurer shall not:
 - 27.1.1. lend money and receive an advance on its securities as payment guarantees;
 - 27.1.2. lend any of its funds to a related person;
 - 27.1.3. grant unsecured credit to any person;
 - 27.1.4. enter into any guarantee or provide any security in connection with a loan by any other person to a related person.
 - 27.1.5. to deposit the capital of the insurance company and the insurance reserve fund at the related party's bank and the bank established by him/her.
- 27.2. The Financial Regulatory Commission shall specify persons who are '*related persons*' for the purposes of Paragraph 27.1. of this law.
- 27.3. Paragraph 27.2. of this law does not apply to a dividend permitted to be paid under Article 26 of this law.

Article 28. Prudential supervision of insurers

- 28.1. For the purposes of determining whether an insurer is financially sound, the Financial Regulatory Commission may establish and apply supervisory ratios and early warning tests.
- 28.2. Insurers shall be notified by the Financial Regulatory Commission of any supervisory ratios established under Paragraph 28.1. of this law.

CHAPTER SEVEN. ACCOUNTS AND AUDIT

Article 29. Accounting records and financial statements

- 29.1. An insurer shall apply the Law on Accounting and the set of insurance regulations to the maintenance of accounting records and the preparation of financial statements.
- 29.2. An insurer shall maintain its accounting records using the accrual basis of accounting and Paragraph 5.2 of the Law on Accounting shall not apply to the insurance business of insurers.
- 29.3. If not provided for in the set of insurance regulations, the Financial Regulatory Commission may specify the content and format of the accounting documents and financial statements to be used by insurers.
- 29.4. The financial statements shall comprise the documents specified in Paragraph 10.2. of the Law on Accounting and any other documents specified in the set of set of insurance regulations or documents set by the Financial Regulatory Commission under Paragraph 29.3 of this law.
- 29.5. An insurer shall prepare financial statements satisfying the requirements of Paragraph 29.4 of this law every quarter, and audited annual financial statements by the first quarter of each year and notify the public of this through the media.
- 29.6. The value of the assets and liabilities of an insurer shall be determined in accordance with the set of insurance regulations.
- 29.7. An insurer shall retain its accounting records for a period of at least six years and shall notify the Financial Regulatory Commission in writing about the place where its accounting records are kept.

Article 30. Usage of accounting standards

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- 30.1. An insurer shall use international accounting standards in the maintenance of its accounting records.

Article 31. Annual financial statements

- 31.1. An insurer shall submit its audited financial statements to the Financial Regulatory Commission within the time specified under Article 13 of the law on Accounting accompanied by:
- 31.1.1 a management report signed by the directors;
 - 31.1.2. the auditor's report;
 - 31.1.3. in the case of a long-term insurer, a report prepared by the actuary appointed under Paragraph 40.1. of this law;
 - 31.1.4. any reference to or explanation of the affairs that affected the business of the company in the course of the relevant financial year; and
 - 31.1.5. such other documents as may be specified in the set of insurance regulations.
- 31.2. The set of insurance regulations may specify the form and content of the annual financial statements and other documents.
- 31.3. Unless accompanied by the reports and documents specified in Paragraph 31.1. of this law, the financial statements are deemed not to have been lodged with the Financial Regulatory Commission.

Article 32. Quarterly report

- 32.1. An insurer shall submit quarterly financial statements to the Financial Regulatory Commission within the time specified in the Article 13 of the Law on Accounting.
- 32.2. The set of insurance regulations may specify the form and content of the quarterly financial statements and other relevant documents.
- 32.3. Unless accompanied by the documents specified in the set of insurance regulations, the financial statements are deemed not to have been submitted.

Article 33. Audit

- 33.1. An insurer shall appoint an auditor who shall be responsible for auditing the insurer's financial statements.
- 33.2. An auditor specified in the Paragraph 33.1. shall meet following requirements:
- 33.2.1. hold the license specified in Article 17 of the Law on Auditing; and
 - 33.2.2. be approved by the Financial Regulatory Commission as an auditor competent to audit the financial statements of an insurer.
- 33.3. For the purposes of Paragraph 33.2. of this law, the Financial Regulatory Commission shall publish a list of auditors and shall notify the public of any amendment made to the list as specified in the set of insurance regulations.
- 33.4. An insurer shall make such arrangements as are necessary to enable its auditor to audit.
- 33.5. An insurer shall, within five working days of the appointment of its auditor, submit a notice of appointment to the Financial Regulatory Commission.

Article 34. Auditor to rely on actuarial valuations

- 34.1. The auditor of an insurer who carries on long-term insurance business may accept, for the purposes of an audit, a valuation by the approved actuary, of:
- 34.1.1. the insurance policy liabilities as at the end of the financial year; and
 - 34.1.2. any changes, during a financial year, in the policy liabilities of the insurer in relation to a particular fund.

Article 35. Audit report

- 35.1. The auditor shall provide an audit report on the financial statements of the insurer to the insurer complying with the set of insurance regulations.

- 35.2. The Financial Regulatory Commission may at any time direct an insurer to supply it with an audit report on such matters as it may determine which may include an opinion on asset quality, adequacy of provisions for losses and the adequacy of accounting and control systems.
- 35.3. A report prepared as specified in the Paragraph 35.2. of this law shall be at the cost of the insurer.

Article 36. Obligations of auditors

- 36.1. The auditor shall report immediately to the Financial Regulatory Commission any of the information that, in the auditor's opinion, suggests:
- 36.1.1. that the insurer is insolvent or is likely to become insolvent;
 - 36.1.2. that a criminal offence has been or is being committed by the insurer in connection with its insurance business;
 - 36.1.3. that the insurer is in any way in breach of Articles 22 - 27 of this law; or
 - 36.1.4. that serious breaches of this law, the set of insurance regulations or any other laws have occurred on the side of the insurer.
- 36.2. Where an insurer has terminated its contract with an auditor, or the auditor itself notified that it ceases to be its auditor, the auditor shall provide the Financial Regulatory Commission with the following information:
- 36.2.1. on the circumstances that gave rise to such termination of the contract or the cessation to be its auditor; and
 - 36.2.2. if the auditor would have sent a report under Paragraph 36.1. of this law, information on this matter.
- 36.3. The Financial Regulatory Commission may require an auditor to provide additional information regarding the audit.
- 36.4. Where, in good faith, an auditor or former auditor provides a report or any information to the Financial Regulatory Commission under Article 35 of this law, the auditor is deemed not to be in contravention of any law or professional code of conduct to which he/she is subject and no civil, criminal or disciplinary proceedings shall lie against him in respect thereof.

Article 37. Powers of the Financial Regulatory Commission with regard to appointment of auditor

- 37.1. If an insurer fails to appoint an auditor in accordance with Paragraph 33.1. of this law, the Financial Regulatory Commission may appoint an auditor.
- 37.2. An auditor appointed under Paragraph 37.1. of this law shall, for the purposes of this law, perform the functions and duties of an auditor of an insurer.

Article 38. Requiring group accounts

- 38.1. Where an insurer is a member of a group of companies, the Financial Regulatory Commission may require it to submit financial statements for any other members of the group and consolidated group accounts.
- 38.2. The Financial Regulatory Commission may require that these reports are audited by the auditor of the insurer or by another auditor approved by the Financial Regulatory Commission.
- 38.3. The set of insurance regulations may provide for the form and content of group accounts to be lodged under Paragraph 38.1. of this law.

CHAPTER EIGHT. ACTUARIES, ACTUARIAL INVESTIGATIONS AND REPORTS

Article 39. Approval of actuaries

- 39.1. The Financial Regulatory Commission shall select and approve for appointment as an actuary suitably qualified and experienced individuals, who may be a citizen of

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- Mongolia, a citizen of a jurisdiction outside Mongolia or a stateless person.
- 39.2. The approval for appointment as an actuary shall be carried out as specified in the set of insurance regulations.
- 39.3. The Financial Regulatory Commission shall publish the list of actuaries approved under Paragraph 39.1 of this law and shall notify any amendment thereto, as may be specified in the set of insurance regulations.

Article 40. Long-term insurer to appoint an actuary

- 40.1. A long-term insurer shall at all times have an actuary who shall be an individual approved as an actuary by the Financial Regulatory Commission under Paragraph 39.1. of this law.
- 40.2. A long-term insurer shall each time submit a written notice to the Financial Regulatory Commission within five working days of the appointment of its actuary; or of its appointed actuary ceasing to be its actuary.
- 40.3. Where an individual appointed as an actuary ceases to be its actuary, the insurer shall appoint another actuary within 30 working days of the date that the individual ceases to hold that appointment.

Article 41. Actuary to comply with standards

- 41.1. The actuary shall, in the performance of his/her duties, comply with such actuarial standards as may be specified in the set of insurance regulations.

Article 42. Actuarial investigations and reports

- 42.1. A long-term insurer shall, at least once in each two-year period, cause an investigation to be made into its business by its actuary.
- 42.2. An actuarial investigation under Paragraph 42.1 of this law shall comply with such requirements as may be specified in the set of insurance regulations.
- 42.3. The Financial Regulatory Commission may direct an insurer to cause an actuary to investigate such aspects of its financial condition as it may specify and to provide it with a report prepared by the actuary.
- 42.4. The Financial Regulatory Commission may direct that the actuarial investigation is carried out by the actuary appointed by the insurer or by such other actuary as the supervisor shall specify.
- 42.5. The actuary shall produce a report of his/her investigation in such form and content as may be specified in the set of insurance regulations.
- 42.6. An investigation and report under Paragraph 42.3. of this law shall be at the cost of the insurer.

Article 43. Powers of actuary

- 43.1. The actuary shall exercise following rights:
- 43.1.1. entitled to have access to any information or document that is necessary for the purpose of performing his/her functions and duties as an actuary.
- 43.1.2. require the insurer, any governing person or employee of the insurer to answer questions or produce necessary documents pertaining to the insurer.
- 43.2. The actuary is entitled to attend meetings of the directors of the company and to speak on any of the following issues:
- 43.2.1. that relate to, or may affect the financial condition of the insurer, its reserves, or its solvency or assets; or
- 43.2.2. that relate to advice given by the actuary to the directors; or
- 43.2.3. any matter in connection with the actuary's activity;
- 43.3. An actuary shall have the right to participate in a company's shareholders meeting and speak on the following matters:
- 43.3.1. the insurer's financial statements or accounts to be considered; or

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- 43.3.2. any matter in connection with the actuary's functions or duties to be considered.
- 43.4. The actuary may make a report to the Financial Regulatory Commission if:
 - 43.4.1. without reasonable excuse, the insurer fails or refuses to provide its actuary with access to the documents and information specified Section 43.1.1 of this law; or
 - 43.4.2. the insurer, a governing person or employee of the insurer refuses to answer questions or produce necessary documents.

Article 44. Obligations of the actuary

- 44.1. The actuary shall report immediately to the Financial Regulatory Commission if he/she considers, based on the documents of the insurer, that:
 - 44.1.1. there are reasonable grounds for believing that the insurer has or may have contravened this law, any other law or the set of insurance regulations; and
 - 44.1.2. that the contravention of law is of such a nature that it may significantly affect the interests of insured persons.
- 44.2. The actuary shall report to the insurer to require taking necessary actions on any matter that may affect financial condition of the insurer, its reserves, its solvency and the interest of the insurer and insured persons.
- 44.3. Where the actuary reports to the insurer under Paragraph 44.2 of this law and the insurer does not, within the stipulated period of time, take the action required, he/she shall immediately report the matter to the Financial Regulatory Commission.
- 44.4. Where the insurer terminated the contract with the actuary or the actuary itself notified of ceasing to be its actuary, the actuary shall inform the Financial Regulatory Commission on the following matters:
 - 44.4.1. the circumstances that gave rise to such termination of the contract or cessation to be its actuary; and
 - 44.4.2. the information specified in Paragraphs 44.1 and 44.3 of this law.
- 44.5. Where, in good faith, an actuary or former actuary provides a report or information to the Financial Regulatory Commission under Article 44 of this law, he/she is deemed not to be in contravention of any law or professional code of conduct to which he/she is subject and no civil, criminal or disciplinary proceedings shall lie against him/her in respect thereof.

Article 45. Financial Regulatory Commission to appoint an actuary

- 45.1. If a long-term insurer fails to appoint an actuary, the Financial Regulatory Commission may appoint an individual approved under Paragraph 39.1 of this law as an actuary.
- 45.2. An actuary appointed under Paragraph 45.1 of this law shall perform the functions and duties of an actuary of a long-term insurer.

CHAPTER NINE. REINSURANCE

Article 46. Reinsurance

- 46.1. An insurer may reinsure its insurance risks with:
 - 46.1.1. a company licensed under this law to undertake reinsurance business; and
 - 46.1.2. a foreign insurance company that is not licensed under this law.

Article 47. Insurer's reinsurance arrangements

- 47.1. An insurer shall have arrangements approved by the Financial Regulatory Commission in accordance with the set of insurance regulations for the reinsurance of liabilities in respect of insurance risks.
- 47.2. The Financial Regulatory Commission may, by written notice, exempt reinsurance contracts of a type specified in the notice from the requirements for approval under Paragraph 47.1. of this law.

Article 48. Reinsurance statements

- 48.1. An insurer shall, within a specified period of time, submit to the Financial Regulatory Commission a statement setting out such details as to its reinsurance arrangement accompanied by a copy of the reinsurance agreement.

CHAPTER TEN. OBLIGATIONS OF AND RESTRICTIONS ON INSURERS

Article 49. Insurer to carry out insurance business only

- 49.1. An insurer shall not carry out any business or activities, whether in Mongolia or elsewhere, other than in connection with or for the purposes of its insurance business.
- 49.2. The set of insurance regulations shall specify businesses or activities deemed to be carried on in connection with or for the purposes of the insurance business of an insurer.

Article 50. Insurer to carry out business in accordance with its business plan

- 50.1. An insurer must carry out its business in accordance with the most recent business plan approved by the Financial Regulatory Commission.
- 50.2. An insurer may, at any time, submit an application to approve the amended business plan and shall submit such application together with an amended business plan to the Financial Regulatory Commission.
- 50.3. The Financial Regulatory Commission shall determine whether to refuse or to approve an amended business plan within 20 working days of receiving an application.
- 50.4. The Financial Regulatory Commission may require the insurer to provide it with such further information or documentation as it requires to determine whether to approve the amended business plan.

Article 51. Segregation and application of funds of a long-term insurer

- 51.1. A long-term insurer shall maintain separate accounts and funds for each class of insurance business that it carries out.
- 51.2. The accounting and other records kept by a long-term insurer shall identify the following items separately:
- 51.2.1. the assets representing each fund; and
 - 51.2.2. the liabilities attributable to each class of insurance business.
- 51.3. The assets of each fund shall be applied only for the purposes of the class of insurance business for which the fund was established and is being maintained and shall not be transferred within the funds.
- 51.4. Paragraph 51.3. of this law shall not apply to:
- 51.4.1. those assets representing the excess, where the value of assets in any fund is shown on an actuarial valuation to exceed the amount of the liabilities attributable to the class of insurance business.
 - 51.4.2. exchanging, at a fair market value, assets representing a long-term fund for other assets.
- 51.5. Except as permitted by Section 54.4.1. of this law, money from a fund maintained for a long-term insurance business may not be used for the purposes of any other business of the insurer.
- 51.6. Neither an insurer nor a subsidiary or parent company shall declare or pay any dividend when the value of the assets representing the fund or funds maintained in respect of long-term business is less than the amount of the liabilities attributable to the long-term insurance business.
- 51.7. Article 51 of this law also applies to a company even though its license to undertake long-term insurance business may have been suspended or revoked.

Article 52. Avoidance of uncertain contracts

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- 52.1. Except as provided in Paragraph 52.2. of this law, a contract of insurance entered into by an insurer after the date that this law takes effect is void if it is a contract under which the insurer undertakes a liability the amount, or maximum amount, of which is uncertain.
- 52.2. The set of insurance regulations may specify classes or descriptions of contracts of insurance that are exempt from Paragraph 52.1. of this law.

Article 53. Address of head office of insurer

- 53.1. An insurer that is a company established under the Company Law of Mongolia shall have its head office in Mongolia and shall notify the Financial Regulatory Commission of the address of its head office.
- 53.2. If the address of the head office of an insurer changes, the insurer shall notify the Financial Regulatory Commission of the new address within five working days of the change.

Article 54. To open representative office or branch

- 54.1. An insurer shall obtain the prior written approval of the Financial Regulatory Commission when opening, maintaining or carrying on insurance business through a representative office or a branch outside Mongolia.
- 54.2. An insurer established outside Mongolia shall not open, maintain or carry on insurance business through a representative office or a branch in Mongolia unless it has obtained the prior written approval of the Financial Regulatory Commission.
- 54.3. Unless an insurer established outside Mongolia has obtained written approval from the Financial Regulatory Commission no person shall on behalf of that insurer:
 - 54.3.1. provide advertisement and promotion with the purpose of conducting insurance business, or to establish a place for such purpose; or
 - 54.3.2. establish or maintain a representative office or branch;
- 54.4. The Financial Regulatory Commission may require such other documentation and information as it considers necessary to determine an application for approval made under Paragraph 54.1. of this law.
- 54.5. The Financial Regulatory Commission may approve an application under Paragraph 54.2. of this law subject to such conditions as it considers appropriate and may at any time vary such conditions.

Article 55. Appointment of governing persons

- 55.1. The insurer and the Association specified in Article 12 of this law shall appoint the governing person of the company and the Association based on the written authorization of the Financial Regulatory Commission.
- 55.2. The Financial Regulatory Commission shall grant an approval specified in Paragraph 55.1 of this law if it is satisfied that the individual concerned is a fit and proper person to hold the appointment of a governing person.
- 55.3. Where a governing person resigns or otherwise ceases to hold office on his/her own request, the insurer shall, within five working days, provide written notification to the Financial Regulatory Commission on this matter.

Article 56. Prohibition of payment of commission to unlicensed insurance broker, insurance agent or loss adjuster

- 56.1. An insurer shall not pay any remuneration, including commission, to any person acting as an insurance broker, insurance agent or a loss adjuster unless that person is licensed.

Article 57. Change of information

- 57.1. Where, before the determination by the Financial Regulatory Commission of any

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application made under this law or the set of insurance regulations, whether by a person applying for an insurer's license, an insurer or any other person, there is a material change in any information or particulars provided by the applicant to the Financial Regulatory Commission, the applicant shall immediately give written particulars of the change.

CHAPTER ELEVEN. MARKET ETHICS

Article 58. Misleading advertisements

- 58.1. An insurer shall not issue, or cause or permit to be issued, any advertisement, statement, brochure or other similar document which is misleading or which contains an incorrect statement of fact.
- 58.2. If the Financial Regulatory Commission is of the opinion that any statement, brochure or other similar document issued by or on behalf of an insurer is misleading, contains an incorrect statement of fact or is contrary to the public interest, it may direct in writing that the document not be issued or to withdraw it, or it may authorize in writing that the document be issued with such changes as it may specify.

Article 59. Market ethics

- 59.1. The Financial Regulatory Commission may provide rules for market conduct that shall be binding on the insurer, its governing person and insurance intermediary.

CHAPTER TWELVE. CONTROL OF NAMES

Article 60. Restrictions on use of term '*Insurance*'

- 60.1. An insurer shall have a name and shall use the word '*insurance*' after its name.
- 60.2. No person shall, except the licensees specified in this law, use the word '*insurance*' or any of its derivatives or make any representation in any document or in any other manner that is likely to suggest that he/she is carrying out or that he/she is licensed to carry out an insurance business.
- 60.3. Paragraph 60.1 of this law does not apply to a company holding a license to act as an insurance broker or an insurance loss adjuster under the Insurance Intermediaries Law provided that the name indicates only the type of business of an insurance intermediary.

CHAPTER THIRTEEN. INSPECTIONS, INFORMATION GATHERING AND REPORTING

Article 61. Relevant person in relation to compliance inspection

- 61.1. '*Relevant person*', as specified in Chapter Thirteen of this law, means an insurer, a former insurer, and a subsidiary or holding company of an insurer or a former insurer.

Article 62. Compliance inspection of relevant person

- 62.1. The Financial Regulatory Commission may, at any time, for the performance of its functions under this law and for the purposes of the prudential supervision of a relevant person:
 - 62.1.1. inspect the business and management, organization, and documents of a relevant person;
 - 62.1.2. inspect property, including cash, owned by or in the possession of a relevant person and its control system; and
 - 62.1.3. examine and make copies of accounting records, financial statements or other documents.
- 62.2. The Financial Regulatory Commission may, with regard to any of the following matters that in its opinion are relevant to the prudential supervision of relevant persons:

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- 62.2.1. verify the reserves, the solvency margin, and the capital;
- 62.2.2. satisfy itself that the relevant person is in compliance with this law, the set of insurance regulations any other relevant law and any directives that the Financial Regulatory Commission may have issued.
- 62.3. The Financial Regulatory Commission shall give reasonable notice to a relevant person of its intention to undertake a compliance inspection.
- 62.4. The Financial Regulatory Commission may employ such suitably qualified and experienced persons to assist it with a compliance inspection as it considers appropriate.
- 62.5. A compliance inspection shall be carried out not less than once in every two years. Reasonable care shall be exercised to avoid hindrance to the day-to-day activities of the relevant person.

Article 63. Duties of relevant person, governing persons and employees in relation to a compliance inspection

- 63.1. Where a compliance inspection is being undertaken, the relevant person shall:
 - 63.1.1. give access to his/her or its premises and assets;
 - 63.1.2. give access to accounting records, financial statements and other relevant documents; and
 - 63.1.3. provide information and explanations that may be reasonably required;
 - 63.1.4. obtain necessary documentation from other persons and provide it to the Financial Regulatory Commission.
- 63.2. The Financial Regulatory Commission may, by written notice, require any governing person or employee of the relevant person to provide it with such information and explanations as it reasonably requires.

Article 64. Report on inspection

- 64.1 The Financial Regulatory Commission shall, within 45 working days of completing a compliance inspection; forward a report to the relevant person concerned setting out a summary of its findings.
- 64.2. The report shall include:
 - 64.2.1. recommendations concerning the conduct of business, organization or controls or concerning such other matters as it considers appropriate; and
 - 64.2.2. shall specify whether or not it requires a response from the relevant person concerning the report and, if it does not require a response, may indicate particular aspects of the report.
- 64.3. Where a response is required concerning the report, the relevant person concerned must provide a response to the Financial Regulatory Commission within 14 working days of receiving the report, or within such longer period as may be specified in the report.

Article 65. Power of the Financial Regulatory Commission to gather information

- 65.1. For the performance of its functions under this law or any other relevant law, the Financial Regulatory Commission may, on the written request of a foreign regulatory authority, by notice in writing given to a person specified in Paragraph 65.2. of this law, require him/her:
 - 65.1.1. to provide specified information or information of a specified description; or
 - 65.1.2. to produce specified documents or documents of a specified description.
- 65.2. A notice under Paragraph 65.1. of this law may be issued to a relevant person, a person connected with a relevant person, a person carrying out insurance business or a person reasonably believed to have the information or documentation to which the notice relates and shall specify the place where and the period within which the information or documents shall be provided or produced.

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- 65.3. The set of insurance regulations shall specify persons who are '*connected persons*' for the purposes of Paragraph 65.2. of this law
- 65.4. The Financial Regulatory Commission may, for the purpose of performing its functions under Paragraph 65.1. of this law, require:
 - 65.4.1. any information to be provided in such form as it may specify;
 - 65.4.2. any information provided or documents produced to be verified or authenticated; and
 - 65.4.3. to provide explanations relating to the information provided or the documents produced.
- 65.5. When gathering information as specified in this law, the Financial Regulatory Commission may take copies or extracts of any relevant documents.
- 65.6. Where the Financial Regulatory Commission gives notice to a person to provide information or produce documentation under Paragraph 65.1 of this law, that person must comply with the notice.

Article 66. Provision of assistance to foreign regulatory authorities

- 66.1. Where a foreign regulatory authority requests, in writing, that it be provided assistance in connection with the exercise of its functions, the Financial Regulatory Commission may provide information or documentation to the foreign regulatory authority in accordance with Article 66 of this law.
- 66.2. In deciding whether or not to disclose information or provide documentation to a foreign regulatory authority, the Financial Regulatory Commission may take into account any of the following matters:
 - 66.2.1. whether corresponding assistance was or would be given by the foreign regulatory authority;
 - 66.2.2. whether the request is consistent with the law of Mongolia, and in the public interest;
 - 66.2.3. whether the nature of the issue is significant to Mongolia;
 - 66.2.4. whether the foreign regulatory authority undertakes to make a contribution towards the cost of preparation of the information; and
 - 66.2.5. whether confidential information will be provided, according to Article 81 of this law.
- 66.3. The Financial Regulatory Commission may require the foreign overseas regulatory authority to give a written undertaking in relation to assistance requested.
- 66.4. If a foreign regulatory authority fails to comply with a requirement made under Paragraph 66.3 of this law, the Financial Regulatory Commission may refuse to provide assistance.

CHAPTER FOURTEEN. SANCTIONS

Article 67. Grounds for applying sanctions

- 67.1 The Financial Regulatory Commission may apply sanctions against an insurer on any of the following grounds:
 - 67.1.1. if breach of this law, other relevant legislation and the insurance regulations does not constitute a crime or a violation;
 - 67.1.2. when conditions detrimental to the public interest or to the interests of insured persons have been created;
 - 67.1.3. the insurer is insolvent or likely to become insolvent;
 - 67.1.4. the insurer has failed to comply with a directive given to it by the Financial Regulatory Commission under Article 9 of this law;
 - 67.1.5. if the terms and requirements of the license are violated;
 - 67.1.6. the licensee, its governing person or a shareholder of the company, who holds 10 or more percent of ordinary shares, solely or collectively, is not a fit and proper person;

- 67.1.7. the insurer is liquidated;
- 67.1.8. the insurer has failed to keep proper accounting and financial records;
- 67.1.9. the insurance business is not being carried on in accordance with sound principles;
- 67.1.10. the insurer has refused to co-operate with the Financial Regulatory Commission on a compliance inspection by a relevant person;
- 67.1.11. arrangements have not been made for the reinsurance of risks or reinsurance agreements do not comply with the set of insurance regulations;
- 67.1.12. the business carried on by the insurer is different from the business plan or is in serious contravention with the most recent business plan;
- ~~67.1.13. the insurer has failed to pay a fine imposed by the Financial Regulatory Commission within the stipulated time; (revoked section)~~
- 67.1.14. other grounds that may be specified by law.

Article 68. Types of sanctions

- 68.1. Where the Financial Regulatory Commission is entitled to apply sanctions under Paragraph 6.1. of this law, it may exercise one or more of the following powers:
- 68.1.1. suspend the license;
 - 68.1.2. revoke the license;
 - 68.1.3. appoint an examiner under Article 74 of this law;
 - 68.1.4. issue a directive under Article 73 of this law;
 - 68.1.5. appoint a qualified person to advise on the proper conduct of the insurance business;
 - ~~68.1.6. impose a fine. (revoked section)~~

Article 69. Suspension of license

- 69.1. The Financial Regulatory Commission may at any time suspend a license if:
- 69.1.1. any of the grounds under Paragraph 67.1. of this law are revealed;
 - 69.1.2. the insurer fails to commence business within six months of the license being issued or ceases to carry out insurance; or
 - 69.1.3. the insurer fails to pay the annual fee for the license within two months of the date upon which it is due for payment.
- 69.2. The suspension of a license shall be:
- 69.2.1. for a period specified by the Financial Regulatory Commission;
 - 69.2.2. until any directives made by the Financial Regulatory Commission have been complied with.
- 69.3. The period specified in Section 69.2.1. of this law shall not exceed six months.
- 69.4. If a directive under Section 69.2.2. of this law has not been complied with within six months from the date of the suspension of a license, the license shall be revoked.
- 69.5. Before suspending the license, the Financial Regulatory Commission shall give the insurer written notice of its intention to suspend the license stating the grounds for this and shall record the date of such notice.
- 69.6. Unless the licensee, by written notice submitted to the Financial Regulatory Commission, shows good reason why its license should not be suspended, the license will be suspended on a date not less than 14 working days after the date of the notice.
- 69.7. Where the license is suspended, a written notice shall be sent to the licensee stating:
- 69.7.1. that the license has been suspended;
 - 69.7.2. the grounds upon which, and the date from which, the license has been suspended; and
 - 69.7.3. the term of the suspension of the license.

Article 70. Revocation of license

- 70.1. The Financial Regulatory Commission may revoke a license on any of the following grounds:

- 70.1.1. at the request of the licensee;
 - 70.1.2. the insurance company is liquidated;
 - 70.1.3. the licensee has provided false documents on making its application for a license;
 - or
 - 70.1.4. the insurer seriously or repetitively breached the conditions and requirements of the license;
 - 70.1.5. the insurer has failed to comply with a directive given to it to remedy a violation during the term of suspension of the license.
- 70.2. Before revoking the license, the Financial Regulatory Commission shall give the licensee written notice of its intention to revoke the license stating the grounds upon which it intends to revoke the license, and shall record the date of such notice.
- 70.3. Unless the licensee, by written notice submitted to the Financial Regulatory Commission, shows good reason why its license should not be revoked, the license will be revoked on a date not less than 14 working days after the date of the notice.
- 70.4. Where a license is revoked, a written notice shall be sent to the licensee stating:
- 70.4.1. that the license has been revoked; and
 - 70.4.2. the grounds upon which, and the date from which, the license has been revoked.

Article 71. Effect of revocation or suspension of license

- 71.1. The insurer shall not, without the prior written approval of the Financial Regulatory Commission, after the date upon which he/she receives a notice of the suspension or revocation of the license:
- 71.1.1. enter into a new contract of insurance; or
 - 71.1.2. renew or vary a contract of insurance entered into before the relevant date.
- 71.2. The insurer shall take such action as it considers necessary to ensure that reasonable provision has been or will be made for that liability and that adequate arrangements exist or will exist for payment of reinsurance premiums and other expenses on insurance policies.
- 71.3. Where the Financial Regulatory Commission suspends or revokes a license, it shall publish a notice in accordance with the set of insurance regulations.

Article 72. Submission of claim to court by the Financial Regulatory Commission in order to protect the property of insurer

- 72.1. If a license is suspended or revoked or in the case where grounds exist as specified in Paragraphs 69.1. or 70.1. of this law, the Financial Regulatory Commission may submit a claim to Court to protect or preserve the business or property of the insurer, or the interests of the public, its creditors or policyholders.
- 72.2. A claim by the Financial Regulatory Commission under Paragraph 72.1. of this law may be made without giving notice to the insurer.
- 72.3. Where the license of the insurer has not been suspended or revoked, a claim may be made before giving to the insurer a notice of intention to suspend or revoke the license under Paragraph 69.5. or 70.2.
- 72.4. On a claim specified in Paragraph 72.1. of this Article, the court may make one or more of the following orders:
- 72.4.1. an order preventing the insurer or any other person from transferring, disposing of or otherwise dealing with property belonging to him/her or in his/her custody;
 - 72.4.2. an order appointing an administrator to take over and manage the insurance business being carried out by the insurer or carried out by it immediately before the revocation or suspension of the license;
 - 72.4.3. an order that the licensee be liquidated;
 - 72.4.4. an order requiring such persons as it considers necessary for the purpose to give information concerning the business carried out by the insurer.
- 72.5. An order for the appointment of an administrator under Section 72.4.2 of this law must

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specify the powers of the administrator, make provision for reports to be submitted by the administrator to the court and to the Financial Regulatory Commission and fix and provide for the remuneration of the administrator.

- 72.6. The court may at any time:
- 72.6.1. give directions to the administrator concerning the exercise of his/her rights and duties;
 - 72.6.2. vary the powers of the administrator; or
 - 72.6.3. terminate the appointment of the administrator.

Article 73. Directives

- 73.1. Where it is entitled to apply sanctions against an insurer, the Financial Regulatory Commission may issue a notice containing any of the following directives:
- 73.1.1. that the insurer ceases to engage in any class, type or form of insurance business;
 - 73.1.2. that the insurer is prohibited from entering into any new contracts for any type, class or form of insurance business;
 - 73.1.3. that the insurer is prohibited from varying any existing contracts of insurance;
 - 73.1.4. that the aggregate premiums must be limited to an amount as specified in the directive;
 - 73.1.5. that the insurer must cease making investments of a specified type;
 - 73.1.6. that the insurer must realize the investments that it holds before the specified date;
 - 73.1.7. that the insurer must appoint an actuary or such other person to undertake a financial investigation before the specified time;
 - 73.1.8. that the insurer must provide any return or other document under this law, the set of insurance regulations or any other relevant law within a shorter period of time than that permitted under this law;
 - 73.1.9. that the insurer makes amendments to its business plan;
 - 73.1.10. to undertake necessary measures for the purpose of protecting the interests of the insured and shareholders.
- 73.2. Where the license has been suspended or revoked, other directives as may be considered necessary may be given.
- 73.3. An insurer must comply with any directive given to it by the Financial Regulatory Commission under Article 73 of this law.
- 73.4. Article 73 of this law shall also apply to a legal entity whose license has been suspended or revoked.

Article 74. Appointment of an examiner

- 74.1. Where the Financial Regulatory Commission is entitled to apply sanctions under Paragraph 67.1. of this law, it may appoint one or more persons as examiners to conduct an investigation on the business of the person concerned.
- 74.2. An examiner appointed in accordance with Paragraph 74.1 of this law may inspect the following issues:
- 74.2.1. activities of the insurer and its characteristics;
 - 74.2.2. specific issues of the insurer's activities;
 - 74.2.3. supervision of insurers and shareholders
- 74.3. An examiner may, at any time, if he/she considers it necessary, investigate the business of the person concerned or any other member of the group of companies.
- 74.4. The appointment of an examiner shall be made on such terms and conditions as the Financial Regulatory Commission considers appropriate.

CHAPTER FIFTEEN. TRANSFER AND AMALGAMATION OF INSURANCE BUSINESS

Article 75. Transfer and amalgamation of insurance business

- 75.1. An insurer shall make an application for approval to transfer or amalgamate its

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- insurance business to the Financial Regulatory Commission in writing.
- 75.2 Unless the Financial Regulatory Commission has approved it in writing, no part of the business of an insurer may be:
- 75.2.1. transferred to another person; or
 - 75.2.1. amalgamated with the business of another person;
- 75.3. The set of insurance regulations may specify the procedures for applications on transferring or amalgamating and the procedures in making its determination under Article 75 of this law.
- 75.4. Before deciding whether to grant its approval to a transfer or amalgamation, the Financial Regulatory Commission may:
- 75.4.1. undertake an investigation into the desirability or otherwise of the transfer or amalgamation; and
 - 75.4.2. require the insurer and each party to provide it with such documents and information as it requires.
- 75.5. An investigation under Section 75.4.1. of this law may be carried out by the Financial Regulatory Commission or by a person or persons appointed by the Financial Regulatory Commission and shall be at the cost of the insurer.
- 75.6. Any transaction to which an insurer is a party which has the effect of transferring any part of the insurance business to another person or amalgamating any part of the insurance business with the business of another person is void unless approved by the Financial Regulatory Commission.
- 75.7. The Financial Regulatory Commission may conduct a hearing of the application on the transfer or amalgamation of any part of the insurance business and may consider such evidence as it considers appropriate from the insurer and each other party.

CHAPTER SIXTEEN. LIQUIDATION OF INSURERS

Article 76. Bankruptcy of an insurer

- 76.1. The Bankruptcy Law applies to relations that are not regulated by this law in relation to starting a bankruptcy case in respect of an insurer.
- 76.2. The Financial Regulatory Commission shall be given notice by the court of, and shall be entitled to attend and make representations at, any hearing relating to:
- 76.2.1. any claim or any request to the court to start a bankruptcy case under Article 5 of the Bankruptcy Law where the defendant is an insurer;
 - 76.2.2. any complaint lodged under Article 6 of the Bankruptcy Law against a judge's ruling or a court resolution issued in connection with a bankruptcy case where the defendant is an insurer; and
 - 76.2.3. any other matter to be decided by the court under Bankruptcy Law in connection with the bankruptcy of an insurer.
- 76.3. Where a request is made to start a bankruptcy case concerning an insurer, the Financial Regulatory Commission may request the appointment of a temporary trustee under Paragraph 5.7. of the Bankruptcy Law and propose a suitably qualified and experienced person for such appointment.
- 76.4. Where an insurer is declared bankrupt, the Financial Regulatory Commission shall propose to the court the appointment of a suitably qualified and experienced person as trustee and Paragraph 8.2. of the Bankruptcy Law shall not apply.
- 76.5. The court shall appoint a trustee who may be the person proposed by the Financial Regulatory Commission.
- 76.6. The person appointed as the temporary trustee or the trustee must, in addition to satisfying the requirements of Paragraph 11.2. of the Bankruptcy Law, be a person who has sufficient knowledge about the particular aspects of an insurance company.
- 76.7. The insurance business shall be under the supervision of the Financial Regulatory Commission that shall have the rights and powers to make a decision on issues

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- specified in Paragraphs 8.3.3., 8.3.4. and 8.3.6. of the Bankruptcy Law.
- 76.8. The trustee shall provide the Financial Regulatory Commission with such information or reports concerning his/her actions as the trustee as may be requested by the Financial Regulatory Commission.
- 76.9. The Financial Regulatory Commission may, at any time, submit a claim to the court concerning the activities of the trustee or the defendant.
- 76.10. The court shall have the power to extend any time limit specified in the Bankruptcy Law where the defendant carried out the insurance business.

Article 77. Re-capitalization of an insurer

- 77.1. A person who submits to the Court a request to re-capitalize an insurer under Paragraph 23.1. of the Bankruptcy Law or a plan to re-capitalize an insurer under Paragraph 24.1. of the Bankruptcy Law shall, at the same time, submit a full copy of the request or the plan to the Financial Regulatory Commission.
- 77.2. The Financial Regulatory Commission shall be entitled to attend and speak at any meeting of plaintiffs held to consider a re-capitalization plan.
- 77.3. The court shall not approve a re-capitalization plan unless the Financial Regulatory Commission has approved the re-capitalization plan in writing.
- 77.4. Article 28 of the Bankruptcy Law does not apply to the approval of a re-capitalization plan of an insurer by the court.

Article 78. Liquidation of an insurer

- 78.1. The Civil Code, Bankruptcy Law and Company Law apply to relations that are not regulated by this law in relation to the liquidation of an insurer.
- 78.2. The insurer shall be liquidated in the following cases:
- 78.2.1. by a court decision;
 - 78.2.2. by a decision of the shareholders' meeting with the written authorization of the Financial Regulatory Commission,
- 78.3. The decision of the shareholders' meeting to liquidate the insurer shall be invalid/void without the written authorization of the Financial Regulatory Commission.
- 78.4. The liquidation of an insurer commenced other than in accordance with Paragraph 78.2. of this law shall be invalid and of no effect.
- 78.5. The Financial Regulatory Commission may submit a claim to the court for the liquidation of an insurance company on the following grounds:
- 78.5.1. that the insurance company is insolvent; or
 - 78.5.2. that the insurer's license has been revoked.
- 78.6. The Financial Regulatory Commission may submit a claim to the court for the liquidation of a legal person on the grounds that it is carrying out, or has carried out, insurance business without license.
- 78.7. Where a claim is made to the court for the liquidation of an insurer, the court shall give the Financial Regulatory Commission notice of the claim and the Financial Regulatory Commission shall be entitled to attend and make representations at any hearing of the claim.
- 78.8. The liquidation of an insurer under the Bankruptcy Law shall be under the supervision of the court and Paragraph 38.1. of the Bankruptcy Law shall not apply.

Article 79. Liquidation of an insurer by resolution of shareholders

- 79.1. The list of persons proposed to be appointed as a member of the liquidation commission shall be attached to the application for liquidation of the insurer by the decision of the shareholders meeting issued in accordance with Section 78.2.2 of this law.
- 79.2. The Financial Regulatory Commission shall not grant authorization to liquidate an insurer by a decision of a shareholders meeting in the following cases

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- 79.2.1. the liquidation commission shall be appointed by the shareholders meeting when approving the resolution to liquidate the insurer.
- 79.2.2. the Liquidation Commission must give notice of its appointment to the Financial Regulatory Commission within the specified time in the resolution.
- 79.3. **The Financial Regulatory Commission may provide for the powers and duties of the Liquidation Commission in accordance with relevant law.**
- 79.4. The Liquidation Commission must give notice of its appointment to the Financial Regulatory Commission within the specified time in the resolution.
- 79.5. The Financial Regulatory Commission may provide for the powers and duties of the Liquidation Commission in accordance with relevant law.

Article 80. Long-term funds of an insurer

- 80.1. The long-term funds of an insurer are maintained by the insurer to ensure the long-term stability of its business.
- 80.2. Where a long-term insurer is liquidated, whether under the Bankruptcy Act or otherwise, the long-term funds of the insurer shall be dealt with only in accordance with this Article 80 of this law.
- 80.3. The long-term funds of an insurer shall be applied first to meet the insurer's long-term liabilities attributable to the funds and as far as they are required to meet those long-term funds, shall not be regarded for the purposes of the distribution of as assets of the insurer.
- 80.4. The excess amount under Paragraph 80.3. of this law is an asset available for distribution in accordance with the Civil Code and the relevant law.

CHAPTER SEVENTEEN MISCELLANEOUS

Article 81. Protection of information

- 81.1. The Financial Regulatory Commission and any organization or person acting under its authority shall not disclose to any person any information concerning the affairs of the following persons the exercise of his/her functions under this law or under any other relevant law:
 - 81.1.1. a person who has applied for a license;
 - 81.1.2. an insurer or a former insurer, its subsidiary or a holding company;
 - 81.1.3. an insured person or a formerly insured person.
- 81.2. Paragraph 81.1 of this law shall not apply to the following conditions:
 - 81.2.1. disclosure of the affairs of a protected person made with the written consent of that person,
 - 81.2.2. a specific demand from the Financial Regulatory Commission;
 - 81.2.3. the administration of the court, prosecutor, police or the court decision execution body made a request;
 - 81.2.4. a relevant person needs to know for the purpose of discharging any duty or exercising any power under this law;
 - 81.2.5. if the information disclosed is or has been available to the public from any other source;
 - 81.2.6. where the information disclosed is in a summary or in statistics expressed in a manner that does not enable the identity of the person, specified in Paragraph 81.1. of this law to which the information relates, to be determined;
 - 81.2.7. the disclosure made to a foreign regulatory authority upon the written request of that authority in accordance with Article 66 of this law.

Article 82. Appeals of decisions of the Financial Regulatory Commission

- 82.1. Any person may file a dispute concerning an insurance business for a decision to the

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Financial Regulatory Commission and if the person does not agree with the decision, he/she may appeal the decision of the Financial Regulatory Commission to the court within 10 working days of the date when the decision takes effect.

- 82.2. An appeal against a decision of the Financial Regulatory Commission shall not serve as grounds for suspending the decision to impose sanctions.

Article 82¹. Arbitration of disputes

- 82¹.1. Disputes related to insurance activities shall be resolved by arbitration provided there is an arbitration agreement.
- 82¹.2. Article 82 of this law shall not apply in case of a resolution of dispute through arbitration in accordance with Paragraph 82.1 of this law.

Article 83. Penalties to be imposed on persons in breach of legislation

- 83.1. If a breach of the legislation on insurance does not constitute a criminal offense, an official shall be subject to liability specified in the Law on Civil Service.
- 83.2. A person or legal entity that breaches this law shall be subject to liability specified in the Criminal Code or the Infringement Law.

Article 84. Limited Liability of Financial Regulatory Commission

- 84.1 The Financial Regulatory Commission, and its employees, shall not be liable for anything done or omitted to be done in the discharge or purported discharge of any functions, responsibilities or duties, or the exercise or purported exercise of any powers, under this law, the set of insurance regulations or any other law that assigns to it, unless it is shown that the act or omission was in bad faith.

Article 85. Effective Date of this law

- 85.1. This Law shall be effective as of 1 June, 2005.
- 85.2. Paragraph 22.1 of the present law establishing the capital assets of an insurance company shall be effective on 1 July. 2005.

S. Tumur-Ochir

Chairman, State Great Khural