



Pursuant to Article 9, paragraph (2), of the Law on Protection of Competition ("Official Gazette of the Republic of Macedonia" No. 145/10 and 136/2011), the Government of the Republic of Macedonia, on its session held on 23.03.2012, adopted the following:

Decree on block exemption of certain categories of insurance agreements ⁽¹⁾

Article 1

General provision

This Decree regulates the scope of application of the block exemption, the detailed conditions in terms of market shares, conditions for exemptions, the restrictions and obligations that insurance agreements shall not contain and the conditions for the withdrawal of the block exemption.

Article 2

Definitions

(1) Certain terms used in this Decree shall have the following meaning:

1) "Block exemption" is exemption licensed to certain categories of insurance agreements of the application of the provisions on prohibited agreements stipulated in Article 7 paragraph (1) of the Law on Protection of Competition (hereinafter: the Law)

2) "participating undertakings" means undertakings party to the agreement and their respective connected undertakings;

3) "co-insurance pools" means groups set up by insurance undertakings either directly or through brokers or authorised agents, with the exception of ad-hoc co-insurance agreements on the subscription market, whereby a certain part of a given risk is covered by a lead insurer and the remaining part of the risk is covered by follow insurers who are invited to cover that remainder, which:

a) agree to underwrite, in the name and for the account of all the participants, the insurance of a specified risk category or

b) entrust the underwriting and management of the insurance of a specified risk category, in their name and on their behalf, to one of the insurance undertakings, to a common broker or to a common body set up for this purpose;

⁽¹⁾ This Decree is harmonized with Commission Regulation (EU) No.267/2010 of 24th March 2010 on the application of Article 101 (3) of the Treaty on the Functioning of the European Union to certain categories of agreements, decisions and concerted practices in the insurance sector (Text with EEA relevance), OJ L 83, 30.03.2010, p. 1-7, CELEX No.32010P0267



4) "co-reinsurance pools" means groups set up by insurance undertakings either directly or through broker or authorized agents, possibly with the assistance of one or more reinsurance undertakings, with the exception of ad-hoc co-reinsurance agreements on the subscription market, whereby a certain part of a given risk is covered by a lead insurer and the remaining part of this risk is covered by follow insurers who are then invited to cover that remainder, in order to:

a) reinsure mutually all or part of their liabilities in respect of a specified risk category and/or

b) incidentally accept, in the name and on behalf of all the participants, the reinsurance of the same category of risks;

5) "new risks" means:

a) risks which did not previously exist, and for which insurance cover requires the development of an entirely new insurance product, not involving an extension, improvement or replacement of an existing insurance product or

b) in exceptional cases, risks the nature of which has, on the basis of an objective analysis, changed so materially that it is not possible to know in advance what subscription capacity is necessary in order to cover such a risk;

6) "commercial premium" means the price which is charged to the purchaser of an insurance policy.

Article 3

Application of the block exemption on agreements for joint compilations, tables, and studies

(1) Agreements entered into between two or more undertakings in the insurance sector are exempt from the application of the provisions of Article 7 paragraph (1) of the Law if they meet the conditions stipulated in this Decree, in accordance with Article 7, paragraph (3) and Article 9 paragraph (1) point 2) of the Law with respect to:

a) the joint compilation and distribution of information necessary for the following purposes:

- calculation of the average cost of covering a specified risk in the past (hereinafter: compilations) and/or

- construction of mortality tables, and tables showing the frequency of illness, accident and invalidity in connection with insurance involving an element of capitalization (hereinafter: tables) and



b) the joint carrying-out of studies on the probable impact of general circumstances external to the interested undertakings, either on the frequency or scale of future claims for a given risk or risk category or on the profitability of different types of investment (hereinafter: studies), and the distribution of the results of such studies.

Article 4

Conditions for block exemption of agreements for joint compilations, tables, and studies

1. The block exemption provided for in Article 3 paragraph (1) point a) of this Decree shall apply on condition that the compilations or tables:

a) are based on the assembly of data, spread over a number of risk years chosen as an observation period, which relate to identical or comparable risks in sufficient numbers to constitute a base which can be handled statistically and which will yield figures on the following, amongst others:

- the number of claims during the said period;
- the number of individual risks insured in each risk year of the chosen observation period;
- the total amounts paid or payable in respect of claims that have arisen during the said period and
- the total amount of capital insured for each risk year during the chosen observation period;

b) include as detailed a breakdown of the available statistics as is actuarially adequate and

c) do not include in any way elements for contingencies, income deriving from reserves, administrative or commercial costs or fiscal or parafiscal contributions, and take into account neither revenues from investments nor anticipated profits.

(2) The exemptions provided for in Article 3 of this Decree shall apply on condition that the compilations, tables or study results:

- a) do not identify the insurance undertakings concerned or any insured party;
- b) when compiled and distributed, include a statement that they are non-binding;
- c) do not contain any indication of the level of commercial premiums;
- d) are made available on reasonable, affordable and non-discriminatory terms, to any insurance undertaking which requests a copy of them, including insurance



undertakings which are not active on the geographic or product market to which those compilations, tables or study results refer and

e) except where non-disclosure is objectively justified on grounds of public security, are made available on reasonable, affordable and non-discriminatory terms, to consumer organizations or customer organizations which request access to them in specific and precise terms for a duly justified reason.

Article 5

Agreements for compilations, tables, and studies not covered by the exemption

The exemptions provided for in Article 3 of this Decree shall not apply where participating undertakings enter into an undertaking or commitment among themselves, or oblige other undertakings, not to use compilations or tables that differ from those referred to in Article 3 paragraph (1) point a) of this Decree, or not to depart from the results of the studies referred to in Article 3 paragraph (1) point b) of this Decree.

Article 6

Conditions for block exemption of agreements for common coverage of a specific category of risks

Agreements entered into between two or more undertakings in the insurance sector are exempt from the application of the provisions of Article 7 paragraph (1) of the Law if they met the conditions stipulated in this Decree, in accordance with Article 7 paragraph (3) and Article 9 paragraph (1) point 2) of the Law with respect to the setting-up and operation of pools of insurance undertakings or of insurance undertakings and reinsurance undertakings for the common coverage of a specific category of risks in the form of co-insurance or co-reinsurance.

Article 7

Application of the block exemption of agreements for common coverage of a specific category of risks and market share thresholds

(1) As concerns co-insurance or co-reinsurance pools which are created in order exclusively to cover new risks, the exemption provided for in Article 6 shall apply for a period of three years from the date of the first establishment of the pool, regardless of the market share of the pool.

(2) As concerns co-insurance or co-reinsurance pools which do not fall within the scope of paragraph (1), the exemption provided for in Article 6 of this Decree shall apply on condition that the combined market share held by the participating undertakings does not exceed:



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- a) in the case of co-insurance pools, 20 % of any relevant market;
- b) in the case of co-reinsurance pools, 25 % of any relevant market.
- (3) In calculating the market share of a participating undertaking on the relevant market, account shall be taken of:
- a) the market share of the participating undertaking within the pool in question;
- b) the market share of the participating undertaking within another pool on the same relevant market as the pool in question, to which the participating undertaking is a party and
- c) the market share of the participating undertaking on the same relevant market as the pool in question, outside any pool.
- (4) For the purposes of applying the market share thresholds provided for in paragraph (2), the following rules shall apply:
- a) the market share shall be calculated on the basis of gross premium income, if gross premium income data are not available, estimates based on other reliable market information, including insurance cover provided or insured risk value (amount of insurance), may be used to establish the market share of the undertaking concerned;
- b) the market share shall be calculated on the basis of data relating to the preceding calendar year.
- (5) Where the market share referred to in paragraph (2) point a) of this Article is initially not more than 20 % but subsequently rises above that level without exceeding 25 %, the exemption provided for in Article 6 shall continue to apply for a period of two consecutive calendar years following the year in which the 20 % threshold was first exceeded.
- (6) Where the market share referred to in paragraph (2) point a) of this Article is initially not more than 20 % but subsequently rises above 25 %, the exemption provided for in Article 6 shall continue to apply for a period of one calendar year following the year in which the level of 25 % was first exceeded.
- (7) The benefit of paragraphs (5) and (6) may not be combined so as to exceed a period of two calendar years.
- (8) Where the market share referred to in paragraph (2) point b) of this Article is initially not more than 25 % but subsequently rises above that level without exceeding 30 %, the exemption provided for in Article 6 of this Decree shall continue to apply for a period of two consecutive calendar years following the year in which the 25 % threshold was first exceeded.



(9) Where the market share referred to in paragraph (2) point b) of this Article is initially not more than 25 % but subsequently rises above 30 %, the exemption provided for in Article 6 of this Decree shall continue to apply for a period of one calendar year following the year in which the level of 30 % was first exceeded.

(10) The benefit of paragraphs (8) and (9) may not be combined so as to exceed a period of two calendar years.

Article 8

Conditions for exemption of agreements for common coverage of a specific category of risks

The exemption provided for in Article 6 of this Decree shall apply on condition that:

- a) each participating undertaking having given a reasonable period of notice has the right to withdraw from the pool, without incurring any sanctions;
- b) the rules of the pool do not oblige any participating undertaking of the pool to insure or reinsure through the pool and do not restrict any participating undertaking of the pool from insuring or reinsuring outside the pool, in whole or in part, any risk of the type covered by the pool;
- c) the rules of the pool do not restrict the activity of the pool or its participating undertakings to the insurance or reinsurance of risks located in any particular geographical part of the Republic of Macedonia;
- d) the agreement does not limit output or sales;
- e) the agreement does not allocate markets or customers and
- f) the participating undertakings of a co-reinsurance pool do not agree on the commercial premiums which they charge for direct insurance.

Detailed conditions for the withdrawal of the block exemption

Article 9

Commission for Protection of Competition may withdraw exemption if in a proceedings initiated ex officio or upon request of a party determines that the agreement which is subject to the exemption of this Decree, have consequences that are not in accordance to the conditions laid down in Article 7 (3) of the Law. When withdrawing the block exemption the Commission for Protection of Competition will particularly take into account the anti-competitive effects that may derive from the existence of links between a co-insurance or co-reinsurance pool and/or its participating undertakings and other pools and/or their participating undertakings on the same relevant market.



Article 10

Transitional period

All insurance agreements entered into under the Regulation on block exemption granted to agreements in the insurance sector ("Official Gazette of the Republic of Macedonia" No.91/2005) need to harmonize with the provisions of this Decree no later than September 1, 2012

Article 11

Termination

On the day this Decree enters into force Regulation on block exemption granted to agreements in the insurance sector ("Official Gazette of the Republic of Macedonia" No.91/2005) shall cease to be valid.

Article 12

Entry into force

This Decree shall enter into force on the eight day after its publication in the "Official Gazette of the Republic of Macedonia".