

Pursuant to Article 92b paragraph 5 and Article 177 item 4 of the Law on Insurance (Official Gazette of the Republic of Montenegro, No 78/06 and 19/07; and Official Gazette of Montenegro, No 45/12), at the session held on 26 December 2012, the Council of the Insurance Supervision Agency adopted the

## **RULEBOOK ON CHARACTERISTICS OF SUBORDINATED DEBT INSTRUMENTS THAT CAN BE INCLUDED IN THE ADDITIONAL CAPITAL OF THE INSURANCE COMPANY**

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**(Official Gazette of Montenegro, No 01/13 of 3 January 2013, 24/13 of 31 May 2013)**

### **Article 1**

This Rulebook governs detailed characteristics of subordinated debt instruments and conditions under which they can be included in the additional capital.

### **Article 2**

The insurance company (hereinafter referred as the company) may include subordinated debt instruments in the calculation of the additional capital if the following conditions are fulfilled:

- a) the contract between the company (as issuer) and holder of the subordinated debt instrument envisages that in the case of bankruptcy or liquidation of the insurance company the holder is entitled to settle its claims only after claims of other creditors have been settled;
- b) if the funds are fully paid-up;
- c) the contract between the company and holder of the subordinated debt instrument must not contain provisions which enable a creditor to receive the payment before the specified maturity, except in the case of bankruptcy or liquidation;
- d) the contract between the company and holder of the subordinated debt instrument may be changed only with a prior obtained consent from the Insurance Supervision Agency (hereinafter referred to as the Agency).

### **Article 3**

The Agency shall issue consent to the company to include a subordinated debt instrument in the additional capital.

The company shall submit a request for obtaining consent to include a subordinated debt instrument in the additional capital to the Agency 30 days before the intended inclusion at the latest.

Along with the request for issuing the consent referred to in paragraph 1 of this Article, the company shall be obliged to submit:

- a) draft contract governing rights and obligations of the subordinated debt financial instrument;
- b) projection of operations for the next five years.

The projection of operations referred to in paragraph 2 of this Article must include at least the following:

- a) projected balance sheet;
- b) projected income statement;
- c) calculation of capital in accordance with Article 92 of the Law;
- d) solvency margin calculation in accordance with Article 96 of the Law;
- e) guaranteed capital calculation in accordance with Article 98a of the Law;
- f) assumptions on the basis of which the projection has been made.

The company shall be obliged to exclude from the additional capital calculation a subordinated debt instrument that fails to fulfil the conditions referred to in Article 2 of this Law.

#### **Article 4**

The company may include in the additional capital a subordinated debt instrument with a specified maturity and a subordinated debt instrument without a specified maturity.

Amount of subordinated debt instruments with a specified maturity referred to in paragraph 1 of this Article cannot exceed 25% of the core capital amount.

#### **Subordinated debt instruments with a specified maturity**

#### **Article 5**

In addition to conditions referred to in Article 2 of this Rulebook, a subordinated debt instrument with a specified maturity must also fulfil the following conditions:

- a) contracted maturity must be at least 5 years and 1 day;
- b) the company must gradually reduce the level of the subordinated debt capital in the additional capital with a 20% cumulative discount for the last 5 years remaining before its maturity, in such manner that when calculating the additional capital, as of the balance on such day that is:
  - five years or less than five and more than four years before the day of repayment of full or part of the amount of the paid-up debt financial instrument, it shall use 20% discount for that amount;
  - in case of less than four and more than three years, it shall use 40% discount;
  - in case of less than three and more than two years, it shall use 60% discount;
  - in case of less than two and more than one year, it shall use 80% discount;

If until the day of repayment remains one year or less, 100% discount shall be used and such amount is not included in the calculation of the additional capital.

## **Subordinated debt instruments without a specified maturity**

### **Article 6**

In addition to conditions referred to in Article 2 of this Rulebook, a subordinated debt instrument without a specified maturity must also fulfil the following conditions:

- a) financial instruments cannot be paid upon request of the holder without a prior consent of the Agency;
- b) the company must be entitled to defer the payment of interest under such instruments.

### **Article 7**

Subordinated debt instrument without a specified maturity may be paid:

- a) if the company notified the Agency five years before the intended payment of the subordinated debt instrument, whereby a discounted calculation referred to in Article 5 of this Rulebook shall apply for calculation of capital;
- b) if it is not a constituent part of the additional capital any longer, or if it is 100% discounted;
- c) if a prior consent of the Agency is obtained for prepayment.

The request for obtaining a consent for prepayment shall be submitted to the Agency at least six months before the intended payment

The company shall be obliged to submit, along with the request referred to in paragraph 2 of this Article, calculation of capital, guaranteed capital, and solvency margin before the intended payment and after completed payment.

The Agency shall authorise a prepayment if the documentation referred to in paragraph 3 of this Article indicates that the company will continue to meet the conditions referred to in Articles 98 and 98a of the Law even after executed payment.

### **Article 8**

This Rulebook shall enter into force on the eighth day following the day of its publication in the Official Gazette of Montenegro.

Number: 01-1358/9-12  
Podgorica, 26 December 2012

President of the Council  
Branko Vujović, m.p.

**The consolidate text of the Rulebook does not include the following provisions of the Rulebook Supplementing the Rulebook on characteristics of subordinated debt instruments that can be included in the additional capital of the insurance company (Official Gazette of Montenegro, No 24/13 of 31 May 2013):**

***“Article 2***

*This Rulebook shall enter into force on the eighth day following the day of its publication in the Official Gazette of Montenegro.”*

Number: 01-571/3-13  
Podgorica, 24 May 2013

President of the Council  
Branko Vujović, m.p.