

INSURANCE BUSINESS CONTROL REGULATIONS (MINIMUM EQUITY REQUIRED OF INSURER) 5758-1998

By virtue of my powers under section 35 of the Insurance Business (Control) Law 5741-1981 (hereafter: the Law) and with approval by the Knesset Finance Committee I make these regulations.

Definitions

1. In these regulations -
 "Dedicated bond" - each of the following:
 - (1) a bond issued by the State of Israel under the Loans (Insurance Companies) Law 5723-1962 (hereafter: Insurance Companies Loan Law);
 - (2) a debenture guaranteed by the State of Israel, issued under the linked life insurance agreements;

"Exchange" - a securities Exchange in Israel, which received a license under section 45 of the Securities Law 5728-1968 (hereafter: Securities Law);

"Credit insurance" - credit insurance, foreign trade risks insurance and the provision of guaranties within their meaning in paragraphs 20, 23 and 24 in section 1A of the Branches of Insurance Notice;

"Life insurance" - within its meaning in paragraphs (1) to (4) of section 1A in the Branches of Insurance Notice, as well as long term care insurance and insurance against the loss of working capacity, which is not part of a life insurance policy;

"Non life insurance" - all branches of insurance within their meaning in the Branches of Insurance Notice, except for life insurance;

"Co- insurance" - the provision of insurance cover to an insured person by several insurers jointly under a policy signed by the participating insurers, each insurer being responsible for his share only;

"Insurance against natural disasters in agriculture" - within its meaning in the Insurance Business Control Notice (Branches of Insurance) 5745-1985;

"Bank" - a body corporate that was given a license under section 4(a)(1)(a) or (b), or 4(a)(2) of the Banking (Licensing) Law 5741-1981, the Postal Bank under the Postal Bank Law 5711-1951, and also a bank abroad, resident in an approved foreign country as defined in the First Addition, which is under governmental supervision of the state in which it is located;

"Dividend" - as defined in the Companies Law 5759-1999 (hereafter: Companies Law), also in respect of rights holders in cooperative societies;

"Report" - an insurer's annual and interim financial report, drawn up in accordance with the Particulars of Report Regulations;

"Insurance payments" - premiums, registration fees, policy fees and other amounts received from the insured persons in addition to premiums, exclusive of credit fees and including aforesaid payments received by a participating company from the managing company of co- insurance, exclusive of insurance payments to a managing company that were passed on to a participating company;

"Retained insurance payments" - insurance payments less the share of reinsurers;

"Insurance payments receivable" - insurance payments from insured persons and insurance agents, including promissory notes and other surety, to which the insurer is entitled but has not yet received, and also loans to cover insurance payments receivable, with the addition of advance collection fees set off against insurance payments receivable;

"Commissions to insurance agents" - commissions, salary, participation in expenses or any other benefit, which were credited to insurance agents, either directly or indirectly;

"Branches of Insurance Notice" - the Insurance Business Control Notice (Branches of Insurance) 5745-1985;

"Basic share capital" - paid up share capital, plus reserves derived from premiums paid when the shares were issued;

"Primary capital" - the total of all the following:

- (1) basic share capital;
 - (2) capital reserves, other than reserves derived from premiums paid when the shares were issued;
 - (3) receipts on account of shares, on condition that there is an irrevocable undertaking to acquire and to allocate them within three months after the report is published;
 - (4) surpluses
- and with the deduction of losses and capital reserves in debit;

"Secondary capital" - the total of all the following:

- (1) deferred letters of indebtedness, whether or not convertible into shares, issued for a period of at least five years with due dates at least two years after the report date, on condition that they were not issued to a controlling member;
- (2) capital notes;

"Equity" - the total of all the following:

- (1) primary capital, on condition that - if the basic capital does not exceed NS 250 million - the basic share capital shall not be less than 50% of the primary capital;
- (2) secondary capital, up to a ceiling of 50% of the primary capital;

"Loans to cover insurance payments receivable" - loans, including linkage differentials and interest on them, to insured persons and insurance agents, the purpose of which is to cover insurance payments receivable, extended shortly before the report date for a period of not more than three months and not on terms different from what is customary in the economy;

"Linked life insurance agreements" - agreements between the Israel Government and life insurance companies, by virtue of the Insurance Companies Loan Law, on investment in bonds;

"Subsidiary" - company in which another company holds 50% or more of the nominal value of the issued share capital or of the voting power, or in which it may appoint one half or more of the directors or the general manager;

"Included company" - a company, other than a consolidated company and a proportionally consolidated company, in which an investment by the insurer is included in the insurer's reports on the basis of balance sheet value;

"Consolidated company" - a company, the reports of which are consolidated into the insurer's reports, exclusive of a proportionally consolidated company;

"Proportionally consolidated company" - a company, the financial reports of which are proportionally consolidated into the insurer's financial reports;

"Government company" - including a **"Government subsidiary"** and a **"Mixed company"**, as defined in the Government Companies Law 5735-1975;

"Managing company" - an insurer who manages a co-insurance, maintains relations with the insured person in respect of that insurance and collects insurance payments from him for the participating companies;

"Participating company" - an insurer who participates in a co-insurance and receives insurance payments through the managing company;

"Dividend distribution" - according to the definition of "distribution" in the Companies Law, also in respect of rights holders in cooperative societies;

"Foreign insurer" - an insurer who received a foreign insurer's license under section 15(a)(2) of the Law;

"Consumer price index" - the consumer price index or some other index that replaces it, published by the Central Bureau of Statistics;

"Bonus shares" - as defined in the Companies Law, also in respect of rights holders in cooperative societies;

"Comparison number" - as defined in the Particulars of Report Regulations;

"Asset" - any property, whether real or movable, and any contingent or vested right or benefit, whether in Israel or abroad;

"Financial assets" - cash and also assets, the consideration for which is to be received in a fixed amount or in an amount that can be determined according to a written or verbal agreement or by virtue of common practice, including negotiable items carried in the report at their current value as of the report date;

"Non-financial assets" - assets that are not financial assets;

"Unrecognized assets" - the following assets and debit balances:

- (1) assets held in conflict with the Ways of Investing Regulations;
- (2) loans and advances given otherwise than in compliance with Ways of Investing Regulations and debit balances of interested parties created other than within the framework of ordinary insurance business, except advances to life insurance agents on account of commissions for a period of up to 12 months, on condition that the total of commissions to life insurance agents not exceed 5% of all insurance payments for life insurance; for this purpose, "commissions for life insurance agents" - less the rate of tax that applies to the insurer;
- (3) deferred expenses, except for deferred expense in life insurance and in non life insurance;
- (4) debit balances of insurance companies or of insurance brokers in connection with business received from abroad or ceded abroad, including reinsurance business and exclusive of deposits held by the assuming company under a reinsurance agreement, when 12 or more months have passed since the due date of those debts;
- (5) insurance payments receivable from policies in effect at least twelve months before the report date;
- (6) insurance payments receivable from life insurance business in the amount that exceeds the insurance payments due in the last month of the report period;
- (7) investments by a subsidiary or by an included company in the parent company, including aforesaid investments by way of acquisition of shares on the exchange and also debit balances of those companies

with their parent company, created otherwise than in the ordinary course of business;

- (8) bad debts not charged to expenses;
- (9) 55% of the difference between the balance of expenses for the acquisition of life insurance, as it appears on the insurer's books, and the balance of acquisition expenses for income tax purposes;

"General agent" - including a foreign insurer;

"Premium" - including portfolio premiums;

"Quarter" - a three month period that ends on the last day of the third (first quarter), sixth (second quarter), ninth (third quarter) and twelfth (fourth quarter) month of each year;

"Capital note" - a deferred instrument of indebtedness issued to a controlling member, which at the most is linked to the consumer price index but does not bear interest, with a due date not less than two years after the report date;

"Control" - the ability to guide the activity of a body corporate, and it is presumed that a person controls a body corporate if he holds more than 50% of a certain means of control in the body corporate;

"Representative exchange rate" - the representative exchange rate of a foreign currency, published by the Bank of Israel as of the report date; if no representative exchange rate was set for the said day - the representative exchange rate last set before the report date;

"Report date" - the last day of the period to which the report refers;

"Insurance broker" - a foreign resident who engages in the brokerage of insurance business between a foreign insurer or an insured person abroad and an Israeli insurer;

"Particulars of Report Regulations" - the Insurance Business Control Regulations (Particulars of Report) 5758-1997;

"Ways of Investing Regulations" - the Insurance Business (Control) Regulations (Ways of Investing an Insurer's Capital and Reserves and the Management of His Obligations) 5761-2001;

"Future Claims Calculation Regulations" - the Insurance Business Control Regulations (Methods of Calculating Allocations for Future Claims in Non life Insurance) 5745-1984.

Required primary capital

- 2. (a) The minimum primary capital in new Israeli shekels (NIS) required of an insurer shall be as follows:

- (1) an insurer engaged in life insurance – 35 million NIS;
 - (2) an insurer engaged in non life insurance - 40 million NIS;
 - (3) an insurer engaged in life insurance and in non life insurance - 60 million NIS.
- (b) Notwithstanding the provisions of subregulation (a), the minimum primary capital required of an insurer engaged only in credit insurance shall be NIS 20 million.

Minimum required equity

3. The minimum equity in new Israeli shekels required of an insurer on the report date shall not be less than the greater of the amounts stated in paragraphs (1) to (3) below:

- (1) the sum of all the following:
 - (a) the amount of primary capital under regulation 2;
 - (b) the amount of unrecognized assets;
 - (c) the amount required in respect of assured yield life insurance programs, calculated in accordance with the First Addition;
- (2) the amount composed of the following:
 - (a) 10% of the non life insurance payments, up to 55 million NIS;
 - (b) 5% of the non life insurance payments, in excess of 55 million NIS;
 - (c) 7.5% of the insurance payments on the retention in non life insurance;
 - (d) the larger of the following two amounts:
 - (1) 30% of the balance of deferred acquisition expenses of life insurance;
 - (2) 15 million NIS
 - (e) the amount of unrecognized assets;
 - (f) the amount required in respect of assured yield life insurance programs, calculated in accordance with First Addition ;

in respect of this paragraph, the amount of insurance payments shall be calculated according to the rules prescribed in the Particulars of Report Regulations
- (3) an amount composed of the following:
 - (a) 20% of the balance of the retained pending non life insurance claims, up to the amount of 300 million NIS;
 - (a1) 12% of the balance of the retained pending non life insurance claims, in excess of the amount of 300 million NIS;
 - (b) the larger of the following two amounts:
 - (1) 30% of the balance of deferred life insurance acquisition expenses;
 - (2) 15 million NIS;
 - (c) the amount of unrecognized assets;
 - (d) the amount required in respect of assured yield life insurance programs, calculated in accordance with the First Addition .

Special addition to the required equity

4. The Commissioner may demand - from an insurer who first receives a license or who applies for the expansion of an existing license - a special

addition to capital that shall not exceed 50% of his primary capital, and that for a period of not more than five years after he began to operate as an insurer or after his license was expanded, as the case may be.

Equity required of insurer who holds controlled companies

5. The minimum equity required from an insurer who controls banks and companies that engage in insurance in Israel (hereafter: controlled companies) shall, on the report date, not be less than an amount composed of the following:
 - (1) the amount required under regulation 3;
 - (2) the amount obtained by multiplying the equity required of each of the controlled companies, other than banks, by the percentage of the insurer's holding in them, plus the balances of the original differential in relation to the acquisition of those companies;
 - (3) the balance of the insurer's investment in controlled companies that are banks, as it appears in the report.

Equity required in the insurance of natural disasters in agriculture

6. Notwithstanding the provisions of regulations 2 to 4, if an insurer who is a Government company, at least 90% of whose insurance payments being from the branch of insurance against natural disasters in agriculture, then the minimum required equity shall not be less than 5 million NIS.

Equity required of a Government company engaged in credit insurance

7. Notwithstanding the provisions of regulations 2 to 4, the primary capital and the minimum equity required of a Government company engaged only in credit insurance shall not be less than 10 million NIS.

Minimum capital of insurer engaged in the insurance of housing credit secured by mortgages

8. (a) Notwithstanding the provisions of regulations 2 to 4, the minimum equity of an insurer engaged only in the insurance of housing credit covered by mortgages shall not be less than the larger new shekel amount of the following two:
 - (1) 40 million NIS;
 - (2) the cumulative amount of the minimum capital per loan, as required for each guaranteed loan separately.
- (b) In this regulation -
"equity" - as defined in regulation 1, with the addition of a reserve for exceptional risks, as defined in the Calculation of Reserves in Non life Insurance Regulations;

"minimum capital per loan" - the balance of the guaranteed loan less reinsurance, multiplied by the minimum capital ratio - as calculated in the Second Addition - required for the loan.

Excess of assets over obligations, which a foreign insurer must keep in Israel

9. (a) A foreign insurer shall keep in a special account in Israel an excess of assets over obligations that shall not be less than the largest of the new shekel amount stated in paragraphs (1) to (3) below:
- (1) the total of all the following:
 - (a) the amount of primary capital under regulation 2;
 - (b) the amount of unrecognized assets;
 - (c) the amount required in respect of assured yield life insurance programs, calculated in accordance with First Addition;
 - (2) an amount composed of the following:
 - (a) 10% of the payments for non life insurance, up to 55 million;
 - (b) 5% of the payments for non life insurance above 55 million;
 - (c) 7.5% of insurance payments on the retained non life insurance.
 - (d) the larger of these two amounts:
 - (1) 30% of the balance of deferred life insurance acquisition expenses
 - (2) 15 million;
 - (e) the amount of unrecognized assets;
 - (f) the amount required in respect of assured yield life insurance programs, calculated in accordance with First Addition.
for purposes of this paragraph - the amount of insurance payments shall be calculated according to the rules prescribed in the Particulars of Report Regulations;
 - (3) an amount composed of the following:
 - (a) 20% of the balance of pending claims on retained non life insurance;
 - (a1) 12% of the balance of the retained pending non life insurance claims, in excess of the amount of 300 million NIS;
 - (b) the larger of the following two amounts:
 - (1) 30% of the balance of deferred life insurance acquisition expenses;
 - (2) 15 million NIS;
 - (c) the amount of unrecognized assets;
 - (d) the amount required in respect of assured yield life insurance programs, calculated in accordance with the First Addition.
- (b) Notwithstanding the provisions of subregulation (a), if a foreign insurer engages in non life insurance in Israel and the total of his annual insurance payments do not exceed 10 million NIS, then he shall keep an excess of assets over obligations at the rate of 50% of all his obligations in Israel, but no less than 2 million NIS.

Increase of capital

10. (a) If an insurer's equity on the report date or a foreign insurer's excess of assets over obligations is smaller than said in these regulations, then he must increase it up to the amount said in these regulations or reduce the volume of his business accordingly, as the case may be, within 30 days after publication of the semiannual or annual report, as the case may be.
- (b) Under special circumstances the Commissioner may postpone the date for supplementing the capital.
- (c) Notwithstanding the provisions of subregulation (a), if an insurer's equity on a report date is smaller than said in these regulations because one of the provisions of regulations 6 or 7 ceased to apply to him, then he must increase it to the amount said in these regulations within three years after the date on which regulations 6 or 7 ceased to apply to him (hereafter: determining day), on condition that the said differential be made up as follows:
 - (1) at least 30% of the differential shall be made up within one year after the determining day;
 - (2) at least 60% of the differential shall be made up within two years after the determining day.

Dividend distribution

11. The insurer may distribute dividends only if his equity is at least equal to the equity required under these regulations.

Granting and expanding licenses

12. A license shall be granted to a new insurer according to the data on an audited opening balance sheet, drawn up as of the beginning of the month in which the license is granted.

Statements in financial reports

13. The insurer's primary capital and equity shall be stated in the notes to financial reports, as well as the minimum primary capital and the minimum equity required under these regulations, including the comparison numbers.

Reports to Commissioner

14. To annual financial reports and to interim report shall be attached a calculation of the required equity and a list of unrecognized assets as of the report date and as of the preceding report date, certified by an auditor who audited and surveyed the report according to the format prescribed by the Commissioner.

Linkage of amounts

15. The amounts stated in regulations 2, 3, and 6 to 9 shall change in accordance with changes of the new consumer price index over the basic consumer price index; for this purpose, "basic consumer price index" - the index published on June 15, 1997, and "new consumer price index" - the index last published before the date of the financial report.

Applicability

16. These regulations -
 - (1) shall apply to business that originates in Israel and abroad;
 - (2) shall not apply to the subsidiary abroad of an Israel insurer and to a foreign insurer - in respect of business abroad.

Repeal

17. Insurance Business Control Regulations (Minimum Paid Up Capital of Insurer) 5746-1986 are repealed.

Effect

18. (a) These regulations shall be in effect from December 31, 1997.
 - (b) In regulation 1, in the definition of "life insurance" in regulation 1, long term care insurance and insurance against the loss of working capacity, which are not part of life insurance policies, shall be included from December 31, 1998.

Transitional provisions

19. (a) If an insurer received a license before the day on which these regulations went into effect and operated during the 12 months that preceded that day, and if on December 31, 1997, his primary capital or his equity is smaller than said in these regulations because of changes prescribed in them, then he must increase them up to the amounts said in these regulations until December 31, 2000, on condition that the said differential be made up as follows:
 - (1) at least 30% of the differential by December 31, 1998;
 - (2) at least 60% of the differential by December 31, 1999.
- (b) If a foreign insurer received his license before the day on which these regulations went into effect and if the excess of his assets over his obligations is smaller than said in these regulations because of changes prescribed in them, then he must increase it to the amount said in these regulations within ten years after they went into effect.

FIRST ADDITION

Amount Required in Respect of Assured Yield Policies

Definitions

1. In this Addition -
 - "State of Israel Bonds"** - bonds issued by the State under the State Loan Law 5739-1979, under the Development Loan Law 5720-1960, under the State Property Law 5711-1951, or under the Short Term Loan Law 5744-1984, which is traded on an Exchange, a foreign Exchange or on an organized market;
 - "Rating"** - the rating of a debt in Israel or in an approved foreign country, determined by a rating company approved by the Commissioner;
 - "Approved foreign state"** - a state rated A or higher;

"**Securities**" - as defined in the securities Law, but including State of Israel Bonds;

"**Governmental securities**" - Israel Government bonds, including payments on account of aforesaid bonds, and deposits deposited with the Accountant General on terms approved by the Commissioner;

"**Quality securities**" - securities, deposits or loans rated at least BBB by a rating company;

"**Other asset**" - any asset that is not a Governmental security or a quality security;

"**Deposit**" - an amount of money deposited with an insurer, reinsurer, Exchange member or bank.

Amount of required capital

2. The capital required of an insurer in respect of assured yield policies shall not be less than the sum of all the following:
- (1) 2% of the total of obligations in respect of all those policies;
 - (2) the amount of investment in each asset, multiplied by the proportion set for it in the following table:

<u>Asset</u>	<u>Period of deposit</u>	<u>Capital requirement</u>
Governmental security		0.00%
quality security	less than half a year	0.25%
	half a year to two years	1.00%
	more than two years	1.60%
other asset		8.00%

SECOND ADDITION
 (Regulation 8, definition of "minimum equity per loan")
Proportion of loan to surety

In this Addition -

"Rate of cover" - the proportion of the damage caused to the insured by non-payment of the insured loan, after realization of the surety, which the insurer undertakes to pay;

"Ratio of loan to surety" - the ratio of the initial loan amount to the value of the surety mortgaged when the loan was given; if cover for the first damage is provided from any source whatsoever, including self participation or government guaranties, then the ratio of loan to surety shall be calculated after the said cover for the first damage is deducted from the amount of the loan;

minimum ratio of capital to every NS 100 shall be calculated according to the following table, the rate of cover being multiples of 5%; if a different percentage of cover is provided, then the following rate of cover shall be taken into account.

Rate of cover	Proportion of loan to surety		
	up to 50%	50%-75%	more than 75%
5	0.0500	0.1000	0.2000
10	0.1000	0.2000	0.4000
15	0.1500	0.3000	0.6000
20	0.2000	0.4000	0.8000
25	0.2500	0.5000	1.0000
30	0.2750	0.5500	1.1000
35	0.3000	0.6000	1.2000
40	0.3250	0.6500	1.3000
45	0.3375	0.6750	1.3500
50	0.3500	0.7000	1.4000
55	0.3750	0.7500	1.5000
60	0.3875	0.7750	1.5500
65	0.4000	0.8000	1.6000
70	0.4125	0.8250	1.6500
75	0.4375	0.8750	1.7500
80	0.4500	0.9000	1.8000
85	0.4625	0.9250	1.8500
90	0.4750	0.9500	1.9000
95	0.4875	0.9750	1.9500
100	0.5000	1.0000	2.0000