

# INSURANCE SECTOR

1.00

## WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
<b>INSURANCE COVERAGE FOR NATURAL DISASTERS AND OTHER ACTS OF NATURE</b>				
We believe it would be necessary to establish a strategy for insurance against natural disasters and other acts of nature to ensure that in the event of a major adverse event, a significant share of claims would be transferred to the insurance company. Avoiding new charges on existing contracts is important, as these would result in additional expenditures for a small number of the insured who now have insurance coverage, a measure already proposed by the Ministry of Finance. The implementation could be carried out gradually, through the introduction of mandatory: (i) insurance for all state-owned and public property and infrastructure; (ii) coverage for all property designated as collateral for financing; (iii) coverage against natural disasters and other "acts of nature," including fire insurance, for all property, based on the French model.	2015			√
A natural catastrophe (Nat Cat) insurance pool mechanism with obligatory or semi-obligatory coverage should be considered. There are examples, which are far from perfect but show that these mechanisms are conducive to increasing national coverage and risk management (Romania and Turkey). Tax cuts for insurance should also be evaluated to promote Nat Cat insurance in the corporate sector.	2018			√
<b>LAW ON PERSONAL INCOME TAX</b>				
Amendments to the Law to create conditions for the introduction of tax relief for all types of life insurance premiums, which would not only stimulate the development of the insurance sector, but also create the conditions for improving the social function of these types of insurance, which at the same time diminishes the state's obligation to care for these persons.	2015			√
<b>AUTO INSURANCE MARKET</b>				
Insurance companies should be allowed to register cars at their own premises,	2013			√
Allow the issuance of compulsory insurance motor liability policies in electronic form as electronic document.	2019			√
<b>INSURANCE LAW</b>				
Adoption of a new set of insurance laws: the Insurance Supervisory Law (ISL), the Insurance Contract Law (ICL) and the Law on Insurance Brokers and Agents.	2013			√
Amend Article 98, Paragraph 2 of the Law on Insurance, to enable public utility companies registered in the Republic of Serbia in accordance with the Law on Public Utility Services, to perform insurance brokerage/agency activities with the prior consent of the National Bank of Serbia.	2018			√
<b>NEW LAW ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM</b>				
Adopt the initiative of insurance companies for amending Article 8 of the Law, to exclude taxpayers from the implementation of actions and measures prescribed by the Law when it comes to a contract on life insurance in the event of death (the so-called "risk insurance").	2019			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Article 18 stipulates that the identity of a party can be determined and verified through a qualified electronic certificate, but the technical conditions prescribed by this article for this type of identification of parties cannot be implemented in practice and no taxpayer applies it.	2020			√

## OVERVIEW OF THE INSURANCE MARKET

### CURRENT SITUATION

There are 20 insurance companies in Serbia. 16 companies have exclusively been engaged in insurance business, while four companies have been engaged in reinsurance business. When it comes to insurance companies, there are four life insurance companies, and six companies deal with exclusively non-life insurance, both life and non-life insurance.

The market is still very concentrated: i) the market leader, Dunav, has 26.7% market share, ii) the three largest insurers have 59.8% market share, and iii) the five leading insurance companies have 78.3% market share.

Majority of foreign owned companies (15 out of 20) undoubtedly dominate the market with 74% of revenues (61.1% in non-life insurance premiums and 87.2% in life insurance premiums).

The insurance market has had a premium of 27.8 billion dinars (237 million euros), which is 3.2% more than in the same period last year (first quarter).

As the conclusion from the comparative indicators for 2021 and the previous year, the following changes in the observation year stand out:

- the balance sheet total of the insurance sector increased by 8% and amounted to 324.1 billion dinars;
- the capital increased by 8.1% and amounted to 78.0 billion dinars;
- there was an increase in technical reserves of 7.9%, amounting to 213.2 billion dinars;
- total premium reached the level of 27.8 billion dinars, with a growth rate of 3.2%;
- the share of non-life insurance of 76.8% in the total premium remained dominant; non-life insurance premiums increased by 3.2%, with property insurance, motor vehi-

cle insurance - comprehensive and voluntary health insurance growing, while auto liability insurance, which has declined due to the coronavirus pandemic, is growing.

- life insurance retained a share of 23.2% in the total premium;
- 20 insurance companies operated on the market of the Republic of Serbia, which is an unchanged number compared to the same period last year, while the number of employees of 11,529 increased at a rate of 3.4%.

The establishment of insurance companies and their activities have mainly been regulated by the Law on Insurance, from December 2014, with amendments from 2021 and bylaws of the National Bank of Serbia (NBS).

Other important legal sources are the Law on Compulsory Traffic Insurance, the Law on Health Insurance, the Law on the Protection of Financial Service Consumers in Distance Contracts and the Law on Obligations. A laterally relevant legal source is the Law on Road Traffic Safety.

A good portion of insurance companies as well as other participants in the insurance market strive to adapt their services to the digital world. However, in addition to technical, cultural and other barriers, regulation is also an important limiting factor. Although a huge step has been taken in recent years towards creating regulatory conditions for digital business, there is still room for improvement. First of all, in the auto liability market, policies are still required by law to be issued on pre-defined forms printed by the Institute for Manufacturing Banknotes and Coins – Topčider, which practically makes it impossible to do business in a digital way. Also, regulations in the field of prevention of money laundering and terrorism financing is an important limiting factor, in the sense that it does not recognize the exceptions previously proposed, which would contribute to the sale of digital life insurance on the market of the Republic of Serbia.

The impact of the COVID-19 corona virus pandemic is certainly not negligible and has certainly affected the slightly lower growth of premiums this year than last year. However, the distance business, work from home and lock-down, which lasted almost 3 months, contributed to the faster

expansion of digital sales channels as well as the increasing digitalization of the business of insurance companies.

Insurance companies, as well as other financial institutions,

have not been included in the Program of Economic Measures to mitigate the Negative Effects Caused by the COVID-19 Virus Pandemic and Support the Economy of the Republic of Serbia adopted by the Government.

## THE INSURANCE LAW

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### CURRENT SITUATION

Article 82 of the Insurance Law regulates the matter of informing policy holders and insured persons. The application of the Law in practice has led to a significant increase in the documents prepared before and during the conclusion of the insurance contract, since the information significantly repeats the provisions of the insurance conditions. In practice, we are faced with the fact that policy holders perceive a legal institute established to protect their rights by feeling confused by the extensive documents in which the same provisions have been repeated.

Paragraph 4 of the same Article extends the obligation of the insurance company to the situation when a policy holder and an insured person are not the same person. Namely, the obligation of the insurance company to, in addition to a policy holder, also inform an insured person about the data referred to in paragraph 1, items 1) to 6) and paragraph 2 of this Article, as well as to provide him with insurance conditions applicable to the insurance contract.

In the application of the provision of paragraph 4 in the previous period, the insurance companies have faced additional difficulties. Namely, the cited provision extends the obligation of the insurance company in terms of information to persons who do not have the status of a policy holder, or who are not a contracting party and with whom the insurance company as a rule has no contact in the period before concluding the insurance contract. The title of Chapter III of the Law reads: Information for an insurance policy holder, and paragraph 4 of Article 82 deals with informing an insured person who does not have, or do not have the status of an insurance policy holder.

### POSITIVE DEVELOPMENTS

No improvement.

### REMAINING ISSUES

A special problem arises with collective insurance, where

the insurance company:

- does not have the possibility of direct communication with all insured persons before concluding the insurance contract, especially having in mind the regulations governing the matter of personal data protection.
- does not have information on who will acquire the status of insured person during the insurance contract (collective insurance of employees contracted according to the records of insurance policy holders in respect of persons who during the insurance contract acquire the status of insured persons, insurance of hotel guests, insurance of visitors to certain events, insurance of pool users, insurance of ski lift users, insurance of passengers in public transport, both obligatory and voluntary, etc.)
- has the obligation to inform insured persons in Serbian (provision of Article 84 paragraph 1), and in a large number of cases, persons who are foreign citizens and do not speak Serbian have the status of insured persons.
- has an obligation to inform insured persons about information that does not meet the needs of insured persons who are not also policyholders. Namely, insured person is not obliged to pay the premium and therefore there is no purpose to inform him about the "amount of insurance premium, method of payment of insurance premium, amount of contributions, taxes and other costs calculated in addition to insurance premium, as well as the total amount of payment". He does not have the capacity of a contracting party. Also, since he does not have the capacity of a contracting party, he has no interest in being informed about the "right to terminate the contract and the conditions for termination, or the right to withdraw from the contract" nor can he use these rights.

Contrary to the above, the insurance company is not obliged to inform insured person about: the manner of submission and the deadline prescribed for filing a claim, or for exercising the rights based on insurance; the manner of protection of his rights and interests with the insurance company; the name

and registered office and address of the body responsible for supervising the operations of the insurance company, as well as the manner of protection of his rights and interests with that body, which may certainly be of interest to a person who has the status of insured but not the policy holder.

Due to the above, we believe there is no need to impose on the insurance company to inform insured persons when they

are not policy holders at the same time and that the insurance company does not have the ability to perform such an obligation.

The practice of the European Union countries in the region shows us that the goal of pre-contractual information can be achieved in a much simpler way.

## FIC RECOMMENDATIONS

- Amend the Law on Insurance in such a way that the text of the existing Article 82 is amended and reads:

„Before concluding the insurance contract, the insurance company shall inform an insurance policy holder at least about:

1. the business name, legal form, registered office and address of the registered office of the insurance company with which he concludes the contract;
2. the insurance conditions and the law applicable to the insurance contract;
3. the term of the insurance contract;
4. the risks covered by insurance and exclusions related to those risks;
5. the amount of insurance premium, the method of payment of insurance premium, the amount of contributions, taxes and other costs that have been calculated in addition to the insurance premium, as well as the total amount of payment;
6. the right to terminate the contract and the conditions for termination, or the right to withdraw from the contract;
7. the period within which the offer shall be binding on the insurance company;
8. the manner of filing and the deadline prescribed for filing a claim for damages, or for exercising rights based on insurance;
9. the manner of protection of his rights and interests with the insurance company;
10. the name, registered office and address of the body responsible for supervising the operations of the insurance company, as well as the manner of protection of his rights and interests with that body;

In the case of concluding a life insurance contract, the notice referred to in paragraph 1 of this Article, in addition to the information referred to in that paragraph, shall also contain information regarding:

1. the basis and criteria for share in profit and the manner and deadlines for payment of share in profit;
2. the table of cash surrender values;
3. the conditions for exercising the right to capitalization of the contract and the rights under such contract;
4. in the case of insurance related to investment fund units - who shall bear the investment risk, the definition of investment units to which fees have been related and the prospectus of the investment fund, and especially on the investment structure;
5. tax regulations relating to life insurance.

In the case of insuring the costs of legal protection when choosing a lawyer or other person who has the appropriate qualifications in accordance with the regulations to defend, represent or protect the interests of an insured person in the investigation or proceedings – an insured person shall freely choose a lawyer or other person.

If the data stated in the previous paragraphs of this Article have been contained in the insurance conditions submitted by the insurance company to an insurance policy holder before concluding the insurance contract, it is considered that the insurance company has fulfilled the obligation to provide information to an insurance policy holder.“

## INSURANCE COVERAGE FOR NATURAL DISASTERS AND OTHER ACTS OF NATURE

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### CURRENT SITUATION

According to its geographical exposure, Serbia has been affected by natural disasters/elemental disasters that have been relatively frequent (2005, 2006, 2010, 2014 and 2015 since the beginning of this century). Even after the catastrophic floods of 2014, which caused damage of more than 1.5 billion euros, in the following years the number of sold insurance policies against natural and other disasters did not change drastically, although floods have been recorded in Serbia in the following years.

### POSITIVE DEVELOPMENTS

No improvement.

### REMAINING ISSUES

In Serbia, insurance in general, and insurance coverage against natural disasters/elemental disasters in particular, has been seen as an expense or levy and not as a way to transfer risk, and for that reason the growth rate has been at the lowest level in Europe.

An additional problem concerns crop insurance and hail protection. Currently, the premium for insurance of crops and fruits from hail includes the so-called anti-hail contribution, which (among other things) finances anti-hail stations that protect both insured and uninsured crops.

### FIC RECOMMENDATIONS

- It is necessary to establish a strategy for natural disasters insurance, which aims to ensure that, in the event of a major adverse event, a significant proportion of the damage will be transferred to the insurance company. It would be important to avoid new levies on existing contracts, a measure already proposed by the Ministry of Finance, which would lead to additional expenditure for a small number of insured persons who now have insurance coverage.  
Implementation could be done gradually, as follows:
  - (i) Introducing compulsory insurance for all state and public property and infrastructure.
  - (ii) Introducing mandatory coverage of all assets designated as collateral for financing.
  - (iii) Introducing mandatory coverage from natural disasters/elemental disasters for all property that includes fire insurance, based on the French model.
- Consider a mechanism for natural disasters insurance with mandatory or semi-mandatory coverage. There are examples of such a solution, which are far from perfect, and which have shown that these mechanisms are effective in increasing coverage and managing this risk at the country level (Romania, Turkey). In addition, consider tax relief for companies in order to promote natural disasters insurance.
- When insuring crops and hail protection, exclude the hail contribution or collect the hail contribution from all farmers but not through the insurance policy.
- All crops or animals that are subject to state subsidies (for raw materials, fuel, procurement of basic livestock...) should be insured.

## LIFE INSURANCE – EXEMPTION FROM INCOME FOR TAXATION OF FEES FROM PERSONS INSURANCE

### CURRENT SITUATION

The existing Law on Personal Income Tax stipulates that earnings shall not be considered to be the collective life insurance premium in the event of the death of an employee due to an illness paid by the employer for all employees. Such a legal solution is not enough to encourage life insurance, given that life insurance performs a social function - it provides financial stability and security to individuals, provides long-term savings to maintain living standards in late years, while in this way a natural person can ensure that in the case of unforeseen life circumstances, he or she or persons close to him/her remain materially cared for.

### POSITIVE DEVELOPMENTS

No improvement.

### REMAINING ISSUES

The proposed amendments to the Law on Personal Income Tax should encourage the citizens of the Republic of Serbia to independently provide funds for the future during the period when they are active by allocating part of their funds that are paid in premiums to insurance companies.

In addition to the benefits for natural persons who contract insurance, there are numerous benefits for the state, where the growth of investment in life insurance would lead to an increase in tax revenues, given that insurance premiums are subject to income tax of the insurance company. On the other hand, the payment of life insurance would improve the living standard of insurance beneficiaries, income increase leads to increased consumption and thus higher collection of indirect taxes (value added tax, excise duty, customs duties). In this way, there is an inflow of funds into the budget of the Republic of Serbia, which can be used for the realization of budget goals.

The growth of life insurance premium payments directly affects the development of the insurance market as an important factor in the economic growth of a country. The more developed the insurance market, the faster and higher economic growth the country will record. Namely, due to the increased demand for life insurance products, new jobs are being created in the insurance industry (apart from the reduction of unemployment, there is also a positive effect on the growth of funds collected in the name of payroll taxes and contributions for compulsory social insurance). The development of the industry leads to an increase in the number of insurance companies as important institutional investors in the market. Namely, insurance companies would invest the collected premium in treasury issues, or by issuing long-term government securities that follow the character of long-term life insurance contracts, the Republic of Serbia would raise significant funds that could be used to finance infrastructure and other projects of general importance for economic development. Collecting insurance premiums achieves the mobilization of savings, which allows the redirection of funds to projects that can generate higher returns. Also, raising awareness among citizens to conclude life insurance contracts and encouraging them through the proposed changes would provide relief for social security funds.

There is a tendency in the world to introduce various tax incentives when it comes to taxing insurance income. Steps in this direction have been taken in the tax legislation of the countries in the region, for example, in Croatian legislation, the tax on insurance income as such has been abolished as of January 1, 2019, so that this type of income of individuals is not considered income. Namely, the Law on Personal Income Tax ("Official Gazette", no.115/16, 106/18, 121/19, 32/20) in Article 8, paragraph 2, item 5 does not consider non-related compensations as income with economic activity, while payments based on insurance of property and liability have also been considered as compensation, while paragraph 3 of the same Article prescribes that income based on life insurance contracts and voluntary pension insurance shall not be considered income. Also, Article 64 of this Law defines what constitutes capital income, which includes interest income. Article 65 of the Law on Income Tax stipulates that income based on the payment of life insurance with the feature of savings (paid compensation above paid insurance premiums) and income based on voluntary pension insurance shall not be considered interest.

## FIC RECOMMENDATIONS

- Amendments to Article 9, paragraph 1, items 6) and 7) of the Law on Personal Income Tax, which provide for exemption from income for taxation of income of natural persons based on certain types of insurance benefits, so that the application of the prescribed exemption extends to exemption from taxation of all benefits from the insurance of persons, and the deletion of Article 84 of the Law relating to the taxation of income of a natural person who receives compensation from the insurance of persons, as follows:
  - In Article 9, paragraph 1, item 6) after the words “except for salary compensation (salary)”, the words “property insurance compensation and personal insurance compensation in accordance with the law governing voluntary insurance” shall be added;”
  - Article 9, paragraph 1, item 7) shall be deleted.
  - Article 84 shall be deleted.

## ABOLITION OF DOUBLE TAXATION FOR UNIT LINK PRODUCTS AND INVESTMENTS IN INVESTMENT FUNDS

### CURRENT SITUATION

Article 8, paragraph 1 of the Law on Insurance (“Official Gazette of RS”, no. 139/2014) defines the types of life insurance, among which as a special type of insurance lists unit-linked life insurance. The specificity of unit-linked life insurance contracts is that an insurance contract obliges a policy holder to pay an insurance premium, the savings part of which is used for the purchase of investment units of selected investment funds. Namely, when concluding an insurance contract, a policy holder chooses a combination of investment funds from the offer of the insurance company (the offer defines the structure of investment premium investment in investment funds).

At the request of a person who contracted the insurance, the insurance company shall pay the surrender value of the policy if a certain, agreed period for which the insurance premiums have been paid has passed since the beginning of the insurance. The number and value of investment units shall be determined on the day of submitting the request

for payment of the surrender value.

When withdrawing funds, the insurance company actually submits a request for the purchase of investment units that the open-end investment fund shall purchase from it. In accordance with the currently applicable provisions of the Law, during the purchase of units by the investment fund for the insurance company, a capital gain (loss) shall be determined in accordance with Articles 27 to 29 of the Law, which shall be included in the base for determining the profit tax of the insurance company. Capital gain shall be determined as the difference between the selling price paid by the investment fund for units and the purchase price determined as the net asset value of the open-end investment fund per investment unit on the day of payment, increased by the purchase fee if the fund management company charges it.

Also, when paying the insured amount to a policy holder, the income that is subject to personal income tax would be generated in accordance with the currently valid Article 84 of the Law on Personal Income Tax. Namely, in accordance with Article 84, paragraph 2 of the Law on Personal Income Tax, taxable income from personal insurance would be the difference between the amount of compensation paid from personal insurance and the amount of funds paid based on insurance premiums. In this particular case, if the product of the number of investment units and their value on the day of an insured case or on the day of submitting the surrender request in case of termination of the contract



would be higher than the sum of paid insurance premiums, the difference between these two amounts would be subject to personal income tax at a rate of 15%.

## POSITIVE DEVELOPMENTS

No improvement.

### FIC RECOMMENDATIONS

- Bearing in mind that the insurance company has only formal ownership over the units of the investment fund, and it cannot freely dispose of them, whereby the payment of insurance compensation to a natural person (difference between the sum insured obtained by selling fund units by the insurance company and paid premium) represents the taxable income of a natural person, the Law on Corporate Income Tax should be amended in a way that would exempt the income generated from the sale of investment units to which life insurance is linked from the calculation of capital gain in the tax balance of the insurance company. In this way, double taxation shall not be completely eliminated, but only the income generated from the sale of this type of investment units shall be excluded from the calculation of capital gains, but it shall certainly be included in the taxable profit of the insurance company, as its “regular income”.
- The Law on Corporate Income Tax should be amended as follows:
  - In Article 27, paragraph 1, item 4) after the words “in accordance with the law governing investment funds” add the words “except in the case of surrender of investment units to which life insurance has been linked in accordance with the law governing voluntary insurance”.

## NEW LAW ON PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING

### REMAINING ISSUES

The Law on Prevention of Money Laundering and Terrorism Financing started to be applied on 01/04/2018 and has had serious implications for the operations of insurance companies dealing with life insurance.

Article 8 of the Law, as exceptions to the obligation to carry out actions and measures of knowing and monitoring a party, does not recognize life insurance contracts (the so-called “risk insurance”) as defined in the previous Law.

Regarding Article 8 of the Law, having in mind the legal nature of such contracts which cover only biometric risks (death and disability), which do not have the option of

paying the surrender value, advance or insured amount in case of pure endowment, as well as existing payment modalities (non-cash transactions, payment through a bank), it is clear that the potential risk of money laundering and terrorism financing as such is impracticable and requires special treatment. Classification in the low-risk category and the application of simplified actions is not a mitigating circumstance, given that many resources have been spent on identifying a legal entity and determining a beneficial owner.

Also, in the case of insurance that has a savings component, if a policy holder pays the insurance premium from the insured amount or mathematical reserve, or part thereof, based on the expiration or surrender of an existing life insurance contract at the conclusion of which the entity subjected to the duty of due diligence under this Law has already performed actions and measures of knowing a party in accordance with the Law, the question shall arise as to the justification of taking action in accordance with the Law.



Article 18 of the Law stipulates that the identity of a party can be determined and verified through a qualified electronic certificate, but the technical conditions prescribed by this Article for this type of identification of parties cannot be implemented in practice and no entity subjected to the duty of due diligence under this Law applies it.

### POSITIVE DEVELOPMENTS

No improvement.

### REMAINING ISSUES

The application of the Law in practice has led to difficult contracting of some of the mentioned types of life insurance, more precisely all types of life insurance where the risk of pure endowment has not been insured, or in the case of insurance that does not have a savings component.

Having in mind the provisions of Articles 1 and 2 of the Law, it is clear that the Law prescribes actions and measures to be taken to prevent and detect money laundering and terrorism financing. From the above, it is unequivocally concluded that the aim of the Law is to prevent harmful consequences that may be caused, or more precisely helped by taking prohibited actions by a person by introducing money obtained illegally into legal flows.

Based on the above, a necessary condition for the existence of danger is that at the time of performing activities that may lead to money laundering and terrorism financing, the suspicion of the origin of funds and the suspicion of intent/knowledge that these funds will be used to finance terrorism has not been removed. All of the above, when it comes to the application of the Law, shall be checked with

regard to a person who has the status of a policy holder. The logical assumption is that if the implementation of prohibited actions (money laundering and/or terrorism financing) occurs, a person who undertakes these actions (in this case a policy holder) shall have a benefit or interest from it. However, this is not the case with residual debt insurance or life insurance contracts in case of death. In these contracts, a policy holder shall, as a rule, not be a beneficiary of the insurance, and he will not come into possession of the funds paid by the insurance company in the name of compensation. Exceptionally, when a policy holder is a beneficiary of the insurance, before the payment of the insurance indemnity, the insurance company will apply the provisions of the Law.

When a policy holder is (a legal entity) and contracts life insurance in case of death of a large number of insured persons (group insurance), and insurance beneficiaries are the legal heirs of an insured person, or the bank when it is explicitly agreed up to the outstanding loan, the application of the Law is pointless and only causes difficulties for both insurance companies and insurance beneficiaries.

In addition to the above, in practice it is often the case that a new life insurance contract is concluded immediately after the expiration or surrender of an existing life insurance contract, where the insurance premium has been paid from the sum insured or mathematical reserve or part of an existing insurance contract. Considering that when concluding the existing life insurance contract, the insurance company has already taken measures in accordance with Article 7 of the Law on Prevention of Money Laundering and Terrorism Financing, there is no justifiable reason to take the same measures again and check the origin of funds. This would apply only on condition that a new insurance contract does not change a policy holder and a beneficiary.

### FIC RECOMMENDATIONS

- Amend Article 4 of the Law by adding a new paragraph 4 after paragraph 3, which reads: "Notwithstanding the provisions of paragraph 1, item 6) of this Article, insurance companies that have a license to conduct life insurance, insurance brokerage companies when performing life insurance brokerage, insurance agencies, insurance agents and banks that have a license for the performance of life insurance business shall not be considered entities subjected to the duty of due diligence under this Law when it comes to life insurance contracts that do not have a savings component (do not cover the risk of pure endowment)."
- Amend Article 8 of the Law by adding a new paragraph 3 after paragraph 2, which reads:

“Notwithstanding paragraph 1 of this Article, the entity subjected to the duty of due diligence under this Law referred to in Article 4, paragraph 1, item 6) of this Law shall not perform the measures referred to in Article 7 of this Law when concluding a new life insurance contract when the insurance premium has been paid from the sum insured or mathematical reserve, or its part, based on expiration or surrender of the existing life insurance contract during the conclusion of which the entity subjected to the duty of due diligence under this Law has already performed actions and measures of knowing and monitoring a party in accordance with the Law, provided that a new insurance contract does not change a policy holder and a beneficiary.”

- Amend Article 18 of the Law in order to define the conditions for establishing the identity of a party through a qualified electronic signature that can technically be achieved in practice.

## CAR INSURANCE MARKET 1.00

### CURRENT SITUATION

Car insurance (CI) is by far the most important segment of the insurance market (32.9% of the total premium in 2019 refers to CI) in Serbia, and MOT test centres that perform a mandatory annual test of all motor vehicles are certainly the most important distribution channels for these insurance policies. Articles 44 and 45 of the Law on Compulsory

Traffic Insurance prohibit the payment of any commission to these MOT test centres - directly and/or through related parties - exceeding 5% of the gross insurance premium.

### POSITIVE DEVELOPMENTS

Increased market surveillance by the National Bank of Serbia, which in 2019 led to the fact that insurance companies have largely adjusted their operations to the laws and regulations in this area.

### FIC RECOMMENDATIONS

- Allow insurance companies to register cars on their own premises.
- Allow the possibility of issuing a compulsory auto liability insurance policy in electronic form as an electronic document.

## LAW ON ROAD SAFETY

### CURRENT SITUATION

The existing Law on Road Traffic Safety does not regulate electric scooters. As their use and their number in traffic is constantly increasing, there is a need to regulate it legally. Electric scooters are also an increasingly common cause of traffic accidents, so it is necessary for the owners of these vehicles to conclude a contract on compulsory insurance for damages caused to third parties.

### REMAINING ISSUES

Bearing in mind that the use of electric scooters has not been regulated by law, in practice there is a problem in the event that their use causes damage to third parties. If an owner or a person who has driven that vehicle, for any reason, does not pay for the damage he caused, the injured persons remain deprived of compensation. Thus, they end up in an unequal position in relation to persons who have been damaged by any other means of transport for which it is obligatory to contract compulsory third party liability insurance (motorcycle, passenger vehicle, bus).

### FIC RECOMMENDATIONS

- Amend Article 7 of the Law on Road Traffic Safety and introduce the definition of electric scooters in paragraph 1, item 34a: "electric scooter shall be a motor vehicle with two wheels, with its own electric drive"
- Introduce the obligation to insure owners of electric scooters against liability for damages caused to third parties.

## LAW ON ROAD TRANSPORT

### CURRENT SITUATION

The Law on Road Transport does not stipulate the obligation of a carrier to have a professional liability insurance policy of the carrier, as is the case with other countries.

### REMAINING ISSUES

Carriers often do not have this insurance contracted, so that customers of transport services cannot charge damages if a carrier causes them. This can lead to great damage for those ordering transport services as the entire load can be destroyed during transport.

### FIC RECOMMENDATIONS

- Amend Article 7 of the Law on Road Transport and provide for a professional liability insurance policy of the carrier as a mandatory condition for obtaining a transport license.

## VOLUNTARY HEALTH INSURANCE

### 1. LAW ON HEALTH CARE

#### CURRENT SITUATION

The existing Law on Health Care does not provide for the possibility for health care providers to diagnose or prescribe therapy by telephone or online consultation. The Regulation on the nomenclature of health services at the primary level of health care provides only for giving advice in telephone and internet counselling. This way of providing health care has proven to be necessary, especially in the conditions of a pandemic. In addition, the development of technology that enables a healthcare worker and a patient to have visual contact, as well as to exchange documents electronically, supports the need to enable this type of treatment.

#### FIC RECOMMENDATIONS

- Enable health care providers to diagnose or prescribe therapy by telephone or through online consultations by the Law on Health Care.

### 2. LAW ON HEALTH INSURANCE

#### CURRENT SITUATION

The application of Article 179 of the Law on Health Insurance ("Official Gazette of the Republic of Serbia", no. 25/2019) is an obstacle to insurance companies in their daily work, primarily in the part that refers to important data on contracting parties, or insured persons of voluntary health insurance. The consequence is an increase in administrative costs on the part of both policy holders and insurance companies, and on the other hand, there are cases that do not meet the needs of policy holders with regard to persons whose employment contract has been terminated or with persons who have started an employment contract during the term of the insurance contract.

Article 182 of the Law stipulates that an insurer issues a doc-

#### REMAINING ISSUES

Patients, insured persons of both compulsory and voluntary health insurance are not allowed to receive therapy or be diagnosed by telephone or online consultation. For that reason, they are forced to go to health institutions in person.

For the insured persons, this represents an additional expense of time, as well as costs (transportation). In a pandemic, it is an additional risk of infection and concern about that risk.

For voluntary health insurance insurers, this represents a higher cost. An insured person is forced to visit a doctor first in order to be prescribed the diagnostic procedures he should perform. If telephone and online consultations were allowed, an insured person could contact a healthcare professional in this way. In this way, the cost for an insurer would be lower because those services are cheaper than personal visits. In addition, they provide additional comfort to insured persons and their satisfaction is greater.

ument on voluntary health insurance based on which the rights from voluntary health insurance will be exercised. The purpose of issuing a document exists only in the case when an insured person uses his rights from the contract directly at the health care provider in the case of covering the costs of treatment. In the case when an insured person is entitled to a lump sum payment from an insurer (example of serious illnesses and surgical interventions insurance), the voluntary health insurance document is not required by an insurer as proof that a person has been insured, which has been defined by law as follows:

- "In the case when the rights from the voluntary health insurance have been exercised directly with an insurer, they shall be exercised based on the policy and the cover note".

It follows from the above that it is not logical to issue a document on voluntary health insurance to insured persons who do not use it to exercise their rights under the insurance contract, but the obligation to issue a document is still

prescribed by law.

In addition to the above, the existing Law on Health Insurance defines that the insurer of voluntary health insurance is the Republic Fund and the insurance company, but there are no penalty clauses for legal entities, or health institutions that deal with voluntary health insurance taking the morbidity risk for a fee, although they are not registered for that in accordance with the regulations of the Republic of Serbia.

### REMAINING ISSUES

As important data, and thus mandatory data, the Law has also determined the following personal data that are absolutely irrelevant for this type of insurance at the time of concluding the contract: date of birth, address of permanent residence, or residence in the Republic of Serbia (street and number, place and municipality), contact (phone number or email address). Having in mind the regulations governing the matter of personal data protection and especially the provision of Article 5 paragraph 1 item 3 of the Law on Personal Data Protection ("Official Gazette of the Republic of Serbia", no. 87/2018), which as one of the principles prescribes that personal data must be "appropriate, relevant and limited to what is necessary with regard to the purpose of processing ("data minimization")", we believe there is a justifiable basis for amending Article 179 of the Law.

Also, in certain situations, the insurance company concludes a contract with employers on collective voluntary insurance of employees, where the insured persons are entitled to payment of insurance compensation directly from the insurance company and where the paid compensation does not cover the costs of treatment but satisfaction. Prior to the entry into

force of the Law, the described type of insurance was concluded without compiling a list of insured persons because the coverage was contracted based on official records of employed policy holders. In the described manner, automatic coverage was provided in an efficient manner for all persons who met the condition for the status of insured persons (they had concluded an employment contract with the employer), without the need to register separately for insurance, and coverage automatically ceased for all persons who lost the status of the insured during the term of the insurance contract (persons whose employment contract ceased to be valid), also without the need to deregister from the insurance separately. The existing Article 179 does not allow such a possibility and in addition to the problem described in the previous paragraph and concerning Article 5 paragraph 1 item 3 of the Law on Personal Data Protection ("Official Gazette of the Republic of Serbia", no. 87/2018) leads to the following problems:

- Increase in administrative costs both on the part of an insurance policy holder and on the part of the insurance company due to the need to update the lists of insured persons during the insurance period (registration and deregistration from insurance must be made in writing);
- Occurrences of cases that absolutely do not meet the needs of an insurance policy holder that a person whose employment contract has been terminated still has the status of an insured person if a policy holder has not sent the insurance deregistration to the insurance company in time, or that a person who has concluded the employment contract does not have the status of an insured person if a policy holder has not sent the insurance registration to the insurance company in a timely manner.

### FIC RECOMMENDATIONS

- Amend the Law on Health Insurance in such a way that:
  - a) the text of the existing Article 179 should be amended to read as follows:
 

"The contract on voluntary health insurance shall be concluded based on a previous offer for concluding a contract on voluntary health insurance (hereinafter: the Offer) given by an insurer to a person wishing to conclude a contract on voluntary health insurance.

The offer referred to in paragraph 1 of this Article shall contain important data on voluntary health insurance policy holders, insurance start date, insurance waiting period, as well as insurance end date, amount and deadlines for payment of insurance premium, maximum agreed amounts by coverage risks and other important

elements for insurance contracting.

Important data on the insured persons of voluntary health insurance referred to in paragraph 2 of this Article shall be:

- 1) name and surname,
- 2) Personal Identification Number, or the registration number for foreign citizens.

In the case of collective insurance, a policy holder may submit a unique offer containing the data referred to in the previous paragraph of this Article on each individual who will be covered by collective insurance.

The offer referred to in paragraph 1 of this Article as well as the unique offer referred to in paragraph 4 of this Article, as important data, shall also contain data on the previous health condition of the insured persons of voluntary health insurance which are necessary for an insurer to assess insurance risk.

Notwithstanding the provisions of this Article, when the insurance company concludes with a policy holder a contract on collective voluntary health insurance of employees, where the insured persons are entitled to payment of insurance compensation directly from the insurance company and where the paid compensation does not cover treatment costs, insurance can be concluded based on official records of employed insurance policy holders."

b) the text of the existing paragraph 1 of Article 182 should be amended to read as follows:

"An insurer shall issue a voluntary health insurance document to any voluntary health insurance policy holder who does not use his insurance rights directly with an insurer on the day of issuing the policy, and no later than 60 days from the day of issuing the policy."

- Amend the Law on Insurance - introduce penalty clauses for all persons who are engaged in insurance business or are engaged in the business of taking future uncertain risks for a certain fee without prior permission from the competent authorities.

## LAW ON INJURIES AT WORK

### CURRENT SITUATION

Article 53 of the Law on Safety and Health at Work defines the obligation of an employer to insure employees against injuries at work, occupational diseases and diseases related to work, in order to provide compensation.

The same article states that the conditions and procedures for insurance against injuries at work, occupational diseases and diseases related to the work of employees shall be regulated by law.

The Law on Compulsory Insurance against Injuries at Work, Occupational Diseases and Diseases Related to the Work of Employees has not yet been enacted.

### POSITIVE DEVELOPMENTS

No improvement.

### REMAINING ISSUES

The law has not been passed yet.

### FIC RECOMMENDATIONS

- Occupational Safety and Health Directorate should propose the adoption of the Law on Insurance against Occupational Injuries, Occupational Diseases and Diseases Related to Work.