

**GOVERNMENT GAZETTE  
OF THE HELLENIC REPUBLIC**

**FIRST ISSUE**

**Number 128**

3 August 2010

LAW NUMBER 3867

Supervision of private insurance, establishment of a Private Life Insurance  
Guarantee Fund, credit rating agencies and other provisions within the scope of  
the Ministry of Finance

**THE PRESIDENT  
OF THE HELLENIC REPUBLIC**

We hereby publish the following law passed by Parliament:

**CHAPTER I**

**Supervision of Private Insurance**

**Article 1**

1. The legal person in public law with the name “Private Insurance Supervision Committee” (PISC) established by Article 1 of Law 3229/2004 (Government Gazette 38A) shall be abolished as from the first day of the fourth month from the publication of this Law, and its tasks, as defined in Article 2 of the above law, shall be entrusted to the Bank of Greece, to which all the powers of the PISC shall be transferred, as listed indicatively in Article 3(1) of the said law, except for that referred to in Article 3(1)(j), which shall be abolished. The Bank of Greece shall submit to Parliament a relevant annual report.

All supervisory responsibilities assigned by other legal provisions to other private insurance supervisory bodies shall also be transferred to the Bank of Greece.

All references in the legislation in force to the PISC shall be henceforth understood as references to the Bank of Greece. The information centre referred to in Article 27b of Law 489/1976 (Government Gazette 331A) shall become, as from the date of abolition of the PISC, a unit of the motor vehicle liability supplementary insurance fund established by Article 16 of the said law. Decisions of the Bank of Greece shall regulate any specific or technical matter relating to the implementation of this provision.

2. Private insurance supervision, as defined in the legislation in force, shall be conducted by Acts of the Governor of the Bank of Greece or a body of the Bank of Greece authorised by him. Details of the exercise of the relevant powers shall be specified by decisions of the Bank of Greece.

3. A decision of the Bank of Greece shall determine the contribution of supervised insurance undertakings, with a view to ensuring the resources required for the execution of the Bank's mandate under the provisions of this article, at 1.5‰ of annual total net written premia, and shall regulate any other relevant issue.

4. In case of violation of the provisions concerning the responsibilities assigned to it by this article, the Bank of Greece shall impose on supervised undertakings, their legal representatives and their management officers either a fine in favour of the Greek State, according to the conditions of Article 55A of its Statute (Law 3424/1927, Government Gazette 298A, as currently in force), or the administrative penalties contemplated in the provisions of L.D. 400/1970 (Government Gazette 10A), as in force from time to time.

5. At the end of Article 17c of L.D. 400/1970 (Government Gazette 10A), a new paragraph 9 shall be inserted as follows:

“9. The provisions on the appointment of a Commissioner of Article 63(2) and (3) of Law 3601/207 (Government Gazette 178A) shall apply by way of analogy also to insurance undertakings. A Commissioner may also be appointed, under the above provisions, in the cases of Articles 9(4) and 17c(3), (4) and (5) of this decree.”

6. As from the date of abolition of the PISC:

(a) All secondments and any other act disposing tenured staff of government services or public sector bodies to the PISC shall be revoked *ipso jure*.

Staff of this category may, upon request, be seconded to the Accounting Standardisation and Audit Committee, in accordance with the provisions of Article 10(3) of Law 3229/2004, which was inserted by Article 19(4) of Law 3581/2007 (Government Gazette 140A).

(b) Tenured staff subject to Article 15 of Presidential Decree 20/2006 (Government Gazette 17A) may be reassigned upon request to the Accounting Standardisation and Audit Committee and be appointed, in line with their qualifications, to vacant organic posts or to personal posts established under the reassignment decision and abolished upon withdrawal from service for any reason. For all matters of official status, the time of service at the PISC shall be considered as time of service at the Accounting Standardisation and Audit Committee. Reassignment shall be implemented by decision of the Minister of Finance on a recommendation from the Accounting Standardisation and Audit Committee.

Staff choosing not to be reassigned or not reassigned to the Accounting Standardisation and Audit Committee under the above procedure shall be reassigned to vacant organic posts in public sector services, by way of analogical application of the provisions of Article 154(4) of the Code of Administrative Civil Servants and Employees of Legal Persons in Public Law, endorsed by Article 1 of Law 3528/2007 (Government Gazette 26A) and P.D. 117/2008 (Government Gazette 180A). The administrative service responsible for the reassignment procedure shall be the Staff Directorate (D-4) of the General Directorate for Administration and Fiscal Audits of the General Accounting Office of State.

(c) By an Act of the Governor of the Bank of Greece, the General Director of the PISC referred to in Article 14 of P.D. 20/2006 (Government Gazette 17A) may be transferred to the Bank of Greece under the same labour relation until the end of his term. The General Director of the PISC may also request his inclusion in the tenured staff of the Bank of Greece according to the provisions of (d) below.

(d) All employees of the abolished service that belong to the special scientific staff serving under private-law open-ended contracts according to Article 17 of P.D. 20/2006, as well as the staff serving under salaried mandate contracts according to Article 18 of the said presidential decree, may request to be included in the tenured staff of the Bank of Greece following assessment, accepting the hierarchical and payroll conditions notified by the Bank of Greece within two months from the publication of this law. Employees seconded from public sector

bodies and serving as special scientific staff shall have the same right, provided that they have the relevant formal qualifications. The relevant application of the persons concerned, accompanied by a CV, shall be submitted within 15 days from the publication of this law to the competent service of the Bank of Greece. Those that receive positive assessment shall file a declaration accepting the hierarchical and payroll conditions of inclusion in the Bank's tenured staff within a deadline of 15 days from receipt of the relevant Bank of Greece notice. The Bank of Greece shall not incur any economic liabilities out of the above staff's previous employment with the PISC.

The staff that is not interested in joining the Bank of Greece or is not selected according to the above procedure, other than those seconded from public sector bodies, shall be transferred under the same labour relation to similar organic posts or to personal posts in the public sector established under the transfer decision, which shall be abolished upon withdrawal from service for any reason. For all matters of official status, the time period of service at the PISC and the recognised time period of service shall be considered as time of service at the body to which the employee is transferred. Transfer shall be implemented by decision of the Minister of Finance and any other competent minister. The administrative service responsible for the transfer procedure shall be the Staff Directorate (D-4) of the General Directorate for Administration and Fiscal Audits of the General Accounting Office of State.

7. One tenth of the fund established out of the contributions of insurance undertakings shall vest in the "Private Life Insurance Guarantee Fund" established by the provisions of Article 4 of this law. The other 9/10 of this fund shall be entered, as public revenue, under a special code number of the Government Budget and disposed of as described in Article 2(1) of this law. The other assets and liabilities of the PISC shall vest in the State and be disposed of by decision of the Minister of Finance.

8. Pending the abolition of the PISC, its Board of Directors shall deal with emergencies or current matters. A representative of the Bank of Greece shall have

the right to participate without voting right in the meetings of the Board of Directors, and the PISC units shall provide any information requested.

9. Pending trials concerning disputes or cases dealt with by the abolished Committee shall be taken over by the Greek State without interruption of proceedings. Claims concerning the time period prior to the abolition of the PISC shall be raised by or against the Greek State. The abolished service shall deliver the relevant files to the Finance Directorate (D-40) of the General Directorate for Administration and Fiscal Audits of the General Accounting Office of State.

Administrative cases pending at the time of abolition of the PISC shall be taken over by the Bank of Greece.

10. Where the provisions of this paragraph affect provisions of the Bank of Greece Statute, the latter shall be amended in line with the provision contemplated thereunder.

11. A joint decision of the Minister of Finance and the Governor of the Bank of Greece shall regulate all specific matters relating to the smooth assumption of the abolished Committee's tasks by the Bank of Greece and regulate any other matter relating to the implementation of the provisions of this article.

## **Article 2**

### **Abolition of Article 10(4a) of L.D. 400/1970 and Settlement of Pending Cases**

1. (a) The provisions of Article 10(4a) of L.D. 400/1970 (Government Gazette 10A), which was inserted by Article 17(1) of Law 3790/2009 (Government Gazette 143A), and decision of the Minister of Finance No. B.2574/2009 "Regulation of matters of implementation of Article 10(4a) of L.D. 400/1970, as currently in force" (Government Gazette 2509B) shall be abolished as from the publication of this law, without prejudice to the provisions of this article on current pending cases.

(b) Any pending cases that concern insurance undertakings whose authorisation has already been revoked as at the date of publication of this law and to which a life insurance portfolio supervisor has been appointed shall continue to be governed by the provisions abolished by (a) above, as amended and supplemented by the following provisions of this article, with a view to

bringing these cases to a conclusion by transferring the life insurance portfolio to another insurance undertaking or several insurance undertakings (whether or not in partnership), following a contractual restructuring of benefits according to the provisions of para. 5 below. The provision of Article 10(3)(c) of L.D. 400/1970 shall apply to any objections to the provisional life insurance portfolio established by Article 4 of decision of the Minister of Finance No. B.2574/2009.

(c) Collection of life insurance premia and the obligation to satisfy insurance claims shall be suspended from the date of withdrawal of authorisation of the undertaking to the completion of the procedure described in paras. 2-5 of this article.

During the same time period, the enforcement of court judgments recognising healthcare institutions' claims out of the hospitalisation of the insured of the undertakings whose authorisation is to be withdrawn shall also be suspended.

(d) By decision of the Minister of Finance, the public revenue referred to in Article 1(7) above may be applied towards settling the claims of healthcare institutions out of the hospitalisation of the above insured, subject to an at least 50% reduction in the claims of such institutions. To this end, the management of such revenue may be assigned, by the same or a similar decision, to the Private Life Insurance Guarantee Fund established by Article 4 below or to a service of the Ministry of Finance or the life insurance portfolio supervisor. The same decision shall determine the procedure and the documentation required, and regulate any other matter concerning the implementation of this provision.

2. If the transfer of the life insurance portfolio is not achieved in accordance with the provisions of Article 10(4a) of L.D. 400/1970, the life insurance portfolio supervisor shall deliver to the Bank of Greece, no later than six months from the publication of this law:

(a) a list of insured and their claims under the insurance policies; the insurance policy shall be considered as valid for applications for redemption that were submitted before the withdrawal of the authorisation of the insurance undertaking and were granted without paying the amount due to the consumer;

(b) a list of purported insured that hold policies whose validity is disputed or that demand payment of the sum assured and redemption, where the relevant amounts are disputed by the life insurance portfolio supervisor;

(c) the Life Insurance Technical Reserves Record;

(d) the Register of Assets Covering Existing Life Insurance Liabilities;

(e) a report on the overall amount chargeable to the assets of the portfolio for covering the fee of the life insurance portfolio supervisor, staff payroll and other operating costs, as well as on the proportion between fees and expenses of the liquidator's liquidation supervisor;

(f) a list of the other liabilities of the portfolio subject to regular liquidation;

(g) a recommendation on benefit restructuring, pursuant to Article 5 of decision of the Minister of Finance No. B.2574/2009 "Regulation of matters of implementation of Article 10(4a) of L.D. 400/1970, as currently in force" (Government Gazette 2509B). If there are insurance policies with technical notes or conditions that violate the insurance legislation in force or are against public interest, the life insurance portfolio supervisor shall perform the necessary actuarial acts and adjustments of these policy conditions. In unit-linked life insurance policies, total guaranteed return may not exceed the guaranteed technical interest rate. The life insurance portfolio supervisor may recommend:

(a) further restructuring of benefits, in the light of the portfolio exposure and the existing allocation of assets covering liabilities; and

(b) modifications of conditions and restructuring of benefits under riders to life insurance policies;

(g) a list of employees as at the date of withdrawal of the authorisation of the insurance undertaking, including the amounts of their claims, accompanied by an estimate of these claims by the supervisor.

3. The Bank of Greece, having regard to the above data and the provisions of L.D. 400/1970, as currently in force, shall verify the life insurance portfolio exposure, consisting in the difference between the portfolio's mathematical and technical reserves, on the one hand, and the corresponding assets that cover liabilities, on the other.

Subsequently, the Bank of Greece shall disclose the existing data by publishing them in at least two newspapers with broad readership and posting them on its website, and shall issue a public invitation to any insurance undertaking that can legally carry out life insurance business in Greece according to the provisions of Article 13(2) of L.D. 400/1970, as currently in force, to declare that it will participate in the procedure of transfer of the life insurance portfolio, which has not gone into liquidation yet under the abolished provisions, and submit in writing its offer, subject to the following compulsory conditions, which may be modified by the submitted offer only in the interest of the insured:

(a) The potential transferee proposes a reduction in the insured's existing claims or coverage amounts, which (reduction) may not be higher than that contemplated in the life insurance portfolio supervisor's recommendation on benefit restructuring.

Reductions in claims of all categories may be diversified according to policy category and the relevant reserve.

(b) The reduction in the insured's claims, whether existing or future, shall be equal to the percentage envisaged in the supervisor's benefit restructuring recommendation, unless the potential transferee submits an offer that is more favourable to the insured.

(c) Any existing request for redemption or any future redemption of an insurance policy of the undertaking or any expiry of an insurance policy, with the exception of claims for payment of sum assured in health insurance, shall be suspended for two years from the takeover of the portfolio by the transferee.

(d) Guaranteed technical interest rates exceeding the statutory limits shall not be recognised.

(e) Hospitalisation contracts or hospitalisation riders to life insurance policies, in the event that the insured are judged by the transferee insurable on the basis of their age and health condition, shall be replaced with similar products already offered by the transferee to the public. All other riders to the policy shall cease to apply, unless the transferee recommends otherwise.

(f) Hospitalisation contracts or hospitalisation riders to life insurance policies, in the event that the insured, as at the time of transfer of the portfolio, are not judged insurable on the basis of their age and health condition, according to the criteria of determination of non-insurable risks of the transferee, shall be continued by the transferee, who may delete any conditions in conflict with insurance industry practice and increase the premium by up to 20%, thereafter adjustable with the common adjustment rate of premia of the transferee's hospitalisation plans.

(g) The provisions of P.D. 178/2002 (Government Gazette 162A) shall apply to the staff of the life insurance portfolio supervisor. Transfer of the life insurance portfolio excluded from liquidation under Article 10(4a) of L.D. 400/1970 shall not constitute transfer of an insolvent undertaking within the meaning of Article 6(1) of P.D. 178/2002. The transferee shall ensure the integration of the absorbed staff into the insurance undertaking.

(h) The life insurance portfolio shall otherwise be transferred to the transferee together with all the rights and obligations emanating therefrom. Judicial claims of purported insured the documentation of which was rejected by the life insurance portfolio supervisor shall be raised against the transferee.

A decision of the Bank of Greece shall specify the contents of the public invitation, the manner of disclosure of the exposure and publication of the public invitation, the procedure and criteria of selection of the life insurance portfolio transferee. The criteria of selection shall compulsorily include:

1. the most profitable economic offer for consumers, on the basis of the life insurance portfolio supervisor's benefit restructuring recommendation;
2. the most profitable offer to increase premia, for consumers not judged insurable; and
3. the proposed percentage of absorption of the staff of the undertaking that is in the process of liquidation.

The transferee shall be chosen by a decision of the Bank of Greece publicised according to Article 59 of L.D. 400/1970 by posting on the Bank of Greece website, together with the transferee's offer.

(i) The part of the insurance claim not taken over by the transferee under (b) above shall be satisfied at a percentage of 70% by the Private Life Insurance Guarantee Fund established by Article 4 below. Payment of the relevant amounts shall be in full settlement of consumers' claims under the insurance policy, as well as of the State's claims for compensation for any reason. A decision of the Bank of Greece, on a recommendation from the Management Committee of the Private Life Insurance Guarantee Fund, may suspend the collection of the above claims of consumers for a time period of up to three years from the publication of this law; lay down the procedure, time and manner of payment; establish a three-member committee, composed of a representative of the Bank of Greece and two members of the Management Committee of the Private Life Insurance Guarantee Fund, to examine the exemption of serious health cases from the suspension of claims; and regulate any other specific issue concerning the implementation of this provision. In particular, exclusively for the settlement of the above claims of consumers, the Private Life Insurance Guarantee Fund may conclude loan agreements with credit institutions, guaranteed by the Greek State. In such case, 2/3 of the total revenue of the Private Life Insurance Guarantee Fund from the contributions referred to in Article 10 of this law shall be pledged *ipso jure* to the State.

4. Holders of life insurance policies may, by a declaration in writing to the life insurance portfolio supervisor, to be submitted within a deadline of 30 days from the posting on the Bank of Greece' website of its decision to choose a transferee, refuse the restructuring of their policies and oppose the portfolio transfer according to the procedure described in this article, in which case they shall be considered to have opted for termination of their policies and subjection to the insurance liquidation procedure. The corresponding part of assets covering liabilities, as determined by the Bank of Greece, shall be assets subject to insurance liquidation and shall not be transferred to the transferee. If transfer is opposed by insured representing over 50% of total insurance premia during the last year of operation of the undertaking, any further procedure under this article shall be cancelled and the life portfolio shall also be subjected to insurance

liquidation in accordance with the provisions of L.D. 400/1970, as currently in force. Those insured that do not submit the above declaration shall be presumed to have accepted the transfer procedure and shall be represented therein by the life insurance portfolio supervisor. The transferee shall issue insurance policies under the portfolio transfer agreement.

5. The provision of Article 59 of L.D. 400/1970 shall apply by way of analogy to the portfolio transfer and an agreement shall be concluded between the life insurance portfolio supervisor of the undertaking whose authorisation is to be withdrawn and the undertaking chosen by the Bank of Greece.

The transfer of the assets of the life insurance portfolio to the transferee shall be exempt from payment of any duty or tax; the provisions of Article 10(10) of L.D. 400/1970, inserted by Article 3(1) of Law 2873/2000 (Government Gazette 178A), shall apply to this case too. Any sale of real estate shall be effected according to the procedure described in Article 10(7) of L.D. 400/1970.

The life insurance portfolio supervisor shall enter into the agreement also as representative of the insured that have accepted, according to the preceding paragraph, the portfolio transfer procedure.

The agreement shall be approved by decision of the Bank of Greece. If one year lapses from the publication hereof and the Bank of Greece's decision has not been issued, the procedure shall be completed *ipso jure* and the provisions on insurance liquidation of L.D. 400/1970, as currently in force, shall apply to the life insurance portfolio. In this case, those insured that hold hospitalisation contracts or hospitalisation riders to life insurance policies and are not insured by any social security fund shall be included, by decision of the Minister of Health and Social Solidarity, in the categories of persons entitled to free hospitalisation, according to the provisions of Article 23 of Law 1076/1980, as currently in force (Government Gazette 224A), until the expiry date of their policy. A joint decision of the Ministers of Finance and Health & Social Solidarity shall lay down the procedure; designate the service responsible for granting the insurance booklets; determine the hospitalisation class; and regulate any detail relating to the implementation of this provision. If the procedure is completed and the life

insurance portfolio is not taken over by a transferee insurance undertaking, the part of the insurance claim not satisfied from the proceeds of insurance liquidation shall be satisfied at a percentage of 70% by the Private Life Insurance Guarantee Fund, and the provisions of para. 3(i) of this article shall apply.

6. Those insured that hold hospitalisation contracts or hospitalisation riders to life insurance policies and are not insured by any social security fund shall be included, by decision of the Minister of Health and Social Solidarity, in the categories of persons entitled to free hospital treatment, according to the provisions of Article 23 of Law 1076/1980, as currently in force, pending the completion of the procedure described in paras. 2-5 of this article. A joint decision of the Ministers of Finance and Health & Social Solidarity shall regulate the procedure and the service responsible for granting the insurance booklets, determine the hospitalisation class and regulate any detail relating to the implementation of this provision.

7. The term of office of the life insurance portfolio supervisor shall be terminated by an Act of the Governor of the Bank of Greece, which shall approve or reject his rendering of account.

8. The life insurance portfolio supervisor shall have no criminal liability, shall be immune from personal arrest and shall have no liability for debts of the insurance undertaking to the State or social security funds, regardless of the time of certification of such debts. The life insurance portfolio supervisor's expenses of any nature in the performance of his tasks shall enjoy the privilege referred to in Article 12a(9) of L.D. 400/1970.

9. Compensation claims of insured and other beneficiaries against persons that managed the undertaking whose authorisation was withdrawn or against third parties shall not be prejudiced by the provisions of this law.

10. A joint decision of the Minister of Finance and the Governor of the Bank of Greece shall regulate any specific issue relating to the implementation of the provisions of this article.

## **CHAPTER II**

### **PRIVATE LIFE INSURANCE GUARANTEE FUND**

### **Article 3**

#### **Definitions**

Within the meaning of this law, “private life insurance” shall be a primary life insurance, as defined in Article 13 para. 2 of L.D. 400/1970 (Government Gazette 10A).

### **Article 4**

#### **Establishment**

A legal person in private law with the name “Private Life Insurance Guarantee Fund” (PLIGF) shall be established. It shall be controlled and supervised by the Bank of Greece, have its registered office in Athens and be governed by the provisions of this law.

### **Article 5**

#### **Object**

1. The object of the Private Life Insurance Guarantee Fund shall be to ensure the maintenance or transfer, in whole or in part, of the life insurance portfolio of any insurance undertaking that is in the process of liquidation to another insurance undertaking(s) and, if this proves impossible, the termination of the life insurance policies and payment of an amount corresponding to the value of such policies, as well as payment of an amount for outstanding losses and payable benefits.
2. The Private Life Insurance Guarantee Fund shall provide coverage, in accordance with the provisions of this law, for insurance compensations under all life insurance policies and life insurance business concluded or carried out in Greece or another EU and EEA Member State through a branch or under the freedom to provide services. This shall not extend to supplementary hospitalisation coverage.
3. As from the date when the insurance undertaking is declared bankrupt or its authorisation is revoked due to violation of law, the Private Life Insurance Guarantee Fund shall *ipso jure* become subrogated into all the rights and obligations of the insurance undertaking under life insurance policies. Pending trials shall be continued by the Private Life Insurance Guarantee Fund. The

provisions of Article 10(7) and (8) of L.D. 400/1970, which were inserted by Article 25(2) of Law 2919/2001 (Government Gazette 128A), shall apply by way of analogy.

## **Article 6**

### **Members**

As from the entry into force of this law, the following entities shall become mandatorily and automatically members of the Private Life Insurance Guarantee Fund:

- (a) all insurance undertakings having their registered office in Greece and carrying out life insurance business under Article 13(2) of L.D. 400/1970;
- (b) branches in Greece of insurance undertakings of third countries carrying out life insurance business under Article 13(2) of L.D. 400/1970;
- (c) branches in Greece of insurance undertakings of EU and EEA countries carrying out life insurance business under Article 13(2) of L.D. 400/1970, provided that they are not already covered by similar guarantee funds in their country of establishment; and
- (d) undertakings active in Greece under the freedom to provide services, provided that they are not already covered by similar guarantee funds in their country of establishment.

## **Article 7**

### **Coverage Provided**

1. The coverage provided by the Private Life Insurance Guarantee Fund shall extend to all life insurance subsectors per insurance policy and insured, with the exception of claims under supplementary hospitalisation coverage, and shall be equal to 100% of each life insurance claim, up to €30,000.00 per life insurance beneficiary for benefits on maturity and redemptions of insurance policies, and up to €60,000.00 for death and permanent total disability compensations. The Private Life Insurance Guarantee Fund shall become subrogated into the beneficiaries' rights for the amounts paid to them.

2. The amount of a claim under a life insurance policy shall be calculated according to the legal and contractual conditions of every insurance policy, and of

every benefit claim (outstanding or payable) as at the date of revocation of the authorisation of the insurance undertaking.

If there are any life insurance policies the technical notes or conditions of which violate the current insurance legislation or are against public interest, the Guarantee Fund shall, by a decision of the Bank of Greece published in the Government Gazette, perform the required actuarial acts and adjustments of the conditions of these life insurance policies.

3. Any specific issue required for the implementation of the provisions of this article shall be regulated by a decision of the Bank of Greece, on a recommendation from the Private Life Insurance Guarantee Fund.

## **Article 8**

### **Exceptions from Coverage**

The coverage provided by the Private Life Insurance Guarantee Fund shall not extend to insurance claims of:

1. persons who, during the last five years before the revocation of the authorisation of the undertaking or its bankruptcy, served as members of its board of directors or managers, as well as the persons referred to in Article 55 of L.D. 400/1970, and their spouses or relatives of up to second degree;
2. persons who hold over 5% of the capital of the insurance undertaking and their spouses or relatives of up to second degree;
3. persons responsible for auditing the financial statements of the insurance undertaking and their spouses or relatives of up to second degree;
4. persons referred to in paras. 1, 2 and 3 above that serve in associated undertakings;
5. other undertakings subject to supplementary financial supervision of the insurance undertaking within an insurance or reinsurance group, according to Articles 6a, 6b and 6c of L.D. 400/1970; and
6. persons who had any responsibility or contributed by their actions or omissions to the deterioration of the financial condition of the insurance undertaking, and their spouses or relatives of up to second degree.

## **Article 9**

### **Ensuring Maintenance of the Insurance Portfolio**

1. As from the date of revocation of the authorisation of the insurance undertaking, the Private Life Insurance Guarantee Fund shall facilitate the transfer of the life insurance portfolio to another insurance undertaking carrying out life insurance business and operating legally in Greece. A decision of the Bank of Greece, on a recommendation from the Private Life Insurance Guarantee Fund, shall determine the procedure and regulate the necessary details of the transfer of the portfolio within a time limit that may not exceed three months from the date of publication of this decision. The Bank of Greece may extend the above time limit by up to three months, following a reasoned request by the Management Committee.
2. Within the context of this procedure, the Private Life Insurance Guarantee Fund shall take any appropriate measure to value the insurance liabilities of the portfolio to be transferred and the assets that cover these liabilities.
3. The Private Life Insurance Guarantee Fund shall examine the proposals and conditions of takeover of this portfolio by other insurance undertakings, and shall make a reasoned choice after the restructuring of benefits, with a view to the protection of the interests of the insured and the beneficiaries under these policies. In the restructuring of benefits, the provisions of Articles 7(2) and 8 hereof shall apply by way of analogy also to this case. Proposals shall include the exact percentage of absorption of the staff of the undertaking that is in the process of liquidation. The choice shall be approved by decision of the Bank of Greece.
4. In the case of transfer of a life insurance portfolio under this article, the time limits set forth in Article 59(6) and (7) of L.D. 400/1970 shall not be binding.
5. If the time limit for examining the possibility of transferring the portfolio lapses, all life insurance policies shall be terminated *ipso jure* and the insured's claims shall be satisfied according to the provisions of Article 7 hereof.
6. Any specific issue concerning the portfolio transfer shall be regulated by a decision of the Bank of Greece.

### **Article 10**

## **Contributions**

1. With a view to the achievement of the object of the Private Life Insurance Guarantee Fund, a contribution in its favour is hereby imposed, which shall be specified by decision of the Bank of Greece at up to 1.5% of total annual written life insurance premia. Half of this contribution shall be incurred by the insurance undertakings and the other half by the insured; it shall be mentioned in the insurance policy and shall be exempt of any tax or duty. The manner of application of this percentage by life insurance policy category shall be specified by a decision of the Management Committee endorsed by the Bank of Greece.
2. One month after the end of every calendar two-month period, insurance undertakings shall pay to the Private Life Insurance Guarantee Fund the contributions corresponding to the insurance policies concluded or renewed during the two-month period that ended, whether these contributions have been collected or not. In the event of late payment, the contribution shall be increased by the applicable default interest. These contributions, excluding the amounts required for the performance of the obligations of the Private Life Insurance Guarantee Fund, shall be invested under the responsibility of the Management Committee of the Fund. The provisions of Article 73 of Law 2533/1977 (Government Gazette 228A), as in force from time to time, shall apply by way of analogy to the investment policy of the Private Life Insurance Guarantee Fund.
3. To meet its requirements, the Private Life Insurance Guarantee Fund may conclude loan agreements and assign or pledge, as collateral for such loans, up to 2/3 of the whole of its overdue claims and/or future contributions payable to it.
4. The Private Life Insurance Guarantee Fund shall have the right to sue its members in order to enforce collection of their contributions. A decision of the Governor of the Bank of Greece shall specify the time and manner of payment of the contributions, and shall regulate any specific issue and any detail relating to the implementation of this law.
5. A member's failure to comply with its obligations to the Private Life Insurance Guarantee Fund under the applicable legislative and regulatory

provisions shall result in revocation of its authorisation in the life insurance sector by decision of the Bank of Greece.

## **Article 11**

### **Management of the Private Life Insurance Guarantee Fund**

1. The Meeting of Members shall be the supreme body of the Private Life Insurance Guarantee Fund and shall decide on any matter by an absolute majority of its members, its decisions being binding also upon absent or dissenting members.

2. The Meeting of Members shall be exclusively responsible for deciding on:

(a) approval or modification of the budget, the ex-post report and the balance sheet;

(b) the preparation of the bylaws that will govern the operation of the Private Life Insurance Guarantee Fund under the provisions of this law, which will be endorsed by the Bank of Greece and published in the Government Gazette (Sociétés Anonymes and Limited Liability Companies Issue); and

(c) the taking out by the Private Life Insurance Guarantee Fund of insurance against failure of its members to perform their obligations to the Private Life Insurance Guarantee Fund.

3. The General Meeting of Members shall, by a decision, assign the annual audit of the financial management and the balance sheet of the Private Life Insurance Guarantee Fund to two certified public accountants or a recognised audit firm, which shall submit a relevant report. This report shall be disclosed to the Minister of Finance, the Bank of Greece and the Hellenic Association of Insurance Companies.

4. A decision of the Bank of Greece, published in the Government Gazette (Sociétés Anonymes and Limited Liability Companies Issue), on an opinion from the Meeting of Members of the Private Life Insurance Guarantee Fund, shall specify:

(a) the time and venue of convocation, the quorum, decision-making and proceedings of the General Meeting of its Members;

- (b) the procedure and conditions for refunding, during its operation, amounts of money to the members; and
- (c) any specific issue required for the staffing, organisation and operation of the Private Life Insurance Guarantee Fund.

## **Article 12**

### **Management Committee**

1. The Private Life Insurance Guarantee Fund shall be managed by a Management Committee, which shall, subject to the conditions of law, take all appropriate measures in pursuit of its objects.
2. The Management Committee shall be composed of five members. The President of the Management Committee shall be appointed by the Bank of Greece. The other four members shall be elected by the Meeting of Members. The term of the President and the members shall be three years.
3. The Management Committee shall publish in the Government Gazette (Sociétés Anonymes and Limited Liability Companies Issue) the annual activities report and the annual balance sheet of the Private Life Insurance Guarantee Fund.
4. The Private Life Insurance Guarantee Fund shall be represented in court and outside court by the President of the Management Committee. By decision of the Management Committee, one or several of its members or other persons may be authorised to represent the Private Life Insurance Guarantee Fund, performing only certain acts.
5. Any person who acts or has acted on behalf of the Private Life Insurance Guarantee Fund as member of the Management Committee or management or administration officer or advisor or auditor shall keep confidential all information that comes in his possession in the performance of his duties. Any breach of this obligation shall constitute a reason of removal from his post or termination of the labour relation, as appropriate, in addition to any criminal or disciplinary consequences.

## **Article 13**

### **Dissolution**

The Private Life Insurance Guarantee Fund may be dissolved by law, which shall specify the procedure of liquidation and distribution of its property.

### **CHAPTER III**

#### **CREDIT RATING AGENCIES**

##### **Article 14**

###### **Definition, Object and Scope**

1. According to Article 3(1)(b) of Regulation 1060/2009 of the European Parliament and the Council of 16 September 2009 (L302, 17.11.2009, hereinafter “the Regulation”), “credit rating agency” (CRA) means a legal person whose occupation includes the issuing of credit ratings on a professional basis.
2. The object of the provisions of Articles 14-19 hereof is to regulate registration with CESR, supervision of and imposition of penalties on CRAs.

##### **Article 15**

###### **Supervision of Credit Rating Agencies**

1. The authority responsible for supervising compliance with the provisions of the Regulation, within the meaning of Article 22 hereof, shall be the Hellenic Capital Market Committee (HCMC), which shall exercise its supervisory powers in accordance with the provisions of Article 23 of the Regulation and this law.
2. In supervising compliance with the provisions of the Regulation, according to Articles 23 and 24 thereof, the HCMC may conduct general or specific on-site or off-site inspections, without any particular pretext and without prior notification.

##### **Article 16**

###### **Registration of Credit Rating Agencies**

1. Applications for registration and the accompanying documentation shall be submitted in Greece, provided that the CRA has its registered office in Greece or the CRA applies for establishment of a branch in Greece, as well as in English, pursuant to Article 15(3) of the Regulation. A decision of the Board of Directors of the HCMC may further specify issues relating to the registration procedure.
2. General and periodic disclosures, as well as the transparency report referred to in Annex I, Section E of the Regulation, which CRAs are required to

submit according to Articles 11 and 12 of the Regulation, shall be submitted in Greek and English, with the exception of the data referred to in Article 11(2) of the Regulation, which shall only be submitted in English.

#### **Article 17**

##### **Administrative Penalties and Supervisory Measures**

1. The HCMC may impose on any natural or legal person that violates the provisions of the Regulation, this law and the regulatory decisions issued by authority hereof to:

(a) reprimand or fines of up to €4 million;

(b) the supervisory measures provided for in Articles 24 and 25 of the Regulation.

The Board of Directors of the HCMC may specify these supervisory measures.

2. The HCMC may publicise the supervisory measures and administrative penalties imposed, unless such publicity would entail a serious risk to financial markets or cause disproportional damage to the parties concerned.

#### **Article 18**

The Board of Directors of the HCMC may further specify, according to the guidelines of the competent body of the EU, the issues referred to in Article 21(2) and (3) of the Regulation.

#### **Article 19**

##### **Amendment to Article 26 of Law 3371/2005**

In Article 26 of Law 3371/2005 (Government Gazette 178A), an indent (i) shall be inserted after indent (h) as follows:

“(i) fees payable upon initial registration of credit rating agencies, as regulated by Regulation 1060/2009 of the European Parliament and the Council of 16 September 2009”.

### **CHAPTER IV**

#### **OTHER PROVISIONS WITHIN THE SCOPE OF THE MINISTRY OF FINANCE**

#### **Article 20**

##### **Establishment of a Systemic Stability Board**

1. A Systemic Stability Board (SSB) shall be established within the Ministry of Finance. Its mandate shall be to analyse the interaction among financial sector segments and carry out research on an ongoing basis with a view to preventing emergencies and crises. In particular, the Board shall:

(a) monitor the dynamics and interaction among the economy systems, with a special focus on capital markets, the banking and insurance systems, liquidity, public debt, state guarantees and the prevention of emergencies, instabilities and crises;

(b) monitor the financial policy of the Ministry of Finance and make relevant recommendations, as well as recommendations on issues arising out of the operation of the European Supervisory Institutions; and

(c) monitor and ensure exchange of information between the Ministry of Finance and the national independent supervisors of the financial sector, with a view to coordination of the financial policy of the Ministry of Finance.

2. The SSB shall be composed of seven members:

The members of the Board shall be the Minister of Finance, the Deputy Minister of Finance, the Governor of the Bank of Greece, the competent Deputy Governor of the Bank of Greece, the President of the HCMC and two persons of recognised standing that specialise in the financial sector, appointed by the Minister of Finance. The President of the SSB shall be the Minister of Finance, replaced by the Deputy Minister of Finance. The SSB meetings may be attended, without voting rights, following an invitation by its President, by presidents or managing directors of credit institutions, specialised experts, as well as any third party whose opinion may, at the discretion of the President, assist the Board's tasks.

The SSB shall hold ordinary meetings once every three months and extraordinary meetings following a notice by its President. Information presented in SSB meetings shall be strictly confidential and classified, and may only be disclosed in any form by decision of the President.

A decision of the Minister of Finance shall regulate all issues concerning the operation and organisation of the Board's administrative support. Public sector services shall provide to the SSB or its committees and working groups any

information or data requested on a systemic or provisional basis. The members of the SSB shall receive no fee for participating in the Board.

## **Article 21**

### **Valuation of Bonds by Insurance Undertakings and Other Specific Matters of the General Accounting Office of State**

1. In Article 43c of Law 2190/1920 (Government Gazette 37A), a para. 6.a shall be inserted as follows:

“6.a. In particular for insurance undertakings, held-to-maturity non-derivative instruments shall be valued at cost subject to impairment when there are objective indications that the relevant cash flows will not be recovered in their entirety.”

2. After the last sentence of Article 6(6) of L.D. 400/1970, new sentences shall be added as follows:

“Moreover, in financial system crisis situations, by a decision of the supervisory authority, Greek government bonds (as solvency ratio assets and as assets covering insurance liabilities) may be valued at cost. The difference (if any) between cost and nominal value until maturity shall be allocated on an annual basis either as amortisation (if negative) or as capital gain (if positive). A decision of the supervisory authority shall specify the time of applicability of this treatment, which may be extended for as long as the emergency that warranted it continues to exist. In particular for the years 2009 and 2010, Greek government bonds may be valued as described hereinabove without issuance of a specific decision of the supervisory authority.”

3. Article 15(1)(b) of Law 3205/2003 (Government Gazette 297A) shall be replaced as follows:

“b. Previous service in agencies of EU Member States, as well as of the Swiss Confederation, similar to those referred to in the preceding indent.”

4. For the fiscal years 2010 to 2014, the annual payments in favour of third parties under the General State Budget shall be reduced to 90%. The remaining 10% shall be public revenue.

A joint decision of the Minister of Finance and the Minister of Labour & Social Security may exempt from this restriction payments of revenue to social security funds.

5. In Article 2(7) of Law 3816/2010 (Government Gazette 6A), the words “until 15 April 2010” shall be replaced with the words “until 30 August 2010”.

6. Agencies of the wider public sector governed by special regimes, such as sociétés anonymes established under Article 1 of Law 1955/1991 (Government Gazette 112A), shall not be exempted from the provisions of Article 1(5) of Law 3833/2010 (Government Gazette 40A).

### **Article 28**

#### **Entry into Force**

This law shall enter into force as from its publication in the Government Gazette, save as otherwise specified in specific provisions.

We order the publication hereof in the Government Gazette and its enforcement as law of the State.

Lefkada, 31 July 2010

THE PRESIDENT OF THE REPUBLIC

KAROLOS G. PAPOULIAS

THE MINISTERS

IOANNIS RAGOUSIS

Minister of the Interior, Decentralisation &  
e-Government

GEORGIOS PAPAKONSTANTINOU

Minister of Finance

LOUKA TARSITSA KATSELI

Minister of Economy, Competitiveness &  
Shipping

ANDREAS LOVERDOS

Minister of Labour & Social Security

M.-E. XENOGIANNAKOPOULOU

Minister of Health & Social Solidarity

CHARALAMBOS KASTANIDIS

Minister of Justice, Transparency &  
Human Rights

Seen and affixed with the Great Seal of State

Athens, 31 July 2010

CHARALAMBOS KASTANIDIS

Minister of Justice