

PRESENTATION OF THE TREATY ESTABLISHING AN INTEGRATED
ORGANISATION OF THE INSURANCE INDUSTRY IN THE AFRICAN STATES

ANNEX I
INSURANCE CODE OF THE INTER-AFRICAN CONFERENCE ON
INSURANCE MARKETS (CIMA) MEMBER STATES

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BOOK I – THE CONTRACT

PART I – Common rules applicable to non-marine insurance and life insurance

Chapter I – General provisions

Article 1 Field of application

Parts I, II and III of this Book shall apply to non-maritime insurance only. They shall neither apply to marine and inland waterway insurance nor to reinsurance transactions that insurers and reinsurers enter into. Credit insurance transactions fall outside of the scope thereof.

Article 2 Mandatory dispositions

Titles I, II and III of this Book may not be amended by agreement, apart from the requirements that grant the parties a simple right, which are set forth in Articles 4 paragraph 2, 5, 9, 10, 35 to 38, 42, 45, 46, 50, 51, 53, 58 and 72.

Article 3 Underwriting of contracts not drawn up in CFA francs - Prohibition

It is forbidden to individuals residing in the territory of a Member State of CIMA and legal persons established on the territory of a Member State of CIMA to underwrite direct insurance contracts or life annuity contracts not drawn up in CFA francs, unless authorised by the Minister in charge of insurance of the Member State.

Contracts entered into from the date of application of this Code in breach of this Article shall be void.

Insurance companies which benefit from a derogation to draw up contracts in foreign currency are treated as approved holders of foreign currency and must prepare a declaration of their assets and liabilities in foreign currencies at the central banks.

Article 4 Reinsurance – Coinsurance (Amended on 20 April 1995 by Decision of the Council of Ministers)

Reinsurance

Whenever an insurer reinsures itself for the risks that it insured, it shall be solely liable to the insured.

Multirisk

Several and diverse risks, by nature or rate, may be insured by a single policy.

Coinsurance



Several insurers operating within the same State may also be bound by a single policy. In case of loss, there shall be no joint and several liability between coinsurers in their relationship with the insured.

Chapter II – Conclusion and proof of the insurance contract, Form and transfer of policies

Article 5 Insurance-Proxy on account

Insurance may be contracted pursuant to a general or special proxy or even without a proxy, on behalf of a named person. In the latter case, the insurance shall benefit the person on behalf of whom it has been contracted even if the ratification thereof takes place after the loss. Insurance may be contracted on behalf of whom it may concern. The clause shall be valid as insurance in favour of the underwriter of the contract and as a provision in favour of a third party in favour of the known or contingent beneficiary of said clause.

The underwriter of insurance contract on behalf of whom it may concern shall be solely liable to pay the premium to the insurer. The exclusions that the insurer may oppose to the insured shall also be opposable to the beneficiary of the contract, whomsoever they may be.

Article 6 Insurance offer - Modifying the contract (Amended on 22 April 1999 by Decision of the Council of Ministers)

The insurance offer shall not be binding on the insured or the insurer. Only the policy or the cover note shall witness their mutual agreement.

The insurer must provide an information sheet on the prices, covers and exclusions prior to the conclusion of the contract.

The offer made by registered letter to extend or to amend the contract or to bring a suspended contract back into force shall be deemed accepted if the insurer does not refuse said offer within fifteen days after receipt thereof.

The provisions of the previous paragraph shall not apply to life insurance.

Article 7 Proof of contract, rider, cover note

The insurance contract shall be written in clear print, in the official language(s) of the Member State of CIMA. When, before the execution of the contract, the insurer may put questions to the insured in writing, in particular, by means of the loss reporting form or by any other means, it may not complain that a question expressed in general terms procured only a vague reply.

The parties must draw up and sign a rider in respect of any addition to or amendment of the previous insurance contract.

These provisions do not preclude that the insurer and insured entered into mutual agreements by the submission of a cover note, even prior to delivery of the policy or rider.

Article 8 Insurance policy stipulations

The insurance policy shall state:

- the names and addresses of the contracting parties,
- the insured property or person,
- the nature of the risks covered,
- the moment from which the risk is covered and the term of said cover,
- the amount of said coverage,
- the insurance premium or contribution and the conditions of payment
- the conditions of the tacit renewal, if specified,

- the circumstances and conditions of extension of the contract or termination or suspension of its effects,
- the insured's obligations, when entering into and possibly during the contract, regarding the statement of risk and reporting of other insurance covering the same risks,
- the terms and conditions of the declaration to fill in in case of loss,
- the period during which benefits are paid,
- for insurance other than against liability risks, the procedure and principles related to loss estimation for determining the amount of compensation,
- the limitation of actions arising from the insurance contract,
- the forms of termination and the notice period.

The policy clauses that stipulate nullities, forfeitures or exclusions shall be valid only if they appear in very clear print.

Policies of mutual insurance companies must certify delivering a full copy of the company statutes to the member.

Article 9 Transfer of insurance policy

The insurance policy may be a named person, to order or to bearer.

Policies to order shall be transferred by endorsement, even blank.

The life insurance policy may be to order. It shall not be to bearer.

The rider of a life insurance policy to order shall be void unless it is dated, shows the name of the beneficiary and is signed by the endorser.

Article 10 Opposability of exclusions

The insurer may oppose the exclusions opposable to the initial underwriter against the policy bearer or a third party who claims under the policy.

Chapter III - Obligations of the insurer and the insured

Article 11 Exclusions and deliberate tortious intent or fraudulent negligence

Save formal and limited exclusions contained in the policy, the insurer shall bear the losses and damage caused by unforeseen accident or caused by negligence of the insured.

However, the insurer shall not be answerable for losses and damage caused by the deliberate tortious intent or fraudulent negligence of the insured.

The burden of proof of the intentional nature of the negligence shall be borne by the insurer.

Article 12 Obligations of the insured

The insured shall be obligated to:

1° pay the premium or contribution at the agreed times,

2° truthfully answer any questions put by the insurer, in particular, in the loss reporting form whereby the insurer questions him at the time of executing the contract, on circumstances that enable the insurer to assess the risk that it covers,

3° declare during the contract new circumstances that have the effect of either increasing the risk or of creating new risks and which on this account render the answers, notably in the form

referred to in paragraph 2 above, made to the insurer either untrue or lapsed. The insurer must declare such circumstances to the insurer by registered letter within fifteen days or a fortnight from the moment it is aware thereof. In case of countersigned letter, a receipt as proof must be delivered to the insured,

4° inform the insurer as soon as they are aware thereof and no later than the time set in the contract of any loss that may involve the insurer's cover. Said time may not be less than five working days.

Said minimum time shall be reduced to 48 hours in the event of theft or livestock mortality.

The above times may be extended by mutual agreement of the contracting parties.

The provisions of paragraphs 1, 3 and 4 above shall not apply to life insurance.

Article 13

Payment of premium

(Amended April 2011 by decision of Council of Ministers)

The premium shall be payable at the address of the insurer or of the representative that it appoints in writing for this purpose within the conditions of Article 541.

The contract's entry into force is subject to the payment of the premium by the insured.

Insurance companies are prohibited, subject to the penalties provided for in section 312 of the CIMA Code, to provide cover under an insurance policy for which the premium is not paid or renew an insurance policy whose premium has not been paid.

Notwithstanding the principle stated in the preceding paragraphs, a maximum payment date of sixty days from the date of inception, or contract renewal may be granted to the insured for the risks which the premium exceeds eighty times the annual minimum wage in the country of origin with the exception of Automobile, Sickness and Good in Transit contracts. However, the insured must sign an express commitment to pay the full premium before the expiry of the deadline. The express commitment to pay the premium shall not exceed the limit of 60 days.

A failure to pay the premium within the agreed period shall automatically result in the contract being terminated. The portion of the accrued premium is retained by the insurer without prejudice to any costs of prosecution and recovery.

The provision of paragraphs 2-6 do not apply to the risks of the state and its subdivisions for which deadlines may be granted under conditions defined by the CRCA.

The provisions of paragraphs 2-7 shall not apply to life insurance.

Article 13-1 (new)

Checks and unpaid bills

Where a check or bill remitted in payment of the premium is returned unpaid, the insured is ordered to resolve the payment within eight working days upon receipt of notice. At the expiration of this period, if not resolved, the contract is automatically terminated. The portion of accrued premium is retained by the insurer, without prejudice to any cost of prosecution of recovery.

Article 13-2 (new)

Co-insurance

In the case of coinsurance, the insurer must pay the premium portion due to other co-insurers within 15 days of receipt of payment of the premium or part of the premium. The premiums owed by the insurer and not transferred to other co-insurers automatically accrue interest at the double the marginal lending rate within the rate of attrition as from the expiry date of the stipulated time limit.

Article 14
Notification of due date
(Updated April 2011)

For contracts with tacit renewal, the insurer shall notify the insured or the person responsible for the payment of premiums, for each premium due, of the due date and the amount of money owed at the last known address, at least forty five days in advance.

This notification by letter with acknowledgement of receipt or discharge must notify that the contract will be automatically terminated if the renewal premium is not paid within the period provided for in Article 13.

Article 15
Increase and modification of risk

In the event of increase of risk during the contract, such that, if new circumstances have been declared at the time of the conclusion or of renewal of the contract, the insurer would not have contracted or would have done so only in consideration of a higher premium, the insurer shall be entitled to terminate the contract by reimbursing the part of an unexpired premium or to offer a new premium amount.

The provisions of this Article shall not apply to life insurance or health insurance when the insured's state of health has changed.

To set the premium, if special circumstances were taken into account, stated in the policy, increasing risks, and if they were to disappear while the insurance is in force, the insured shall be entitled to terminate the contract, without compensation, if the insurer does not agree to a decrease of the amount of the premium accordingly to the applicable tariff at the time of the underwriting.

The insurer may no longer complain of increase of risks where, after having been informed thereof, it agreed to maintain the insurance.

Article 16
Obligations of the insurer

Upon occurrence of the risk or the maturity of the contract, insurers must perform the service defined in the contract within the agreed time and it may not be committed beyond said time. Insurers shall not cover claims occurring after expiry or suspension of the contract.

Article 17
Bankruptcy or winding up

The insurance shall subsist in the event of bankruptcy or winding up by decision of court of the insured. The official receiver or the debtor authorised by the court or liquidator, as the case may be, and the insurer shall retain the right to terminate the contract during a three month period as from the date of the judgment. The part of premium for the time during which the insurer no longer covers risk shall be returned to the debtor.

In the event of bankruptcy of an insurance company, the contracts in its portfolio ipso jure cease to be effective on the fortieth day at noon, as from publication of the decision of the withdrawal of licence in a newspaper of legal notices. Premiums shall be proportional to the cover period. The official receiver may postpone the loss payment.

Article 18
Fraudulent misrepresentation: sanctions

Apart from the ordinary causes of nullity and subject to the provisions of Article 80, the insurance contract shall be null and void in the event of concealment or intentional false

statement of the insured, when such omission or fraudulent misrepresentation changes the subject of the risk or decreases the insurer's assessment thereof, even if the risk that the insured concealed or distorted has had no impact on the loss.

The insurer shall then be entitled to the premiums paid, and payment of all due premiums by way of damages.

The provisions of paragraph 2 of this Article shall not apply to life insurance.

Article 19 Innocent misrepresentation

Omission or misrepresentation by the insured, whose bad faith has not been proved, shall not entail the nullity of the insurance.

If this is established prior to any loss, insurers shall have the right to either continue the contract in consideration of an increase in premium accepted by the insured, or terminate the contract ten days after notice sent to the insured by registered or countersigned letter by returning part of the premium paid for the period not covered by the insurance.

If this is only established after the loss has occurred, the compensation shall be reduced in proportion to the rate of the premiums paid in relation to the rate of premiums that would be owed, had the risks been completely and accurately declared.

Article 20 Sanctions in the event of belated declaration and prohibited forfeiture clauses

Shall be null and void:

1° when stated in a contract clause, forfeiture for belated declaration with regards to the time limits stated in paragraphs 3 and 4 of Article 12 shall not be opposed to the insured unless the insurer establishes that the delay in the declaration caused a loss. It shall not be opposed either in all events where the delay results from a fortuitous event or an act of God,

2° all general clauses providing that the insured shall forfeit their right in the event of violation of laws or regulations, unless such violation constitutes a crime or a deliberate offence,

3° all clauses providing that the insured shall forfeit their rights for mere lateness in reporting the loss to the authorities or submitting documents, without prejudice to the rights of the insurer to claim a compensation in proportion to the damage that it has caused to him.

Article 21 Termination

(Amended on 20 April 1995 by Decision of the Council of Ministers)

The policy shall specify the duration of the contract and the terms applicable to termination.

However, the insured shall be entitled to terminate the contract at the end of a one year period, by sending the insurer a registered letter at least two months prior to the maturity date. The insurer shall benefit from the same right on the same terms. Said rule may be waived for individual health insurance contracts and for the cover of risks other than those of private persons. The right to terminate the contract every year must be stated in each policy. The period of termination shall start from the date as postmarked.

The provisions of this Article shall not apply to life insurance.

Article 22 Form of termination

Whenever the insured is entitled to request termination, they may do so, at their discretion, either by a declaration made against receipt at the registered office or to the insurer's

representative in the area, or by extra legal document or by registered letter, or by any other means stated in the policy.

Article 23

Termination after loss

(Amended on 20 April 1995 by Decision of the Council of Ministers)

In the event that a policy provides the insurer with the power to terminate the contract after a loss, termination may only be done within a three month time limit after knowledge thereof and by way of a one month prior notice as from notification to the insured by registered letter, by extra legal document, or by any other means. Beyond this one month time period after knowledge of a loss, the insurer who has accepted the payment of a premium or contribution or part of a premium or contribution corresponding to an insurance period in effect subsequently to the loss may no longer avail itself of this loss to terminate the contract.

In the aforementioned event, policies must provide the insured with the right, within one month of notification of termination of the policy claimed under, to terminate other insurance contracts which they may have underwritten by the insurer, the termination taking effect one month dating from notification to the insurer.

The insurer's and insured's power of termination pursuant to the previous two paragraphs includes the return by the insurer of parts of premiums or contributions for the period for which risks shall no longer be covered.

Article 24

Term of the contract

The term of the contract must be stated in very clear print in the policy. The policy must also state that the term of the tacit renewal may not under any circumstances exceed one year.

In the absence of this stipulation, one of the parties may, notwithstanding any clause to the contrary, terminate the contract without compensation, every year on the anniversary date of its entry into force, by way of at least one month prior notice.

Article 25

Termination for modification or termination of the risk

In the event of the occurrence of one of the following events:

- change of domicile,
- change of occupation,
- professional retirement or permanent discontinuation of a professional activity,
- change of marital status and matrimonial property regime.

The insurance contract may be terminated by either one of the parties when it covers risks directly related to the earlier situation and which are not present in the new situation.

The contract may be terminated only three months after the date of the event.

Termination shall take effect one month after the other party to the contract has received notice thereof.

The insurer must reimburse the insured for the part of the premium or contribution for the period during which the risk was not incurred, calculated as from the effective date of the termination.

Payment of compensation to the insurer in the aforementioned events of termination may not be provided for.

The provisions of this Article shall not apply to life insurance.

Article 26

Termination: Form

In the event that one party intends to terminate an insurance contract pursuant to Article 25, the other party must be sent a registered letter with acknowledgement of receipt, indicating the nature and date of the event referred to and providing all necessary details to establish that the termination is directly related to said event.

Article 27 Termination: Period

The effective date of termination shall be enforceable to the insured by reason of the occurrence of one of the events states in Article 25 on the date of the new situation.

However, in the event of professional retirement or permanent discontinuation of a professional activity, the starting point of the termination period shall be the day after the date on which the former situation ceases.

When any of these events occurs or is established by a court decision or when jurisdictional effects may only be inferred after probation or exequatur, the date used shall be that on which this jurisdictional act is passed as a judgement at law.

Chapter IV – Jurisdictions and limitation period

Article 28 Two or five-year limitation period

All legal actions arising from an insurance contract shall be barred two years as from the event that gave rise thereto.

However, said time limit shall run:

1° in the event of non disclosure, omission, fraudulent representation or misrepresentation of the risk incurred, only as from the date on which the insurer is aware thereof,

2° in the event of loss, only as from the date the concerned parties are aware thereof, if they prove that they were unaware of such facts up till then.

When the insured's action against the insurer arises from a third party's recourse, the limitation period shall run only from the date on which said third party brings a legal action against the insured or the latter has paid it compensation.

The limitation period shall be increased to five years for life insurance contract when the beneficiary is not the underwriter and in insurance contracts covering personal injury when the beneficiaries are the deceased insured's assigns.

Article 29 Interruption of the prescription

The limitation period shall be interrupted by one of the ordinary causes that interrupt the limitation period and by the appointment of experts following a loss. The limitation period of the legal action may also be interrupted by the insurer sending the insured a registered letter with acknowledgement of receipt in respect of the action for payment of the premium and by the insured to the insurer in respect of the settlement of the claim.

Article 30 Jurisdictions

In all proceedings pertaining to assessing and settling due claims, the defendant (insurer or insured) shall be summoned before the court of the insured's place of residence,

notwithstanding the type of insurance, save regarding land properties, in which case the defendant is summoned before the court of the location of the insured property. However, with regards to accident insurance of any kind, the insured may summon the insurer before the court of the location where the loss was incurred.

TITLE II – Rules applicable to non marine insurance

Chapter I – General provisions

Article 31 Indemnity principle

Insurance in respect of property is an indemnity contract. The indemnity owed by the insurer to the insured may not exceed the amount of the value of the insured property at the time of the loss.

It may be provided that the insured must be their own insurer for a sum or a specific quota, or that they shall bear a deduction fixed in advance on the indemnity for the loss.

Article 32 Damages caused by persons or objects for which the insured shall be legally liable

The insurer shall cover the losses and damage caused by persons for whom the insured is civilly liable, regardless of the nature and seriousness of such persons' faults, or by objects under their control.

Article 33 Over-insurance

When an insurance contract has been granted for a sum exceeding the value of the insured property, if there was misrepresentation or fraud by one of the parties, the other party may request of nullity thereof also claim damages.

If there has been no fraud, the contract shall be valid, but only up to the actual value of the insured property and the insurer shall not be entitled to premiums for the excess. The insurer shall be definitely entitled to due premiums and to the premium for the current year when due.

Article 34 Cumulative insurance

He who is insured with several insurers under several policies for the same interest, against the same risk, must immediately inform each insurer of the other insurers.

The insured must, at the time of this communication, notify the name of the insurer with whom another insurance was contracted and specify the sum insured.

When several insurances against the same risks have been fraudulently contracted, the penalties provided for in paragraph 1 of Article 33 shall be applied.

When they have been contracted without fraud, each one of them shall be valid within the limit of the contract's covers and in compliance with the provisions of Article 31, regardless of the

date on which the insurance was underwritten. Within said limits, the beneficiary of the contract may obtain indemnity for their losses by contacting the insurer of their choice.

In the relation between insurers, each insurer's contribution shall be determined by applying, to the amount of loss, the ratio between the indemnity that it would have paid if it had been alone and the total amount of the indemnity that each insurer would have borne, had it been alone.

Article 35 Under-insurance

If the estimates show that the value of the insured property exceeds the insured sum on the date of the loss, the insured shall be deemed to be their own insurer for the excess and consequently shall bear a proportional share of the loss, unless otherwise agreed.

Article 36 Insurable interest

Any person having an interest in safeguarding a property may have it insured.
Any direct or indirect interest in the non-occurrence of a risk may be the subject of insurance.

Article 37 Inherent vice of the insured property

The insurer shall not be liable for waste materials, decrease or loss sustained by the insured property which is attributable to an inherent defect, unless otherwise agreed.

Article 38 Exclusion of war perils

The insurer shall not be liable for losses and damage caused by either a foreign war, civil war, riots or by civil commotion, unless otherwise agreed.

When such risks are not covered by the contract, the insured must prove that the loss has been caused by an act other than the foreign war. The insurer shall bear the burden of proving that the loss has been caused by civil war, riots or civil commotion.

Article 39 Total loss of the insured property

In the event of total loss of the insured property caused by an event not provided for in the policy, the insurance shall end ipso jure and the insurer must return to the insured the part of the premium paid in advance for the time during which the risk is no longer incurred.

Article 40 Death of the insured and transfer of the insured property

In the event of the death of the insured or transfer of the insured property, the insurance shall continue ipso jure in favour of the heir or buyer, with the onus on the latter to fulfil all of the insured's obligations with regard to the insurer under the contract.

However, the insurer, or the insured or buyer shall be at liberty to terminate the contract. The insurer may terminate the contract within three months as from the date on which the final beneficiary of the insured property has requested that the policy be transferred to their name.

In the event of transfer of the insured property, the transferor shall be liable to the insurer for payment of due premiums, but they shall be released, even as a guarantor in respect of premiums to fall due, as from the moment they inform the insurer of the transfer by registered letter.

When there are several heirs or buyers, if the insurance continues, they shall be jointly and severally liable for payment of the premiums.

Payment of indemnity to the insurer in the aforementioned events of termination may not be provided for.

The provisions of this Article shall not apply in the event of transfer of a motor vehicle or ships and yacht.

Article 41

Transfer of motor vehicles

(Amended on 20 April 1995 by Decision of the Council of Ministers)

In the event of transfer of a motor vehicle, its trailers or semi-trailers and only in respect of the transferred vehicle, the insurance contract shall be suspended ipso jure, as from the day after the date of the transfer, at midnight. Each of the parties may terminate the contract subject to ten days' notice.

In the event the contract is not continued by agreement of the parties or by termination by one of them, the termination shall take effect ipso jure at the end of the six month period as of the transfer.

The insured must inform the insurer of the date of transfer by registered letter.

Payment of indemnity to the insurer in the aforementioned events of termination may not be provided for.

All of the provisions of this article shall apply in the event of the transfer of ships or yacht, regardless of the method of motion or of propulsion used.

Article 42

Subrogation of insurer

(Amended on 22 April 1999 by Decision of the Council of Ministers)

The insurer who paid the insurance indemnity shall be subrogated within the limit of such indemnity in the insured's rights and actions against the third parties who, by their acts, caused the damage that gave rise to the insurer's liability.

The insurer may be released in whole or in part from its liability to the insured when the subrogation is no longer able, by the insured's act, to work in the insurer's favour.

Article 43

Rights of creditors over the insurance indemnities

Indemnities owed further to insurance shall be allocated, without need for express delegation, to secured creditors or mortgagees, depending on their rank.

Nevertheless, payments made in good faith prior to stoppage of payment shall be valid.

The same shall apply for indemnities owed in the event of loss by the tenant or neighbour who caused the fire unless it can be proved that the fire was a fortuitous event or an act of God, or a construction defect, or that the fire spread from a neighbouring house.

In the event of insurance of the rental risk or recourse by neighbours, the insurer may not pay all or part of the sum owed to anyone other the owner of the leased property, the neighbour or the third party subrogated in their rights as long as said owner, neighbour or subrogated third party have not received settlement for the consequences of the loss, within the limit of said sum.

Article 44

Disappearance of the insured property

The insurance shall be null and void if, at the time of the contract, the insured property has already perished or can no longer be exposed to risks.

Premiums paid must be returned to the insured, less costs incurred by the insurer, other than commission, when the latter have been recovered from the agent or broker.

Chapter II – Fire insurance

Article 45 Damages covered

The fire insurer shall be answerable for all damage caused by a conflagration or simple combustion. However, it shall not be answerable, unless otherwise agreed, for damage caused by the sole action of heat or by the direct and immediate contact of the fire or an incandescent substance if there has been no fire or a start of a fire that is liable to degenerate into a genuine fire.

Article 46 Obligations of insurer

The insurer, unless otherwise agreed, shall be answerable for the sole material damage caused directly by the fire or the start of the fire.

If, within three months as from the repair of the loss accompanied by substantiating documents, the damage survey has not been completed, the insured shall be entitled to have interest accrue as from the demand for payment.

If it has not been completed within six months, each of the parties may bring legal proceedings.

Article 47 Rescue and salvage measures

The material damage caused to property covered by insurance by emergency and salvage measures shall be classed as direct material damage.

Article 48 Disappearance of insured property during the fire

The insurer shall be answerable for the loss or disappearance of insured property during the fire, unless it is able to prove that said loss or disappearance is the result of theft.

Article 49 Inherent vice of the property

The insurer, in compliance with Article 37, shall not be answerable for losses and damage to the insured property as a result of an inherent defect, but it shall cover the damage caused by fire as a result of the inherent defect unless it is substantiated in bringing a legal action to nullify the insurance contract pursuant to paragraph 1 of Article 18.

Article 50 Fires resulting from cataclysms

Unless otherwise agreed, the insurance shall not cover fires caused directly by volcanic eruptions, earthquakes and other disasters.

Chapter III – Liability insurance

Article 51 Coverage implementation

In respect of liability insurance, the insurer shall be liable only if, following a tort provided for in the contract, the injured third party makes an out of court claim or a court claim to the insured.

Article 52 Policy clauses

Insurance policies covering legal liability risks must state that with regards to this cover, no forfeiture caused by a breach of the insured's obligations, committed subsequently to the loss, shall be opposable to the injured persons or to their beneficiaries. They must not contain any clause prohibiting the insured from involving their insurer nor from requesting its coverage at the time of settlement.

Article 53 Acknowledgment of liability and settlement

The insurer may stipulate that no acknowledgement of liability or no settlement shall be binding on it, without its involvement. The admission of material facts may not be treated as an acknowledgement of liability.

Article 54 Direct action – Costs

Direct action

The insurer may not pay anyone other than the injured third party any part of the sum that it owes as long as said third party has not received settlement within the limit of said sum for the pecuniary consequences of the tort that entailed the insured's liability.

Costs

The insurer is responsible for costs resulting from any liability claim against the insured, unless otherwise agreed.

Chapter IV – Hail and livestock mortality insurance

Article 55 Agricultural risks, definition

(Amended on 20 April 1995 by Decision of the Council of Ministers)

The following shall be considered, for the application of this Code, as exhibiting the nature of agricultural risks:

- risks to which individuals or legal entities who exercise exclusively or principally a profession of agricultural nature or related to agriculture are exposed,
- risks to which the staff employed by these individuals or legal entities are exposed, as well as their agricultural goods,

- risks to which the family members of the aforementioned individuals as well as their agricultural property are exposed, when they live with them in their establishment.

TITLE III – Rules applicable to life insurance and to investment insurance contracts

Chapter I – General provisions

Article 56 Sum insured

In respect of life insurance and personal injury insurance, the sums insured shall be defined by contract.

In respect of life insurance or capitalisation, the capital insured or annuity may be expressed in unit linked terms comprised of investment securities or assets offering adequate protection of the savings invested and appearing on a list drawn up by decree in the Council of Ministers in charge of insurance in Member States of CIMA.

In all events, the contracting party or the beneficiary may opt for payment in cash or for the remittance of securities or shares. However, when the units of calculation shall be composed of non-negotiable securities or shares, payment may only be made in cash.

The counter-value in cash of sums paid by the insurer when the risk occurred may nevertheless be no less than that of the sum insured or annuity, calculated on the basis of the value of the unit of calculation as from the effective date of the contract or, where applicable, of its last endorsement.

Article 57 Absence of subrogation

In respect of personal injury insurance, the insurer may not, after payment of the sum insured, be subrogated in the rights of the contracting party or beneficiary against third parties due to the loss.

However, when authorised by the contract, the insurer having paid the victim an advance on compensation based on the accident may be subrogated in the rights of the contracting party against the person obligated to provide compensation within the limit of the loss incurred by the insurer and not compensated by the liable third party.

Chapter II – Life insurance and investment insurance contracts

Section I – General provisions

Article 58 Life insurance

A person's life may be insured by oneself or by a third party. Several persons may contract mutual insurance on each other lives in a sole and same instrument.

Article 59 Consent of the insured

Death benefit insurance contracted by a third party on the life of the insured shall be null and void if the latter has not consented thereto in writing with indication about the amount of the capital or annuity initially covered.

Under pain of nullity, the insured's consent must be given in writing for any assignment or giving of pledge and for the transfer by a third party of the benefit of the contract signed on their life.

Article 60 Insurance on the life of a disabled person

All persons shall be prohibited from contracting a whole life insurance on a minor below twelve years of age, a person of full age put in wardship or a person placed in a psychiatric hospital.

Any insurance contracted in breach of said prohibition shall be null and void.

The nullity shall be decided at the request of the insurer, underwriter or the representative of the incapable person.

Premiums paid must be returned in full.

The insurer and the underwriter shall also be liable to the maximum fine, per insurance policy contracted in deliberate breach of said prohibition.

Said provisions shall not in any way prevent in the case of a death benefit insurance the reimbursement of premiums paid to perform a life insurance contract concluded on the life of one of the persons aforementioned.

Article 61 Insurance of the life of a minor over 12 years old

Death benefit insurance may not be contracted by another person on the life of a minor who has reached twelve years of age, without the authorisation of the parent(s) with parental authority, their tutor or guardian.

Even with such authorisation, the personal consent of the incapable person shall still be required.

For lack of such authorisation and consent, the nullity of the contract shall be declared at the request of any interested person.

Article 62 Stipulations of the policy

The life insurance policy must state, in addition to what is required in Article 8:

1° the surname, first names and date of birth of the person(s) on whose life the transaction shall be based,

2° the maturity date of the sum insured or annuity.

Article 63 Duration

The duration of an investment insurance contract shall be defined by agreement.

Article 64 Stipulations on the certificate or investment insurance contract

Certificates or investment insurance contracts must state:

- 1° the amount of sum insured reimbursable at maturity and the amount of sum insured pre-payable at any period,
- 2° the amount and the due date of the payments,
- 3° the effective and the maturity date of the contract,
- 4° the guaranteed surrender value of the contract on a yearly basis for at least 6 years,
- 5° the conditions under which the company may grant advances,
- 6° conditions for forfeiture for late payments, to which underwriters shall be liable, without these forfeitures being able to take effect prior to one month as of the maturity date; this time limit shall only start as of formal notice by registered letter when the contract is to holder,
- 7° the substitution ipso jure of all heirs of the holders of titular contracts to said titulars, as well as the prohibition for the company to stipulate, upon their death, any additional payment or any special amount withheld,
- 8° the limitation of amounts to be withheld for management expenses in proportion to payments,
- 9° the number or combination of letters, of which the designation by chance may lead to the reimbursement stipulated following draws,
- 10° the number of draws per year, as well as their dates,
- 11° the procedures of the draws and the advertising conditions under which they are made,
- 12° the resources which furnish the draws where they are not guaranteed, the proportion of bonds prepaid with specification of the method used to designate bonds via the draws.

Article 65

Cancellation: Indication of surrender values

(Amended on 22 April 1999 by Decision of the Council of Ministers)

Any individual who signed an insurance offer or a life insurance or an investment insurance contract may cancel it by registered letter with acknowledgement of receipt or by any other similar means within a thirty day period as from the first payment.

Cancellation shall lead to the return of paid premium, less policy costs, within a thirty day maximum period as from the receipt of the cancellation. Beyond this period, non-returned sums shall entail ipso jure interest at the legal rate plus half for two months, then twice the legal rate.

Insurance offer, insurance policy or investment insurance contract must indicate notably, for contracts which contain them, the guaranteed surrender values at the end of each of the first eight years, at least.

Failure to provide the aforementioned information shall entail ipso jure the extension of the time limit provided for in paragraph 1 until the thirtieth day following the effective date of the communication of this information.

Article 66 Suicide

The death benefit insurance shall be of no effect if the insured intentionally and knowingly commits suicide during the first two years of the contract.

Article 67
Reimbursement of the mathematical reserve

In the event of concealment or misrepresentation referred to in Article 18, in the event that the insured voluntarily and consciously committed suicide during the period referred to in Article 66, or when the contract excludes death coverage by reason of the latter, the insurer shall pay the contracting party or, in the case of death of the insured, the beneficiary, an amount equal to the mathematical reserve of the contract.

Article 68
Insurance for the benefit of a named beneficiary

The sum insured or annuity may be payable at the time of death of the insured to one or several named beneficiaries.

The stipulation by which the insurance benefit shall be assigned to one or several persons who, without being named, are sufficiently defined in the clause for identification at the time of repayment of the insured sum or annuity, shall be considered to be made to beneficiaries.

In the absence of designation of a beneficiary in the policy or failing an acceptance by the beneficiary, the contracting party shall have the right to substitute one beneficiary for another. This designation or substitution may only be performed with the agreement of the insured, when they are not the contracting party.

This designation may be performed by means of an endorsement to the contract or in a will.

Article 69
Revocation and acceptance of the beneficiary

The stipulation pursuant to which the insurance benefit is assigned to a named beneficiary becomes irrevocable through the latter's explicit or tacit acceptance.

As long as there is no acceptance, the right to revoke this stipulation only belongs to the stipulator and may not consequently be exercised during their lifetime, either by their creditors or by their legal representatives.

This revocation right may be exercised, after the death of the stipulator, by their heirs, only after the amount is due and at the earliest, three months after the insurance's beneficiary was formally notified, by extrajudicial act, to declare their acceptance.

The free of charge assignment of life insurance to a named person shall be presumed to be done on the condition of the existence of the beneficiary at the time the sum insured or annuity is due and payable, unless otherwise stipulated.

Article 70
Insurance without designation of a beneficiary

When insurance in case of death has been concluded without designation of the beneficiary, the sum insured or annuity shall be part of the contracting party's estate and legacy.

Article 71
Right of the beneficiary

The sum or annuity stipulated to be payable at the time of death of the insured to a named beneficiary or heir shall not be considered part of the insured legacy. The beneficiary, regardless of the form and date of designation, shall be considered to have the sole right thereto as of the date of the contract, even where their acceptance is subsequent to the insured's death.

Article 72

Payment of premiums by a third party

Interested party may substitute themselves for the contracting party to pay the premiums.

Article 73

Legal action for payment of premiums pertaining to life insurance or investment insurance contracts

The insurer shall not have the right to take legal action to demand the payment of premiums pertaining to life insurance or investment insurance contracts.

Failure to pay a premium or a contribution may only have, as a penalty, the suspension or unconditional termination of the contract and, in the latter case, payment of the surrender value which the said contract may have acquired.

Where a premium or part of premium is not paid within ten days of its due date, the insurer shall inform the contracting party by registered letter that, upon expiry of a forty day time limit, as from the dispatch date, failure to pay shall result in either termination of the contract in the event of non-existence or inadequacy of the surrender value, or reduction of the contract.

In any event, dispatch of the registered letter by the insurer shall render the premium payable.

Article 74

Reduction and surrender values, advances

(Amended on 22 April 1999 by Decision of the Council of Ministers)

The methods of calculating the reduction and surrender values shall be determined by a general regulation stipulated in the policy and established by the insurer after approval of the Minister on charge of the insurance industry.

Upon signing the contract, the insurer shall inform the contracting party that this regulation is at their disposal and available on request. The insurer must send a copy of the regulation to the contracting party, at the latter's request.

Within the limit of the surrender value, the insurer may consent to granting advances to the contracting party.

The insurer must, at the contracting party's request, pay the latter the surrender value of the contract within a time limit not exceeding two months. Beyond this time limit, the unpaid amounts yield interest ipso jure at the lending rate, increased by one half for two months then, upon expiry of expiry of this two-month period, at double the lending rate.

For life insurance and investment insurance contracts, the insurer may not refuse the reduction or surrender when 15% of the premiums or contributions stipulated by the contract have been paid. In any event, the right to surrender or to reduction shall be attained when at least two annual premiums have been paid.

Insurers may automatically substitute surrender to reduction if the surrender value of the contract shall be less than the gross monthly amount of the guaranteed minimum wage (GMW) in the State where the risk was underwritten.

Article 75

Notification of the insured

For underwritten contracts, as long as they give rise to payment of the premium, the insurer must inform the contracting party of the respective amounts of the surrender value, sums insured and premium of the contract on a yearly basis.

The said amounts shall not include beneficiary participations which may not be definitively assigned.

The insurer must specify in clear and precise terms in this communication the significance of the surrender and reduction transactions and their legal implications.

For contracts no longer giving rise to premium payment, the aforementioned information for a given year shall only be communicated to the contracting party, at their request. The contract must refer to the duty to disclose stated in the preceding paragraphs.

Article 76 Surrender indemnity

In respect of life insurance and investment insurance contracts containing a surrender value, this surrender value shall be equal to the mathematical reserve of the contract, possibly reduced by an indemnity which may not exceed 5% of this mathematical reserve. Said indemnity must be non-existent at the end of a ten-year period as from the effective date of the contract.

Article 77 Insurance without reduction or surrender

Temporary death benefit insurance and life annuities, immediate or currently paid out, may include neither reduction nor surrender value. Endowment policy and survivor annuities, life insurance without surrender value or deferred life annuities without surrender value may not include surrender.

Article 78 Murder of the insured by the beneficiary

The insurance contract ceases its effect with regard to a beneficiary who has been convicted of having intentionally murdered the insured.

The amount of the mathematical reserve must be paid by the insurer to the contracting party or their beneficiaries, unless they are convicted as perpetrators of, or accomplices of the murder of the insured.

When the beneficiary has attempted to murder the insured, the contracting party shall have the right to revoke assignment of the beneficiary, even where the beneficiary had already accepted the stipulation made in their favour.

Article 79 Payment in good faith to the presumed beneficiary

When the insurer was unaware of the designation of a beneficiary through a will or otherwise, or of the acceptance of another beneficiary or of the revocation of a designation, payment of the sum insured or annuity made to the person who, without this designation, would have had the right thereto, fully discharges the good faith insurer.

Article 80 Error in the age of the insured

Error in the age of the insured only results in the insurance's nullity when their true age exceeds the limits set for the conclusion of contracts by the insurer's tariffs.

In any other case when, following an error of this type, the premium paid is lower than that which should have been paid, the sum insured or annuity shall be reduced in proportion to the premium collected and that which would have corresponded to the true age of the insured.

On the contrary, when, following an error in the insured's age, an excessive premium has been paid, the insurer must return the part of the premium which they were overpaid, without interest.

Section II - Participation of the insured in technical and financial dividends

Article 81 Principle

Life insurance or investment insurance companies must allow the insured to share technical and financial profits they make, under the conditions laid down in this Code.

The minimum amount of this participation shall be generally determined in individual and collective contracts of any nature, underwritten in the territory of a Member State of CIMA, save collective death benefit insurances.

This section shall not apply to unit trust linked contracts.

Article 82 Dividend account

For each company, the minimum amount of dividends to be allocated for a fiscal year shall be generally determined on the basis of a dividend account.

This account includes income and expenditure items which appear in the columns of Statement C1 in Book IV of this Code, excluding amounts corresponding to the parts: 'liquidating dividends', 'premiums ceded to reinsurers' and amounts corresponding to the subtotals: 'net investment income' and 'losses and expenses assumed by reinsurers'. It also includes, under expenses, the insurer's participation in dividends, which amounts to 10% of the credit balance of the preceding items.

At least 85% of the financial account stipulated in Article 84 shall be added as income to the dividend account. The dividend account shall, in addition, include amounts corresponding to the 'balance of ceded reinsurance', calculated in compliance with the provisions of Article 85 and, where applicable, the debit balance of the dividend account from the preceding fiscal year.

Article 83 Participation in dividends and profit-sharing

The minimum annual amount of the participation in dividends shall be the credit balance of the participation in dividends defined in Article 82.

The minimum annual amount of profit-sharing shall be equal to the amount defined in the preceding paragraph less the amount of interest credited to mathematical reserves.

Article 84 Financial account

The financial account referred to in Article 82 shall be prepared according to the following rules:

It includes:

- for income: quota-share :
 - a) of investment income of any nature,
 - b) capital gains through appraisal of securities
- for expenditure:
 - c) quota-share of capital losses through appraisal of securities,
 - d) upon authorisation of the Supervisory Commission and following proper , quota-share of the results allocated by the company to its equity capital in order to maintain the regulatory margin of solvency.

To prepare the account as defined in Article 82:

The part of investment income to list under this account's income shall be equal to the product of the rate of return on investments made by the company in the territory of the Member State

of CIMA and the average amount of the gross technical reserves of reinsurance cessions of the contracts considered during the fiscal year.

This rate of return shall be equated to the relationship between:

- the net investment income as in Statement C1 increased by the capital gains on assets, net of capital losses, as well as by the amount of re-evaluations of assets carried out under Article 335-13 of Book III of this Book, net of possible depreciation stipulated in said Article,
- and the average amount, during the fiscal year, of all investments, as well as of assets items which may be admitted into the accounting of technical reserves, save securities remitted by reinsurers.

Article 85 Balance of ceded reinsurance

In application of Article 82, a heading entitled 'balance of ceded reinsurance' shall be provided in the profit-sharing account.

Only reinsurance of the risk shall be taken into account, i.e. that the commitment of the assigned bears exclusively on all or a part of the difference between the amount of death or disability capital and the capital of the mathematical reserves of the corresponding contracts.

In respect of treaties limited to risk reinsurance, the balance of cede reinsurance shall be equal to the difference between the amount of claims payable by the assignees and that of the ceded premiums. It shall be listed under the debit or the credit side of the profit-sharing account, accordingly.

In respect of other treaties, the balance of ceded reinsurance shall be prepared by isolating the reinsurance risk premium within the commitments of the assignees. The methods of calculation of the balance shall be specified by regulatory means, by reference to the normal conditions of the risk reinsurance market.

Article 86 Distribution of dividends

The amount of the insured's dividends may be allocated to the mathematical reserves directly or entered, partially and totally, into the reserve for profit-sharing in surplus mentioned in Article 81. The amounts entered into the latter reserve shall be allocated to the mathematical reserve or paid to the insured during the five fiscal years following the year in which they were entered into the reserve for profit-sharing in surplus.

Section III – Drawing lots

Article 87 Amounts for draws

Drawing of lots which shall be used to determine contracts or insurance investment certificates pre-payable must be carried out in public, in the presence of a bailiff, at the locations stipulated in the contracts.

The amounts reimbursed at the time of the draws must be either equal to or increasing with successive draws, without exceeding the reimbursable sum insured at maturity.

Draws may not take place more than once a month.

Article 88 Official report

An official report of the draw, notably indicating the complete list of numbers of reimbursable contracts, shall be prepared upon its end by the bailiff, in the presence of the persons who attended the draw.

Each draw must be on a separate list.

Article 89 Beneficiary information

In the event of the withdrawal of a certificate during a draw, the company must, prior to any actions taken by its representatives towards the beneficiary, send the latter a letter informing him that their contract with the company has ended and that they shall be paid, with no amount withheld and no obligation on their part, whether towards the person who shall make the payment or the company, the amount set by the general conditions of their certificate reproduced in said letter.

Article 90 Publication, Public notice

After each draw and within eight days, the companies must publish the list stated in Article 88. A copy of the list shall be sent to the Minister in charge of the insurance industry as well as all interested parties, on request.

All interested parties shall have the right, after each draw and on request, to the issuance of an integral list of the certificates turned up in the series which interest them and are not yet reimbursed.

Section IV – Miscellaneous provisions related to life insurance and investment insurance contracts

Article 91 Declaration to the insurer

Whosoever shall claim to have been dispossessed by loss, destruction or theft of a contract or a life insurance policy, or of an investment insurance contract or certificate, when the certificate is to order or to bearer, must declare it to the insurance company, at its registered office, by registered letter with acknowledgement of receipt. The recipient company shall acknowledge receipt thereof to the sender, in the same form, within eight days following receipt at the latest; it shall notify the sender at the same time that they must, as a protective measure and all right reserved, pay the stated premium or contribution at their due dates, in the event that the third party bearer should not pay them, in order to conserve the full and entire effect of the contested payment contract.

The declaration stipulated in the above paragraph shall constitute objection of payment of the sum insured as well as all incidentals.

Article 92 Presentation of a contested contract

When a contested payment contract is presented to the company, it retains and sequesters it until a court decision is rendered regarding the certificate's ownership or until the objection is lifted.

A receipt of the seized contract shall be issued to the third party bearer upon showing proof of identity and residence.

In the absence of such proof, the contract shall be returned without further ado to the opposing party.

Article 93 Surrender of annuities

Life insurance companies may proceed with the surrender of annuities concerning contracts underwritten with them, when receipts for the corresponding instalments do not exceed CFA Francs 25,000.

The scale setting the surrender value of the aforementioned annuities shall be that of mathematical reserves.

Article 94 Life insurance in the event of war

All life insurance policies must contain a clause stipulating that, in the event of a foreign war, the contract shall only have effect under conditions which shall be set by each Member State after cessation of hostilities.

TITLE IV – Group insurances

Article 95 Definition

A group insurance contract is a contract underwritten by a legal entity or a head of business in view of membership by a group of persons meeting the conditions stipulated in the contract in order to cover risks happening during a lifespan, risks affecting a person's physical integrity or maternity risks, risks of incapacity for work or risks of disability or risk of unemployment. The members must have a common link with the underwriter.

Article 96 Insurance contributions – Clarity

The sums owed by the member to the underwriter for the insurance must be counted separately from those which they may owe him pursuant to another contract.

Article 97 Exclusion of a member

The underwriter may exclude a member from the benefit of the group insurance contract only if the link which unites them (the member and the underwriter) is broken or if the member ceases paying the premium.

The exclusion can take effect only after forty days as from the dispatch by the policyholder of a registered letter of formal notice. This letter can be sent only ten days at the earliest after the date on which the sums due must be paid.

At the time of the formal notice, the underwriter shall inform the member that at the expiry of the time-limit provided for in the above paragraph, the non-payment of the premium may lead to their exclusion from the contract.

This exclusion cannot avoid, as the case may be, satisfying the established rights of the insured in consideration of the premiums or contributions formerly paid by him.

When a member ceases to fulfil the membership conditions of a group insurance contract containing a savings, the company must offer him coverage of an individual contract or, in the event of refusal, pay back the amount of the mathematical reserve they are owed.

Article 98 Member information

The underwriter must:

- give to the member a note prepared by the insurer which explains the covers and the conditions for entry into force as well as the formalities to be fulfilled in the event of loss,
- inform in writing the members of the modifications to their rights and obligations that are being considered to be made.

The member can terminate their membership due to these modifications.

However, the right to terminate the membership is not granted to the member when the link which units him with the policyholder makes compulsory their membership to the contract.

The underwriter of a group insurance contract guarantying borrowers may not modify or terminate it without the agreement of each and every borrower.

TITLE V – Transitional provisions

Article 99 Transitional provisions

(Amended on 22 April 1999 by Decision of the Council of Ministers)

The provisions of Articles 1 to 98 shall be applicable forthwith to new contracts.

BOOK II – COMPULSORY INSURANCES

TITLE I – Insurance for land motor vehicles and their trailers and semi-trailers

Chapter I – Liable parties

Article 200

Liabile parties – Insured parties – Concerned parties – Concerned vehicles
(Amended on 20 April 1995 by Decision of the Council of Ministers)

Any natural or legal person other than the State, within the meaning of national law, that may incur civil liability due to damage to third parties resulting from bodily injury or property damage caused by a land vehicle person engine, and its trailers or semi-trailers, must, in order to drive said vehicles, have insurance covering this liability, under the conditions laid down in this Code.

Insurance policies covering the liability referred to in the first paragraph of this Article shall also cover the liability of any person having custody of or driving, even unauthorized, the vehicle, with the exception of automobile repair, sales and inspection professionals, as well as the civil liability for passengers in the vehicle being insured.

The contracts must cover, in addition to the liability of the persons mentioned in paragraph 1 of this Article, that of the underwriter and the owner of the vehicle.

The insurer shall be subrogated in the creditor of the compensation's rights against the person liable for the accident when the custody of the vehicle was obtained or when the vehicle was driven without the knowledge or against the will of the owner.

Members of the family of the driver or the insured are considered third parties in compliance with paragraph 1 of this Article.

Article 201

Professional repair and sale

Automobile repair, sales and inspection professionals must be insured for their own liability, that of the persons working in their business, and that of persons having custody of or driving the vehicle, as well as that of the passengers.

This obligation applies to the liability that the persons mentioned in the preceding paragraph may incur as a result of damage caused to third parties by the vehicles entrusted to the underwriter of the contract because of their functions and those used within the scope of the professional activity of the underwriter.

Article 202

Trailers

The obligation to insure shall apply to land motor vehicles and their trailers or semi-trailers.

Trailers or semi-trailers shall be understood to mean:

1° land vehicles built to be attached to a land motor vehicle and intended for the transport of persons or goods,

2° any land device attached to a land motor vehicle.

Except in the event of concealment or intentional misrepresentation, the addition of small trailers or semi-trailers to a land motor vehicle shall constitute, as defined in Articles 15 and 19, an increase of risk covered by the policy covering the vehicle.

Article 203
Railways and tramways

The provisions of Article 200 shall not apply to damage caused by railways and tramways.

Chapter II – Extent of the obligation to insure

Article 204 Territorial scope

The insurance stipulated in Article 200 must contain a civil liability coverage extending to all territories of the Member States of the CIMA. This coverage, when effective outside the territory of a Member State of the CIMA, shall be granted by the insurer within the limits and under the conditions provided for in the applicable legislation in the State where the claim occurred.

Article 205 Covered events

The obligation to insure applies to the compensation of property damage or bodily injury resulting from:

- 1° accidents, fires or explosions caused by the vehicle, its accessories and the products for its use, the objects and substances that it is transporting,
- 2° the fall of these accessories objects, substances or products.

Article 206 Authorised exclusions

As a derogation to the preceding provisions, the obligation to insure shall not apply to the repair of:

1° damages incurred:

- a) by the driving the vehicle,
- b) in the course of their employment, by employees or agents of the insured who is liable for damages,

2° damages or increase of damages caused by arms or devices intended to explode by structural modification of the atomic nucleus or by any nuclear fuel, product or radioactive waste or by any other source of ionising radiation which gives rise to the sole liability of an operator of a nuclear facility,

3° damage to property, goods or animals rented or entrusted to the driver regardless of any reason,

4° damage to merchandise and objects transported, save for deterioration of the clothing of the persons transported when it is the accessory to accidental bodily injury.

Article 207 Authorised exclusions – Driving licence

The insurance contract may, without contradicting the provisions of Article 200, include clauses providing for an exclusion from coverage in the following cases:

1° when, at the time of the claim, the driver is not of the required age or does not have the valid certificates required by the regulation in force for the driving of the vehicle, save in the event of theft, violence or use of the vehicle without the insured's knowledge,

2° with regards to damages incurred by persons transported, when the transport is not carried out in adequate safety conditions laid down by order of the competent authorities.

In addition, the contract may contain forfeiture clauses not prohibited by law, under reserve that they be inserted in the general conditions and that the forfeiture is a result of events subsequent to the claim.

The exclusion provided for in 1) of paragraph 1 of this Article may not be brought against a driver who is the holder of a certificate, declared to the insurer at the time of underwriting the contract or of its renewal, when this certificate is not valid for reasons pertaining to the place or

length of residency of its holder or when the restrictive conditions of usage, other than those pertaining to vehicle categories, appearing therein, were not adhered to.

Article 208 Other exclusions

Clauses of contracts whose purpose is to exclude liability incurred by the insured shall be valid, without the person subject to the obligation to insure being dispensed of this obligation, in the cases provided hereinafter:

1° for damages caused by the vehicle when it is transporting sources of ionising radiation intended to be used outside of a nuclear facility, insofar as said sources allegedly provoked or aggravated the claim,

2° for damages incurred by persons being transported subject to payment, except as regards contracts underwritten by persons carriers for the vehicles used in the exercise of their profession,

3° for damages caused by the vehicle, when it is transporting flammable, explosive, corrosive or combustible material and in this instance said material allegedly caused or aggravated the claim; however, non-insurance may not be invoked on the grounds of transport of oil, mineral essences or similar products, not exceeding 500 kilograms or 600 litres, including therein the supply of liquid or gaseous fuel necessary for the motor,

4° for damages incurred during testing, races, contests or trials thereof, subject by the regulation in force to prior authorisation of Administrative Authorities. Individuals participating in such tests, races, contests or trials in the capacity of competitor or organiser shall be considered to have fulfilled the prescriptions of this heading only if their liability is covered by insurance, under the conditions required by the applicable regulation.

Article 209 Excess

The insurance contract may stipulate that the insured remains liable for a part of the compensation due to an injured third party.

Article 210 Exceptions non-invocable against third parties

The following shall not be invocable against the victims or by their beneficiaries:

1° the limit of coverage provided for in Article 209, except in the event that the claim only caused property damages, the amount of which does not exceed the amount set by order of the Minister in charge of the insurance industry,

2° forfeitures,

3° reduction of the applicable compensation in compliance with Article 19,

4° the exclusions from coverage provided for in Articles 207 and 208.

5° the automatic termination under article 13-1 for claims incurred before the deadline for resolving the unpaid check or bill.

In the aforementioned cases, the insurer shall proceed with payment of the compensation on behalf of the liable party.

It may exercise, against the latter, an action for reimbursement of all the amounts paid or put into reserve in its stead.

Article 211 Forfeiture

Any clause stipulating forfeiture of the insured's coverage in the event of a sentence for drunk driving or driving under the influence of alcohol shall be considered unwritten.

However, such clause is opposable to the insured for non-obligatory coverage.

Article 212 Minimum tariff

Insurance companies shall freely determine their tariffs in motor third party insurance. These must be no less than the minimum tariff approved by the supervisory Commission for each Member State.

This minimum tariff shall be based notably on the following criteria:

- geographical driving zone,
- characteristics and use of the vehicle,
- socio-professional status and characteristics of the usual driver.

Chapter III – Supervision of the obligation to insure

Article 213 Insurance certificate and detachable certificate

Any driver of a vehicle mentioned in Article 200 must, under the conditions laid down in the Articles of this section, be able to present a document establishing the presumption of the fulfilment of the obligation to insure.

This presumption results from showing, to employees or agents entrusted with reporting offence to traffic police, one of the documents the conditions of preparation and validity of which are laid down in this Code.

These documents are composed of an insurance certificate kept by the owner of the vehicle and, detachable from this certificate, an insurance certificate compulsorily affixed to the motor vehicle.

Upon failure to show these documents, proof thereof shall be provided to judicial authorities by any means.

The documents stipulated in this Article shall not place an obligation of coverage upon the insurer.

Section I – Insurance certificate

Article 214 Contents of the certificate

For the application of Article 213, the insurance must issue, free of charge, a document of proof for each one of the vehicles covered by the policy.

Where contract coverage applies to both a motor vehicle and to its trailers or semi-trailers, one single document of proof may be issued, on the condition that it specifies the type of trailers or semi-trailers which may be used with the vehicle as well as, where applicable, their license plate number.

For insurance contracts concerning persons mentioned in Article 201, the document of proof must be issued by the insurance company in as many copies as is stipulated by the contract.

The document of proof must contain:

- the corporate name and address of the insurance company
- the last name, first names and address of the underwriter

- the number of the insurance policy
- the duration of insurance corresponding to the premium or part of premium paid
- the characteristics of the vehicle, notably its registration number or, by default and where applicable, the engine number,
- in the case mentioned in paragraph 3 of this article, the profession of the underwriter,
- the names of the countries on whose territory the contractual coverage applies.

Article 215 Evidential value of the certificate

The presumption that the obligation to insure has been fulfilled shall be established by the document of proof for the period of time thereon.

Article 216 Issuance of evidential documents: temporary certificate

The document of proof mentioned in Article 214 shall be issued with a maximum of fifteen days from the date of underwriting the contract and renewed at the time of payment of subsequent premiums or parts of premiums.

Upon failure to immediately issue this document, the insurance company issues free of charge, upon underwriting of the contract or during the contract, a temporary certificate which establishes the presumption of insurance during the period which it determines, the length of which may not exceed one month.

This certificate, which is drawn up if necessary in as many copies as the corresponding document of proof, must contain:

- the corporate name and address of the insurance company
- the last name, first names and address of the underwriter
- the nature and type of vehicle or, as regards the insurance contracts mentioned in Article 201, the profession of the underwriter
- the period during which it is valid.

Article 217 Form of the certificate

The size and colour of the insurance certificate mentioned in Article 214 and of the temporary insurance certificate mentioned in Article 216 shall be defined by the Supervisory Insurance Commission.

Article 218 Vehicles not subject to the obligation to insure

For usage of vehicles belonging to the State or placed at its disposal, not covered under an insurance contract and not subjected to special registration, a certificate of ownership shall be established by the competent administrative authority.

Article 219 Theft or loss of documents

In the event of loss or theft of the certificate, the insurer or the competent authority shall issue a duplicate thereof at the simple request of the person for whom the original document was drawn up.

Section II – Detachable insurance certificate

Article 220 Obligation

Any underwriter of an insurance contract referred to in Article 200 must affix a certificate of insurance to the motor vehicle, which is a detachable part of the insurance certificate.

Article 221 Contents of the certificate

Any licenced insurance company in a Member State of CIMA must issue, free of charge, a certificate for each of the vehicles covered under the contract, with the exception of trailers however.

The certificate must contain:

- a) the corporate name of the insurance company
- b) a number to identify the underwriter
- c) the registration number of the vehicle
- d) the engine number when the vehicle is not subject to registration
- e) the effective date and end of validity.

By derogation to the second paragraph, the certificate issued to the persons mentioned in paragraph 1 of Article 201 only has to contain items a) and b) and e) as well as, in clear print, the word “garage”.

Any driver of a vehicle on which the certificate described in the preceding paragraph is affixed must, in addition, be able to prove to the authorities in charge of the supervision of documents of proof that the driving of the vehicle was entrusted to them by one of the persons mentioned in paragraph 1 of Article 201.

Article 222 Temporary certifying document

The certificate stipulated in Article 221 shall be issued by the insurance company within a maximum of fifteen days of underwriting of the contract and renewed at the time of payment of subsequent premiums or parts of premiums.

Upon failure to issue the aforementioned documents, the insurance company shall issue, free of charge, upon underwriting of the contract or during the contract, a temporary certifying document.

The duration of validity indicated on the temporary certifying document shall be the same as those on the certificate and temporary certificate.

In the event of loss or theft of the certificate, the insurer shall issue a duplicate at the justified request of the underwriter.

Article 223 Duration of insurance

Coverage by the insurer shall end on the date laid down under special conditions of the contract.

Article 224 Vehicles not subject to the obligation to insure

Vehicles used by the State must be equipped, when they are not subject to special registration, with a specific insurance certificate, the characteristics of which are determined by the Minister in charge of the insurance industry.

Chapter IV – Indemnification of victims

Section I – Scope of application

Article 225 General provisions

The provisions of this Code apply even when they are transferred by virtue of a contract, to the victims of an accident caused by a land motor vehicle as well as its trailers or semi-trailers. They apply either at the time of the settlement, or at the time of the judicial proceedings.

Section II – Legal system of indemnification

Article 226 Act of God and third party act non-invocable

The driver or custodian of a vehicle mentioned in Article 225 may not oppose an act of God or third party act to the victims, including the drivers.

Article 227 Effect of driver error and impossibility of evaluating the errors committed (Amended on 22 April 1999 by Decision of Council of Ministers)

The error committed by the driver of the land motor vehicle has the effect of limiting or excluding indemnification for the bodily injury and property damage incurred. When the circumstances of a collision between two or several vehicles do not permit the establishment of liabilities incurred, each of the drivers only receives from the other driver(s) half of the indemnification of bodily injury or property damage incurred. When the driver of a land motor vehicle is not the owner thereof, the error of this driver may be brought against the owner for indemnification of the damages caused to their vehicle. The owner may, under reserve of the provisions laid down in Article 42, take action against the driver.

Article 228 Victims not qualified as drivers

The victims, except for the drivers of land motor vehicles, are indemnified of the damages resulting from bodily injury incurred, without their own fault being opposable to them, except of the event in which they wilfully sought the damages incurred. Supplies and devices issued by medical prescription give rise to indemnification in compliance with the same rules. The error committed by the victim has the effect of limiting or excluding indemnification of property damages which they incurred.

Article 229 Injured parties dependent on the victim

The injury incurred by individuals who can establish living jointly with the direct victim of the accident may give rise to compensation within the following limits:

- in the event of serious injury totally reducing the capacity of the direct victim, only the spouse(s) shall be compensated for non-pecuniary loss incurred, within the limit of two annual Guaranteed Minimum Wages, for all beneficiaries;
- in the event of death of the direct victim, the person indirectly injured shall be qualified, according to their age, as an adult child or minor. On this ground, they shall fall among the beneficiaries listed in Articles 265 and 266 of this Code.

The compensation to which they may lay claim comes under the upper limits set by these Articles.

Section III – Procedure of the offer

Article 230 Service of official reports

A copy of any report on bodily injury from a traffic accident must automatically be sent to the insurers concerned in said accident by the officers or agents of the judicial police having reported the accident. The time limit for service shall be 3 months as from the date of the accident.

The form and contents of the official reports shall be similar within the Member States of CIMA.

Article 231 Time limit for presenting the offer

(Amended on 24 April 1999 by Decision of Council of Ministers)

Independently of a claim which the victim may make, the insurer which covers civil liability arising of an accident involving a land motor vehicle must present, within twelve months maximum as from the occurrence of the accident, a compensation offer to the victim who has suffered bodily damage. In the event of death of the victim, the offer is made to their rightful beneficiaries as defined in Articles 265 and 266, within eight months of the death.

The offer shall include all items entitled to compensation of the bodily damage, including items pertaining to property damages when they have not been the subject of a prior settlement.

It may be of a temporary nature when the insurer has not, within six months of the accident, been informed of the stabilisation of the victim's state. The final compensation offer must, then, be made within a six month period following the date on which the insurer was informed of this stabilisation.

In the event that several vehicles and several insurers are concerned, the offer is made by the insurer designated in the compensation agreement on the account of third parties as pursuant to Articles 267 and following.

The preceding provisions shall not be applicable to the victims for whom the accident only caused damages to property (to vehicles and transported objects).

Article 232 Terms and conditions of service of reports

At the time of its first correspondence with the victim, the insurer must, under penalty of relative nullity of a possible settlement, notify the victims that they may obtain on its behalf, on simple request, the copy of the official police inquest and remind them that they may opt of their own choice, and at their expense, have themselves represented by a lawyer of their choice.

Article 233
Late offer: penalty

When the offer was not made within the time limits stipulated in Article 231, the amount of the compensation generates interest ipso jure at double the bank rate within the limit of the usury rate, from the expiry of the time limit up to the date on which the offer becomes final. This penalty is reduced, or nullified, by reason or circumstances which are not imputable to the insurer and, notably, when it does not have the address of the victim.

Article 234
Protection of minors and legally incapable persons
(Amended on 24 April 1999 by Decision of Council of Ministers)

The insurer must submit to the guardianship judge or to the family attorney, according to their competence to authorise this, any plan of settlement concerning a minor or a legally incapable person. It must also give notice without further procedure to the guardianship judge or to the family attorney, at least fifteen days in advance, of payment of the first annuity or any other sum to be paid out as indemnity to the legal representative of the person protected.

A payment which was not preceded by the required notice of transaction or which was not authorised may be annulled at the request of any interested party or the public prosecutor, with the exception of the insurer.

Any clause through which the legal representative rests upon the ratification by the minor or the legally incapable person of one of the documents mentioned in the first paragraph of this Article shall be null and void.

Article 235
Option to terminate the settlement

The victim may, by registered letter with acknowledgment of receipt, terminate the settlement within fifteen days of its conclusion on the grounds of non-compliance with this Code.

Any clause of the transaction through which the victim gives up their right of termination shall be null and void.

The above provisions must be written in very clear print in the settlement offer and in the settlement, under penalty of nullity of the latter.

Article 236
Delay of payment and late penalty

The payment of the amounts agreed upon must take place within one month after expiry of the termination time limit set in Article 235.

Otherwise, the unpaid amounts generate interest ipso jure at the bank rate increased by half during two months, then at the expiry of these two months, at double the bank rate.

Article 237
Exception from coverage: settlement on account
(Amended on 20 April 1995 by Decision of Council of Ministers)

When the insurer requests an exception from legal or contractual coverage provided for in Article 201 hereinabove, they must fulfil the prescriptions of Articles 231 to 236 on account of the party concerned; the settlement which took place may be contested, before the judge by the party on whose account it was performed, without the sum of the amounts allocated to the victim or their beneficiaries being brought into question again.

Article 238

State vehicles

For the application of Articles 231 to 236 the State shall be treated as an insurer.

Article 239

Contested settlement: time limits and terms and conditions

(Amended on 24 April 1999 by Decision of Council of Ministers)

When the insurer covering civil liability and the victim do not reach an agreement within the time limit stated in Article 231, the indemnity due by the insurer shall be calculated according to the terms and conditions set in Articles 258 and following.

The litigation between insurers and victims may only be brought before the judicial authority after expiry of the time limit in Article 231.

The judge shall set the indemnity according to the terms and conditions stated in Articles 258 and following.

Article 240

Production of documents by the victim

The victim must, at the request of the insurer, provide the following information:

- 1°) last and first names,
- 2°) date and place of birth,
- 3°) professional activity and the address of employer(s),
- 4°) amount of professional income with the relevant supporting documents,
- 5°) a description of bodily injury incurred along with a copy of the medical certificate and other documents of proof in the event of stabilisation,
- 6°) a description of damages caused to property,
- 7°) last, first names and addresses of persons for whom they are responsible at the time of the accident,
- 8°) a list of third party payers due to pay them benefits,
- 9°) the location to which correspondence must be addressed.

The victim must, at the request of the insurer, produce the following documents:

- 1) Identity card
- 2) Birth certificate
- 3) Marriage certificate

Article 241

Production of documents by beneficiaries of the victim

Where the offer of indemnification must be presented to the beneficiaries of the victim, to their spouse(s) or to the persons stipulated in Article 265, each of these persons must, at the request of the insurer, provide the following information:

- 1°) last and first names,
- 2°) date and place of birth,
- 3°) Last and first names, date and place of birth of the victim,
- 4°) relationship to the victim,
- 5°) professional activity and the address of employer(s),
- 6°) a description of loss, notably expenses of any nature which they incurred due to the accident,
- 7°) last, first names and addresses of persons for whom they are responsible at the time of the accident,
- 8°) a list of third party payers due to pay them benefits,
- 9°) the location to which correspondence must be addressed.

The same persons must, at the request of the insurer, produce the following documents:

- 1) Death certificate of the victim
- 2) Final ruling of inheritance
- 3) Certificate of existence of the beneficiaries,
- 4) Certificate of cause of death,
- 5) Civil status and identification documents of the beneficiaries.

Article 242

Information which must appear on correspondence

Correspondence addressed by the insurer in application of Articles 231 and 240 shall include, in addition to the information stated in Article 232, the name of the person in charge of handling the accident file. It shall remind the interested party of the consequences of failure to reply or of an incomplete reply. It shall indicate that the copy of the official report of the police inquest, which they may request pursuant to Article 232, shall be issued to them free of charge.

Article 243

Contents of the offer

The offer of compensation must indicate, in addition to the information required by Article 231, the assessment of each head of damages and the amounts which are due to the beneficiary. The offer shall specify, where applicable, limitations of or exclusions from indemnification relied on by the insurer, as well as the grounds thereof. In the event of exclusion from indemnification, the insurer shall not be under the obligation, in their notification, to provide the information and documents stated in the first paragraph.

Article 244

Notification to the victim of a medical examination

In the case of a medical examination performed for the purpose of the offer of indemnification mentioned in Article 231, the insurer or its empowered agent shall advise the victim, fifteen days prior to the examination at least, of the identity and qualification of the physician assigned to perform this, of the purpose, the date and place of the examination, as well as the name of the insurer on whose account it is performed. It shall inform the victim at the same time that they may be assisted, at their expense, by a physician of their choice.

Article 245

Communication of the medical report

Within twenty days from the medical examination, the physician shall serve a copy of their report to the insurer, to the victim and where applicable, to the physician who assisted the latter.

Article 246

Indication to the victim of action by third party payers

The offer of indemnity must indicate, in addition to the stipulations required by Article 231, the debts of each third party payer and the amounts which are due to the beneficiary. It shall be accompanied by a copy of the deductions made by the third party payers. If the victim or their beneficiaries have not communicated to the insurer the list of third party payers, the payment made is exonerating, the third party payers must address their recourse to the victim or their rightful beneficiaries of the indemnity.

Section IV – Extension and suspension of time limits

Article 247

Late declaration of the accident to the insurer

In the event that the insurer which guarantees civil liability due to the action of a motor vehicle is not notified of the traffic accident within the month of the accident, the time limit stated in the first paragraph of Article 231 to present a compensation offer shall be suspended upon expiry of a one month time limit until receipt of said notification by the insurer.

Article 248

Case of death subsequent to the accident

In the event that the victim of a traffic accident dies more than one month after the date of the accident, the time limit stated in Article 231 to present a compensation offer to the heirs and, where applicable, to the spouse of the victim shall be extended by the length of time from the date of the accident and the date of death.

Article 249

Late communication of supporting documents

Within six weeks from the presentation of the correspondence, in which the insurer requests the information which must be sent to him in compliance with Articles 240 or 241 hereinabove, if the insurer does not receive a reply or only an incomplete reply, the time limit stated in the first paragraph of Article 231 shall be suspended from the expiry of the six week time limit, until receipt of the letter containing the requested information.

Article 250

Absence of reply or incomplete reply from the victim

If the insurer has not received any reply or only an incomplete reply within six weeks of the presentation of the correspondence by which, informed of the stabilisation of the victim's state, it requested from the latter the information mentioned in Article 240 necessary to present the offer of indemnity, the time limit stated in the first paragraph of Article 231 shall be suspended with effect from the expiry of the six week time limit, until receipt of the reply containing the requested information.

Article 251

New request by the insurer, delay in the offer in the case of incomplete reply

When the victim, or their beneficiaries, only provide part of the information requested by the insurer in its correspondence and the reply does not permit, by reason of the absence of sufficient information, the establishment of the offer of indemnity, the insurer shall have one month from receipt of the incomplete reply to present another request to the interested party, in which it specifies the information which is lacking.

In the event that the insurer did not respect this time limit, the suspension of the time limits stated in Articles 249 and 250 ceases on expiry of a one month time limit from receipt of the incomplete reply; when the latter has arrived within the six week time limit mentioned in Articles 249 and 250 and the insurer did not request, within a fifteen day time limit from receipt, the necessary information, there is no reason to suspend the time limits stated in Article 231.

Article 252

Refusal of medical examination or contestation of the chosen physician

When the victim refuses being subjected to the medical examination mentioned in Article 244 hereinabove or when they contest the choice of the physician without reaching an agreement with the insurer, the designation, at the request of the insurer, of an expert physician by mutual agreement between the physician of the insurer and the physician of the victim, shall extend by one month the time limit allowed for the insurer to present the offer of indemnity.

Article 252 bis

Divergence on the conclusion of the expert opinion

If there is divergence on the conclusion of the medical examination, the insurer's expert and the expert designated by the victim shall designate a third expert by mutual agreement. The opinion of the latter shall prevail. The time limit allowed for the insurer to present the offer of indemnity shall be extended by one month.

Article 253

Supplementary time limits on the event of residence abroad

In the event that the victim resides abroad, the time limits allowed pursuant to Articles 249 and 250 hereinabove shall be increased by one month. The time limit allowed for insurers to present the offer of indemnity shall be extended by the same length of time.

Section V – Action of third party payers

Article 254

Benefits giving rise to cause of action

The following benefits of a compensatory nature shall give rise to cause of action against the person liable for compensation:

In the event of death:

- death benefits paid by any social organisation whatsoever,
- annuities and survivor's pensions paid by these organisations or by the various debtors for the benefit of either the surviving spouses as well as children of the victim.

In the event of injury:

- benefits paid by social organisations by reason of
 - medical treatment and re-education expenses,
 - cash benefits for temporary or permanent disability
- the salaries and salary supplements maintained by the employer,
- benefits paid by mutual groups,
- benefits paid out by the insurer which has indemnified the insured within the scope of a pre-settlement funding contract.

Article 255

Production of the debts of third party payers

The request addressed by the insurer of a third party payer for the purpose of the production of their debts shall indicate the last name, first names, address of the victim, their professional activity and the address of their employer(s).

The third party payer shall specify to the insurer for each amount for which they request reimbursement, the legislative, regulatory or conventional provision pursuant to which this amount is due to the victim.

In all cases, failure to produce the debts of third parties, within a four month time limit as from the request issued by the insurer, shall lead to termination of their rights against the insurer and the perpetrator of the damage.

In the event that the request issued by the insurer does not mention the stabilisation of the victim's state, the debts produced by third party payers shall have a provisional nature.

Section VI – Prescription

Article 256

Limitation periods

(Amended on 20 September 1996 by Decision of Council of Ministers)

Legal actions in tort liability, to which this Code is applicable, shall be limited to a maximum period of five years following the accident.

However, for accidents where the remaining limitation period is no less than five years, the time limit shall run from the effective date of this Code. For States having ratified the Treaty subsequently to the effective date of the Code, the limitation period stated in paragraph 1 hereinabove only runs from the ratification date of said Treaty.

Accidents for which the remaining limitation period is less than five years shall not be concerned by the provisions of this Article.

Section VII – Terms and conditions of the direct victim's compensation

Article 257

Indemnifiable losses

The only losses liable for indemnification shall be those mentioned in Articles 258 to 266.

Article 258

Expenses

(Amended on 24 April 1999 by Decision of Council of Ministers)

Expenses of any kind may be either reimbursed to the victim on presentation of supporting documents thereof, or be directly payable by the insurer of the vehicle having caused the accident.

Nevertheless, their costs may not exceed two times the maximum tariff of public hospitals.

At the request of the victim, the insurer of the vehicle having caused the accident or of the vehicle in which the victim was transported must issue, within the tariff limit provided for hereinabove, a letter of guarantee for medical expenses.

Future expenses, reasonable and indispensable for the maintenance of the victim's health of state subsequent to stabilisation, shall depend on a contractual evaluation after having sought the opinion of an expert.

Article 259

Temporary disability

(Amended on 24 April 1999 by Decision of Council of Ministers)

The length of temporary disability shall be determined by medical examination.

In the event of loss of income, the evaluation of the loss shall be based:

- for salaried persons, on the net income (salaries, advantages or bonuses of a statutory nature) received during the six months preceding the accident,
- for non-salaried persons having income available, on the tax declaration of the two years preceding the accident,
- for adults without income, on the monthly Guaranteed Minimum Wage (GMW).

In the first two cases, the monthly indemnity to pay out shall not exceed three times the annual GMW.

The GMW shall be understood to be that for the country on whose territory the accident occurred.

Article 260

Permanent disability

(Amended on 24 April 1999 by Decision of Council of Ministers)

a) Physiological damage

The level of disability shall be determined by medical examination, taking into account the reduction of physical ability.

The level shall vary between 0 and 100% by reference to the medical scale adopted by CIMA, appearing as an appendix to this Book.

Compensation provided for in the event of failure by the insurer and the victim to reach an agreement within the time limit set in Article 239 shall be calculated according to the following value scale of disability points:

Value of the PD level (in percentage of the annual GMW)								
PD level	AGE OF INJURED PARTY (in years)							
	Less than 15	Between 15 and 19	Between 20 and 24	Between 25 and 29	Between 30 and 39	Between 40 and 59	Between 60 and 69	70 and over
Less than 5	6	6	6	6	6	6	5	5
From 6 to 10	12	12	12	12	12	12	10	10
From 11 to 15	14	14	14	14	14	12	10	10
From 16 to 20	16	16	14	14	14	12	12	12
From 21 to 30	17	17	16	16	16	14	14	12
From 31 to 40	18	18	17	17	16	14	14	13
From 41 to 50	18	18	18	17	17	16	15	13
From 51 to 70	19	19	19	18	18	17	16	14
From 71 to 90	25	20	20	19	19	18	17	15
From 91 to 100	29	24	24	22	22	20	19	18

b) Economic loss

This loss shall only be compensated if it is related to the allocation of a permanent disability level of at least 50%.

The compensation shall be calculated:

- for salaried persons, in proportion with real and proven loss,
- for non-salaried persons, in proportion to the loss of income established and proven.

In any event, this compensation shall not exceed seven times the annual GMW of the country on whose territory the accident occurred.

c) Non-pecuniary loss

This loss shall only be compensated if it is related to the allocation of a permanent disability level of at least 80%.

The compensation shall be set to once annual GMW of the country on whose territory the accident occurred.

Article 261

Assistance to a third party

The victim shall only benefit from compensation for assistance of a third party on the condition that the level of permanent disability is no less than 80% according to the scale stated in Article 260.

The assistance must be the subject of an explicit medical prescription confirmed by examination.

The compensation allocated for it shall not exceed of 25% of the compensation for permanent disability.

Article 262

Physical suffering and aesthetically damage

Physical suffering (or pretium doloris) and aesthetic damage shall be compensated separately. They shall be classified by medical examination and compensated according to the scale hereinafter, expressed in percentage of the annual GMW:

1°)	very
slight.....	5
2°)	
slight.....	
10	
3°)	
moderate.....	
20	
4°)	
average.....	
40	
5°)	quite
severe.....	60
6°)	
severe.....	
100	
7°)	
chronic.....	1
50	
8°)	exceptional
.....	300

Article 263

Prejudice to career

Prejudice to career shall be understood as:

- either the loss of a certain chance of a career to which a pupil or a student in primary, higher education or its equivalent, may reasonably aspire,
- or the loss of career incurred by a person already working.

In the first case, the compensation to be allocated may not exceed twelve months of official scholarship in the corresponding category.

In the second case, the compensation shall not exceed six months of income calculated within the limits of the conditions stated in Article 259 hereinabove.

The aforementioned compensations may not be cumulative. In the event of disagreement between the insurer and the victim on the existence of the loss, these compensations shall be set by the competent judge within the limits hereinabove. Disagreement may not hinder the settlement of the other indemnities.

Section VIII – Terms and conditions of the compensation of the beneficiaries of the deceased victim

(Amended on 20 April 1995 by Decision of Council of Ministers)

**Article 264
Funeral expenses**

Funeral expenses shall be reimbursed upon presentation of supporting documents and within the limits of the annual GMW.

Article 265

Economic loss of the beneficiaries of the deceased

(Amended on 24 April 1999 by Decision of Council of Ministers)

Each direct ascendant, spouse and child of the deceased shall receive a sum equal to a percentage of duly proven annual income, of the deceased the value of one France of annuity corresponding to their age, according to the conversion table at the end of this Book.

Upon failure to prove the income, calculation of the economic loss incurred by the aforementioned persons shall be performed, under the same conditions, on the basis of a fictitious income corresponding to one annual GMW.

Capitalisation shall be limited to twenty-one years for children except where they show proof of pursuit of university education, in which case the limit shall be extended to twenty-five years.

The distribution percentages of the deceased’s income among the members of their family (ascendant(s), spouse(s) and child(ren)) are indicated in the following tables:

DISTRIBUTION FOR UP TO FOUR DEPENDENT CHILDREN				
In percentage of income	Ascendants with uniform distribution between ascendants	Spouse(s) with uniform distribution between spouses	Child(ren) with uniform distribution between children	Complete orphan(s) with uniform distribution between orphans
% of income to capitalise according to the age of the beneficiary	5	40	30	50

DISTRIBUTION FOR OVER FOUR DEPENDENT CHILDREN				
In percentage of income	Ascendants with uniform distribution between ascendants	Spouse(s) with uniform distribution between spouses	Child(ren) with uniform distribution between children	Complete orphan(s) with uniform distribution between orphans
% of income to capitalise according to the age of the beneficiary	5	35	40	50

The above proportions shall be distributed among the dependent children, the direct ascendants (father and mother) and the spouses, in an equal manner within each group of beneficiaries.

In the event that a family includes both single orphans and double orphans, the table to be used is that of the double orphans.

The aggregate compensation due to beneficiaries for economic loss shall not exceed sixty five times the annual GMW amount of the Member State within whose territory the accident occurred.

Article 266

Non-pecuniary loss of the deceased's beneficiaries

(Amended on 20 April 1995 by Decision of Council of Ministers)

Only the non-pecuniary loss of the spouse(s), minor child(ren), adult child(ren), ascendants and brothers and sisters of the deceased victim shall be compensated.

Compensations shall be determined according to the table hereinafter, per beneficiary:

In percentage of the annual GMW

Spouse(s).....	.....
.....150		
Minor children.....	.....75	
Adult children.....	.....5	
0		
Ascendants (first degree).....	.....50	(first degree)
Brothers and sisters.....	.....25	and

In the event of polygamy, the total amount of compensations allocated to them for non-pecuniary loss may not exceed 300% of the annual GMW.

However, compensations of all beneficiaries shall be proportionally reduced when their total exceeds the annual GMW 15 times.

Section IX – Compensation on account

I - Proxy

Article 267

Multiple vehicles accident

(Amended on 20 April 1995 by Decision of Council of Ministers)

In the event of an accident involving one single vehicle, the offer procedure shall be incumbent upon the civil liability insurer of this vehicle, regardless of the capacity of the victim: person transported or mobile third party (pedestrian, cyclist, horseback rider...).

Where several vehicles are involved in an accident resulting in bodily injury, the offer of compensation to victims shall take place according to the following terms and conditions.

Article 268

Choice of the person responsible of the offer procedure

(Amended on 20 April 1995 by Decision of Council of Ministers)

In the event of an accident caused by several vehicles the offer procedure shall be incumbent:

- with regards to the persons transported, upon the liability insurer of the vehicle in which the victims were seated;

- with regards to mobile third parties, upon the insurer of the vehicle that hit the victim. Upon failure to identify the vehicle, the offer shall be presented by the insurer of the vehicle whose license plate number is the lowest;
- at any time, the insurer who feels that its insured's liability is preponderant, may demand management of the case.

Article 269

Person responsible for the offer procedure

(Amended on 22 April 1995 by Decision of Council of Ministers)

In relationships between drivers, governed by Article 268 of this Code, and for bodily injury and material damage, the offer procedure is incumbent where applicable:

- in the case of an accident between two vehicles, on the insurer designated by the scale of liability attached hereto;
- in the case of an accident involving more than two vehicles, on the insurer of the vehicle whose license plate number is the lowest.

Article 270

Liability of the payer on account

The insurer who acts on account of others shall be mandated to act as if this dealt with its own interests.

Any late interests incurred shall remain payable by it.

Article 271

Subrogation of the payer on account

The insurer who paid the sums due to the victim as well as to third party payers shall be subrogated in the rights of the compensated persons up to the amount of the payments made.

Article 272

Competence of the examining physician

The physician or technical expert designated by the mandated insurer must prove:

- either their capacity as legal experts registered on the list drawn up for said purpose,
- possession of relevant qualification,
- or five years of uninterrupted practice in the area concerned.

Each State shall have the list of experts authorised to practice.

II – Action following settlement on account

Article 273

Incontestability of the settlement on account

Payments made in compliance with the provisions of this Code may not be contestable.

Article 274

Contribution of insurers

(Amended on 24 April 1999 by Decision of Council of Ministers)

The contribution of insurers after compensation of the injured parties by the mandated insurer shall be established, with regards to each one of the victims, according to the part of liability borne by each driver.

Liabilities shall be determined in application of the scale at the end of this Book.

This scale shall also be applicable for the direct compensation of victims when the claim only generated property damages.

Upon failure to reach an agreement on the extent of the liabilities incurred, the amount of the damage compensated shall be shared between liability insurers in equal parts.

The part that is not paid by an uninsured or unknown co-perpetrator shall be borne by the Motor Guarantee Fund of the country on whose territory the accident occurred. If a Motor Guarantee Fund does not exist, this part shall be borne by the other insurers in equal parts.

Article 275

Contribution in the case of undetermined liability

In the event that liabilities cannot be established, each driver shall bear half of the property damage and bodily injury incurred, or which their beneficiaries incurred as a result of their death.

The other half compensated by virtue of the mandate shall be borne in equal part by the civil liability insurers of each of the other co-perpetrators involved in the collision.

III - Conciliation and arbitration

Article 276

National Arbitration Commission

(Amended on 20 April 1995 by Decision of Council of Ministers)

Conflicts arising from actions shall compulsorily be subject to arbitration with the National Arbitration Commission, composed of three insurers from companies other than those in in the litigious action.

The members composing the Arbitration Commission render their decision as arbitrators within one month of referral. Their mandate, one year, is bestowed to them by the national association of motor insurers.

For a market in which the number of companies is reduced, the insurers shall, by mutual agreement, designate a third party arbitrator.

Article 277

Late interest

Amounts due and payable, yet unpaid, shall generate interest at the bank interest rate as from the month elapsed following the date of the request.

TITLE II – Insurance of cargo for importation

Article 278

Insurance of cargo for importation

Insurance for cargo importation shall be compulsory when national legislations so state. It is thereafter governed by the special provisions of these legislations.

TITLE III – Transitional provisions

Article 279

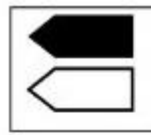
Transitional provisions

The provisions of Articles 200 to 278 shall be applicable forthwith.

They apply to all accidents which did not lead to a final court decision or a settlement between the parties.

However, they shall not be retroactively applicable with regards to Articles 200 last paragraph and 206 to 211 of this Code.

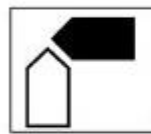
LIABILITY SCALE



VEHICLES TRAVELLING IN THE SAME DIRECTION ON THE SAME ROADWAY



VEHICLES TRAVELLING IN OPPOSITE DIRECTIONS



ONCOMING VEHICLES FROM TWO DIFFERENT ROADWAYS
Their paths must cross each other or converge.



STATIONARY VEHICLES



SPECIAL CASES



EXCEPTIONS

IMPORTANT NOTE

To use this scale, refer to the Regulations for Practical Application.
The conditions under which each case must be applied are specified and annotated therein.






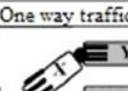

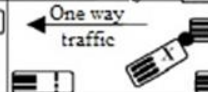

LIABILITY SCALE





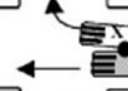
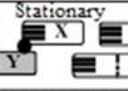

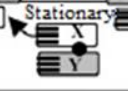

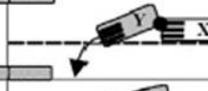



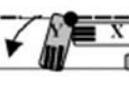
VEHICLES TRAVELLING IN THE SAME DIRECTION ON THE SAME ROADWAY

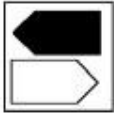
Share of liability	
X	Y

Vehicles X and Y on the same lane (X hit on its rear end)

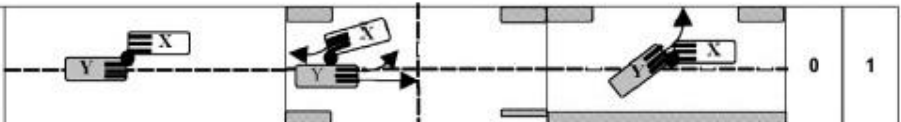
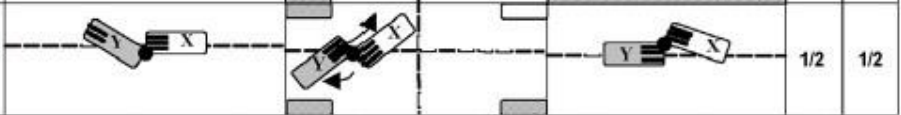
10	Vehicles X and Y travelling in the same direction.				0	1
11	Vehicle X turning into a lateral roadway.				0	1
12	Vehicle X moving forward and parking or entering a parking lot, an area closed to public traffic, a dirt road.				1/4	3/4

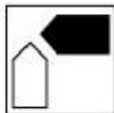
Vehicles X and Y in two different lanes

13	Vehicles X and Y not changing lanes. Vehicles X and Y moving.				1/2	1/2
14	Vehicles X and Y not changing lanes. Vehicle X stationary.				0	1
15	Vehicle Y changing lanes.				0	1
17	Vehicles Y changing lanes by turning left into a lateral roadway. X encroaching on or crossing over the centre line.				1/2	1/2

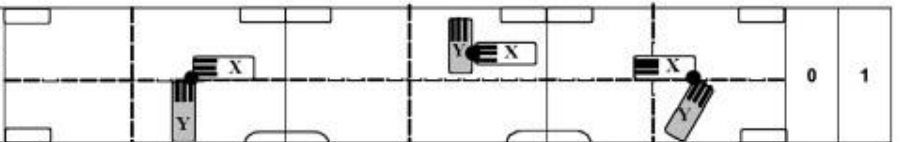
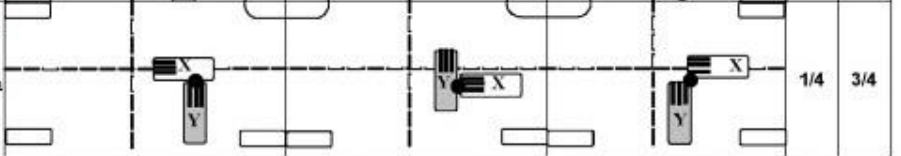


VEHICLES TRAVELLING IN OPPOSITE DIRECTIONS

20	<p>Vehicle Y encroaching on or passing the centre line (even to take a roadway on the left). Vehicle X moving in its traffic lane.</p>		0	1
21	<p>Vehicles X and Y both encroaching on the centre line or whose position on the roadway in relation to the centre line may not be determined.</p>		1/2	1/2



ONCOMING VEHICLES FROM TWO DIFFERENT ROADWAYS
Their paths must cross each other or converge.

30	<p>Vehicle X has priority to the right while travelling in its traffic lane.</p>		0	1
31	<p>Vehicle X has priority to the right on a two way road and encroaching on the centre line or crossing it when it is not a solid line. Vehicle Y travelling in its traffic lane.</p>		1/4	3/4



STATIONARY VEHICLES

Share of liability	
X	Y

		X	Y
40	Vehicle X parked appropriately (or stopped appropriately).	0	1
41	Vehicle X appropriately parked (or stopped appropriately) along sidewalk in urban area.	0	1
42	Vehicle X appropriately parked (or stopped appropriately) in cases other than that stated in case 41.	1/4	3/4
43	Vehicle X appropriately parked (or stopped appropriately) outside of urban area.	1/2	1/2

Roadway:

Part of the road normally used for traffic by vehicles.

Line of vehicles:

Succession of vehicles (two or more) positioned one behind the other: vehicles, even partially, in extension one of the other shall be considered to be in the same line.

Lane change:

Manoeuvre by which a vehicle leaves its line to travel in that of the other vehicle. Movement of a vehicle which disturbs that of other vehicles.

Centre line:

- solid line,
- the middle of the road or part of the road left available by a line of parked vehicles or for public works when there is no solid line.



SPECIAL CASES

50	Vehicle Y not observing: <ul style="list-style-type: none"> • a police barrier • a priority sign (STOP road sign) • a traffic light • a one way traffic sign • a no overtaking sign • a no right or no left turn sign • a solid line • road signs on the road surface, especially directional arrows • movement on a pavement prohibited to vehicles 	0	1
51	Vehicle Y turning at a flashing yellow traffic arrow, X passing through a green light.	0	1
52	Vehicle Y backing up or making a U-turn.	0	1
53	Vehicle Y leaving a parked position from a parking lot; a place not open to public traffic, a dirt road.	0	1
54	Opening of the right or left door of vehicle. Hit on the door.	0	1

Parking lot:

Space used for parking vehicles. Secondary roads that do not open straight on the public works when there is no solid line.

Area not open to public traffic:

- area in front of which a sign placed prohibiting traffic,
- access to private property when it serves this property exclusively and does not belong to the town, department or national road network,
- are with a sign restricting traffic to a determined category of persons: residents or others,
- prohibited area, either locked off by a chain, or by any barrier whatsoever.

Dirt road:

Any road simultaneously meeting the following three conditions:

- not signalled in advance by an official traffic sign,
- not containing any surfacing (macadamisation, paving, tarring, asphalt),
- not belonging to the town, department or national road network.



EXCEPTIONS

55	Vehicle X subject to special traffic rules.	1/4	3/4
56	Accumulated liability exceeding 4/4.	1/2	1/2

Rear end of the vehicle:
Part of the vehicle located behind the tires.

CONVERSION TABLE
CAPITALISATION SCALE OF LIFE ANNUITIES
Mortality table: 60/64 MHK – Capitalisation rate: 6.50% – Revaluation rate: 0.00%
MALE

Age limit for payment of annuity: 65 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
-----	-----------------------------	-----	-----------------------------

0	.....14.576	51	.....10.637
1	.....14.910	52	.....10.440
2	.....14.915	53	.....10.237
3	.....14.903	54	.....10.030
4	.....14.884	55	.....9.818
5	.....14.861	56	.....9.602
6	.....14.835	57	.....9.381
7	.....14.807	58	.....9.156
8	.....14.777	59	.....8.928
9	.....14.744	60	.....8.696
10	.....14.709	61	.....8.461
11	.....14.671	62	.....8.223
12	.....14.631	63	.....7.983
13	.....14.588	64	.....7.741
14	.....14.543	65	.....7.498
15	.....14.497	66	.....7.254
16	.....14.450	67	.....7.010
17	.....14.401	68	.....6.766
18	.....14.353	69	.....6.523
19	.....14.304	70	.....6.282
20	.....14.253	71	.....6.043
21	.....14.200	72	.....5.808
22	.....14.144	73	.....5.577
23	.....14.086	74	.....5.351
24	.....14.025	75	.....5.132
25	.....13.959	76	.....4.921
26	.....13.891	77	.....4.720
27	.....13.818	78	.....4.531
28	.....13.740	79	.....4.356
29	.....13.658	80	.....2.707
30	.....13.571	81	.....3.582
31	.....13.480	82	.....3.371
32	.....13.384	83	.....3.167
33	.....13.284	84	.....2.969
34	.....13.180	85	.....2.778
35	.....13.071	86	.....2.593
36	.....12.958	87	.....2.415
37	.....12.839	88	.....2.244
38	.....12.716	89	.....2.081
39	.....12.588	90	.....1.924
40	.....12.455	91	.....1.775
41	.....12.316	92	.....1.633
42	.....12.172	93	.....1.498
43	.....12.023	94	.....1.371
44	.....11.869	95	.....1.250
45	.....11.709	96	.....1.136
46	.....11.544	97	.....1.030
47	.....11.373	98	.....0.930
48	.....11.197	99	.....0.836
49	.....11.016	100	.....0.748
50	.....10.829		.....

CONVERSION TABLE
CAPITALISATION SCALE OF LIFE ANNUITIES
Mortality table: 60/64 MHK – Capitalisation rate: 6.50% – Revaluation rate: 0.00%
FEMALE

Age limit for payment of annuity: 65 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
-----	-----------------------------	-----	-----------------------------

0	14.806	51	11.861
1	15.065	52	11.688
2	15.077	53	11.509
3	15.072	54	11.323
4	15.061	55	11.130
5	15.048	56	10.931
6	15.033	57	10.725
7	15.016	58	10.512
8	14.997	59	10.293
9	14.976	60	10.067
10	14.953	61	9.835
11	14.929	62	9.597
12	14.904	63	9.352
13	14.876	64	9.103
14	14.848	65	8.848
15	14.818	66	8.588
16	14.787	67	8.324
17	14.755	68	8.056
18	14.721	69	7.784
19	14.686	70	7.509
20	14.650	71	7.232
21	14.612	72	6.953
22	14.572	73	6.672
23	14.529	74	6.391
24	14.485	75	6.110
25	14.438	76	5.830
26	14.388	77	5.551
27	14.336	78	5.275
28	14.281	79	5.001
29	14.223	80	4.731
30	14.163	81	4.466
31	14.099	82	4.205
32	14.032	83	3.950
33	13.961	84	3.701
34	13.886	85	3.459
35	13.807	86	3.224
36	13.724	87	2.997
37	13.636	88	2.778
38	13.544	89	2.567
39	13.448	90	2.365
40	13.346	91	2.173
41	13.240	92	1.989
42	13.128	93	1.815
43	13.011	94	1.650
44	12.888	95	1.494
45	12.760	96	1.348
46	12.625	97	1.210
47	12.485	98	1.082
48	12.339	99	0.963
49	12.186	100	0.851
50	12.026		

CONVERSION TABLE
CAPITALISATION SCALE OF TEMPORARY ANNUITIES
 Mortality table: 60/64 MHK – Capitalisation rate: 6.50% – Revaluation rate: 0.00%
MALE

Age limit for payment of annuity: 65 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
0	.14.492	33	.12.575
1	.14.819	34	.12.423
2	.14.818	35	.12.263
3	.14.799	36	.12.095
4	.14.773	37	.11.918
5	.14.743	38	.11.731
6	.14.710	39	.11.536
7	.14.674	40	.11.330
8	.14.634	41	.11.114
9	.14.592	42	.10.886
10	.14.547	43	.10.647
11	.14.499	44	.10.396
12	.14.447	45	.10.132
13	.14.392	46	.9.855
14	.14.335	47	.9.563
15	.14.276	48	.9.255
16	.14.213	49	.8.932
17	.14.149	50	.8.591
18	.14.084	51	.8.232
19	.14.017	52	.7.854
20	.13.947	53	.7.454
21	.13.873	54	.7.031
22	.13.796	55	.6.583
23	.13.715	56	.6.109
24	.13.628	57	.5.604
25	.13.537	58	.5.068
26	.13.440	59	.4.495
27	.13.337	60	.3.881
28	.13.228	61	.3.223
29	.13.111	62	.2.513
30	.12.988	63	.1.745
31	.12.857	64	.0.911
32	.12.720	65	.0.000

Age limit for payment of annuity: 60 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
0	.14.425	31	.12.355
1	.14.745	32	.12.184
2	.14.739	33	.12.004
3	.14.715	34	.11.813
4	.14.684	35	.11.612
5	.14.648	36	.11.399
6	.14.609	37	.11.175
7	.14.566	38	.10.938
8	.14.519	39	.10.688
9	.14.470	40	.10.423
10	.14.417	41	.10.144
11	.14.360	42	.9.850
12	.14.299	43	.9.538
13	.14.235	44	.9.209
14	.14.167	45	.8.861
15	.14.095	46	.8.493
16	.14.022	47	.8.103
17	.13.945	48	.7.690
18	.13.867	49	.7.252
19	.13.785	50	.6.787
20	.13.700	51	.6.294
21	.13.610	52	.5.769
22	.13.515	53	.5.210
23	.13.415	54	.4.613
24	.13.309	55	.3.975
25	.13.196	56	.3.293
26	.13.077	57	.2.560
27	.12.950	58	.1.772
28	.12.814	59	.0.921
29	.12.670	60	.0.000
30	.12.517		

Age limit for payment of annuity: 55 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
0	14.322	28	12.184
1	14.633	29	11.998
2	14.620	30	11.800
3	14.588	31	11.590
4	14.548	32	11.368
5	14.503	33	11.132
6	14.454	34	10.883
7	14.401	35	10.618
8	14.344	36	10.338
9	14.283	37	10.042
10	14.218	38	9.728
11	14.148	39	9.394
12	14.073	40	9.041
13	13.994	41	8.667
14	13.910	42	8.269
15	13.822	43	7.847
16	13.730	44	7.399
17	13.635	45	6.923
18	13.536	46	6.417
19	13.432	47	5.878
20	13.324	48	5.303
21	13.209	49	4.691
22	13.088	50	4.037
23	12.959	51	3.339
24	12.822	52	2.591
25	12.677	53	1.789
26	12.523	54	0.927
27	12.359	55	0.000

Age limit for payment of annuity: 25 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
0	11.815	13	8.118
1	11.896	14	7.650
2	11.698	15	7.151
3	11.473	16	6.621
4	11.228	17	6.057
5	10.965	18	5.457
6	10.684	19	4.819
7	10.384	20	4.139
8	10.064	21	3.414
9	9.723	22	2.641
10	9.359	23	1.816
11	8.971	24	0.938
12	8.558	25	0.000

Age limit for payment of annuity: 21 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
0	10.941	11	7.167
1	10.942	12	6.636
2	10.680	13	6.070
3	10.387	14	5.468
4	10.071	15	4.826
5	9.732	16	4.143
6	9.370	17	3.416
7	8.984	18	2.642
8	8.573	19	1.817
9	8.134	20	0.938
10	7.666	21	0.000

CONVERSION TABLE
 CAPITALISATION SCALE OF TEMPORARY ANNUITIES
 Mortality table: 60/64 MHK – Capitalisation rate: 6.50% – Revaluation rate: 0.00%
 FEMALE

Age limit for payment of annuity: 65 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
0	14.685	33	12.961
1	14.935	34	12.820
2	14.938	35	12.671
3	14.923	36	12.512
4	14.903	37	12.344
5	14.880	38	12.166
6	14.853	39	11.978
7	14.824	40	11.778
8	14.793	41	11.567
9	14.759	42	11.343
10	14.722	43	11.105
11	14.683	44	10.854
12	14.641	45	10.588
13	14.597	46	10.306
14	14.550	47	10.008
15	14.500	48	9.692
16	14.449	49	9.358
17	14.394	50	9.003
18	14.337	51	8.628
19	14.277	52	8.230
20	14.214	53	7.808
21	14.148	54	7.360
22	14.077	55	6.885
23	14.002	56	6.380
24	13.923	57	5.844
25	13.839	58	5.272
26	13.750	59	4.664
27	13.655	60	4.015
28	13.556	61	3.321
29	13.450	62	2.578
30	13.338	63	1.781
31	13.220	64	0.924
32	13.094	65	0.000

Age limit of annuity payment: 60 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
0	.14.606	31	.12.637
1	.14.848	32	.12.473
2	.14.845	33	.12.299
3	.14.825	34	.12.113
4	.14.798	35	.11.917
5	.14.768	36	.11.709
6	.14.734	37	.11.487
7	.14.697	38	.11.252
8	.14.658	39	.11.003
9	.14.615	40	.10.738
10	.14.569	41	.10.457
11	.14.519	42	.10.158
12	.14.467	43	.9.841
13	.14.411	44	.9.505
14	.14.352	45	.9.148
15	.14.290	46	.8.768
16	.14.224	47	.8.365
17	.14.155	48	.7.937
18	.14.083	49	.7.482
19	.14.006	50	.6.998
20	.13.925	51	.6.483
21	.13.840	52	.5.936
22	.13.749	53	.5.353
23	.13.652	54	.4.731
24	.13.550	55	.4.069
25	.13.441	56	.3.361
26	.13.326	57	.2.605
27	.13.204	58	.1.797
28	.13.074	59	.0.930
29	.12.937	60	.0.000
30	.12.791		

Age limit of annuity payment: 55 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
0	.14.490	28	.12.379
1	.14.723	29	.12.196
2	.14.712	30	.12.001
3	.14.683	31	.11.794
4	.14.647	32	.11.575
5	.14.606	33	.11.341
6	.14.562	34	.11.092
7	.14.514	35	.10.828
8	.14.462	36	.10.547
9	.14.407	37	.10.249
10	.14.347	38	.9.931
11	.14.283	39	.9.594
12	.14.215	40	.9.235
13	.14.143	41	.8.853
14	.14.067	42	.8.447
15	.13.986	43	.8.015
16	.13.900	44	.7.555
17	.13.810	45	.7.066
18	.13.715	46	.6.546
19	.13.614	47	.5.991
20	.13.508	48	.5.401
21	.13.394	49	.4.772
22	.13.274	50	.4.101
23	.13.146	51	.3.385
24	.13.011	52	.2.622
25	.12.867	53	.1.806
26	.12.714	54	.0.933
27	.12.551	55	.0.000

Age limit of annuity payment: 25 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
0	.11.908	13	.8.138
1	.11.920	14	.7.670
2	.11.721	15	.7.171
3	.11.495	16	.6.640
4	.11.249	17	.6.074
5	.10.986	18	.5.472
6	.10.705	19	.4.831
7	.10.405	20	.4.148
8	.10.085	21	.3.420
9	.9.743	22	.2.645
10	.9.379	23	.1.819
11	.8.991	24	.0.938
12	.8.578	25	.0.000

Age limit of annuity payment: 21 years old

AGE	Price of 1 franc of annuity	AGE	Price of 1 franc of annuity
0	.11.022	11	.7.177
1	.10.959	12	.6.645
2	.10.696	13	.6.079
3	.10.401	14	.5.476
4	.10.084	15	.4.834
5	.9.745	16	.4.150
6	.9.383	17	.3.421
7	.8.996	18	.2.646
8	.8.584	19	.1.819
9	.8.144	20	.0.938
10	.7.676	21	.0.000

FUNCTIONAL SCALE INDICATING DISABILITIES IN JUS COMMUNE

I- CENTRAL NERVOUS SYSTEM

These functions are multiple because they include not only all of the intellectual functions and most of the sensory functions, but also the control and co-ordination of all the functions.

It would have been more logical to distinguish, on one hand, the cranium and the central nervous system, and on the other hand, the face. However, the role played by the facial cavities as a support for the peripheral positions of the organs of the senses and cranial nerves, renders such a distinction too artificial.

This chapter thus deals with numerous functions, most of which include vital functions and intellectual functions, which it would be artificial to consider individually, hence their grouping within the scope of the most often encountered syndromes.

A. - POST SHELL-SHOCK SUBJECTIVE SYNDROME

This syndrome, essentially characterised by headaches, dizziness, sleep disorders, with memory loss, problems with personality and libido, is more and more frequently called post shell-shock syndrome common to persons with cranial trauma since specialised techniques may succeed in objectifying it.

IT usually follows a cranial trauma accompanied by a loss of consciousness whose reality and magnitude must be carefully analysed.

Experts must take great precaution to diagnose a true neurological syndrome, a sinistrosis or a simulation. They will keep in mind that most post shell-sock syndromes disappear or significantly lessen in 18 months to 2 years.

It the syndrome's actual existence and imputability are accepted, according to the number, size, frequency of the problems and the influence of the treatment.....2 to 10%.

In the case of neurotic evolution (see I, C).

In the case of associated troubles, these must be independently evaluated (see I, D and E).

B. - DEFICIENCY SYNDROMES

Like the neurological syndromes from which they are artificially dissociated (see I, C), they require thorough neurological examinations and additional examinations, which are more and more perfected, usually requiring knowledge of a specialist.

Prior to reaching a final conclusion, experts must always adhere to an adequate period of time, which is longer when the subject is younger. This time period may easily attain 2 years and more.

Experts must also give maximum information on the necessity of care after stabilisation and on the payment for equipment.

They must give information on the terms and conditions of possible action against a third person, specifying the type and frequency of necessary help.

It is essentially the dominant side, the possibilities of gripping, walking and the appraisal of the overall capability remaining which will allow equitable evaluation of the rate.

1) Monoparesis or monoplegia

- Upper right limb (see III - Function of upper limbs).....10 to 60%
- Upper left limb (see III - Function of upper limbs).....6 to 50%

- Lower limb (see IV – Locomotive function).....10 to 75%
- 2) Hemiparesis**.....10 to 40%
 - Spasmodic hemiplegia.....50 to 70%
 - Limp hemiplegia.....80 to 90%
 - Hemiplegia with sphincter problems and/or aphasia.....80 to 100%
- 3) Paraparesis and paraplegia**, according to the level of medullar attack, the possibilities of strolling, the amount of sphincter problems.....30 to 90%

It is difficult to give a more specific assessment, the level may, in special cases, be less or greater than the indicated range.

- 4) Quadriparesis:** its level may vary but levels may reach.....70 to 85%
 - Quadriplegia. According to the possibilities of adaptation.....85 to 100%
- 5) Aphasia:** more or less significant effect on speech, but normal comprehension of spoken and written language.....10 to 35%
 - Aphasia with comprehension problems which may go as far as the impossibility to communicate with another person.....40 to 95%
- 6) Horse’s tail syndrome**, complete, with sphincter problems, anaesthesia in stool (sexual problems not included).....30 to 50%

C. – NEUROLOGICAL AND PSYCHIATRIC SYNDROMES

The significance of the functions which may be affected does not allow a maximum to be set. Consultation of a psychiatric specialist often proves necessary, not to be substituted for the expert in assessing the bodily injury who is to perform the synthesis and set an aggregate level, but to further a diagnosis, to situate the condition in comparison with the previous condition of the subject and give information on the predictable evolution.

1) Post-traumatic epilepsy

Caution must be taken before asserting the diagnosis of epilepsy and attributing it to a cranial-encephalic traumatism.

The diagnosis is based on one single factor, exclusively clinical and rigorously indispensable: the unexpected arrival of uncontested attacks. Most often, no witness had medical training and certain attacks of a hysterical nature are sometimes often difficult to diagnose with regards to authentic epileptic fit.

For there to be a traumatism necessitates that there be cranial trauma of a certain significance, accompanied by a loss of consciousness, and that it concerns a variety of epilepsy which may have a traumatic origin.

The EEG is a valuable factor, but certain authentic cases of epilepsy contain a normal EEG. The majority of post-traumatic cases of epilepsy reveal themselves within three years following the accident.

The level of PPD [Permanent Partial Disability] may only be evaluated by taking multiple factors into account, in the first ranks of which the frequency of the attacks, the significance of the anti-convulsive treatment, psychology of subjects and their manner of assuming their new condition, not forgetting that certain activities are prohibited to epileptics, finally, the age.

In itself, a more or less abnormal does not justify the attribution of a PPD.

- **Localised attacks**
According to the frequency.....5
to 20%
- **Generalised attacks**
- 1 isolated attack not followed up by treatment does not justify a PPD
- 1 to 2 attacks per year with regular treatment.....15
to 20%
- 1 to 2 attacks per month allowing, with certain precautions, normal activity.....20
to 30%
- More frequent attacks compelling habitual activity to be reduced or modified.....30
to 40%
- Frequent attacks prohibiting regular activity.....40
to 50%

It is difficult for a scale to take these various factors into account and it is eventually up to the experts, considering their experience and the knowledge acquired on this matter, to determine the extent of the damage incurred, both on the functional as well as the social level.

2) Certain neurological syndromes which are post-traumatic such as hydrocephalic with normal pressure, osteodural fistula (hydrorrhoea), Parkinsonian syndromes, may not be the subject of a quantitative indication based on a scale. They always require the opinion of a specialist and the level must take into account the functional constraint.

3) Post-traumatic neurosis

Based on anxious-phobic reactions which may go up to agoraphobia and sometimes hysterical reactions, they often realise masked or camouflaged forms: asthenia-depressive reactions, polymorphous pains. A traumatism may never alone be responsible for a hysterical structure or personality.

If after an accident, deficit manifestations appear such as paralysis, blindness, whose neurotic nature may be confirmed, the traumatism can only be considered as having played a role promoting or triggering the hysterical outbreak, but not as responsible for the structure itself.

The specific symptoms are emotional lability, blockage of the "me" functions (indifference, inhibition of libido) and repetitive phenomena (mental ruminations, nightmares).

The neurotic organisation of the personality is revealed by an ambiguous attitude composed both of dependency on those around of the subject and protest.

The assessment of the disability must report the previous condition, evaluate the permanent nature of the problems and take into account their repercussions on the daily life of the victim. The levels may habitually vary between 5 and 20%.

The depressive syndrome is relatively frequent after a trauma. It ends, most often, after treatment.

4) Post-traumatic psychoses

True post-traumatic psychoses are exceptional.

The traumatic origin of precocious dementia (schizophrenia) is, most often, rejected. As for manic-depression, its traumatic origin is never admitted. But the trauma may trigger a relapse and sometimes even reveal the illness.

The experts must devote themselves to tracking down a possible post-traumatic organic attack (hydrocephaly, atrophy).

5) Post-traumatic dementia

The level may reach.....100%

D. - VISUAL FUNCTION (OPHTHALMOLOGICAL)

Based on a project presented by J. Jonquères to the Société de médecine légale [Forensics Society] in March 1980 (Revue française du dommage corporel, 1980, 6, No. 3, 223-229), this chapter takes into account the difference in perception of disability in jus commune and in occupational accident. The total loss of the visual function is arbitrarily evaluated at 85% to take into account the remaining ability. The expert must still explain repercussion of the sequelae on the activities of the victim, thus allowing the adjustment of the "arbitrary" nature of the proposed ceiling, likely to vary according to age and adaptation.

If the eye not damaged by the traumatism had reduced acuteness, disability shall be calculated with respect to the latter and the new attack, the two eyes being inseparable with regards to vision (according to the table herein after), but the expert will specify the condition prior to the accident and the disability resulting therefrom, in order to define the level of aggravation.

1) Decrease in visual acuity

- loss of sight in both eyes.....85%
- loss of sight in one eye.....25%

Several levels are to be considered in the event of blindness. These levels depend on quantitative and qualitative data. From the variability of this data results a variability of the remaining visual abilities.

Shall therefore be distinguished:

- a) Total blindness: acuity nil or less than 1/20.....85%
- b) Relative blindness: acuity equal to 1/20.
Possibility of leaving the premises in which the victim finds themselves in the event of a disaster.....75%
- c) Quasi-blindness: acuity between less than 1/10 and 1/20 OU but field of vision reduced by less than 30%.....70%

In the case of enucleation or aesthetics associated thereto, this shall be taken into account of in the assessment of the aesthetic damage.

The following table, prepared according to the maximum of 85%, allows assessing the percentage of disability depending on the visual acuity (measured in tenths) of each eye. If the acuity figure is located within a certain range, the lower limit of the table will be taken into account.

The examination must be done after adjustment, the necessity of wearing glasses or lenses being specified by the expert. It may lay basis for compensation, but not on the grounds of disability.

2) Narrowing of the field of vision

The following levels are to be added to the level which corresponds to the decrease in visual acuity, without exceeding the maximum levels provided for the loss of sight in one eye or both eyes.

- Tunnel vision
 - affecting one eye (30 to 10° from the fixation point).....0 to 5%
 - affecting one eye (less than 10°).....5 to 10%
 - affecting both eyes (30 to 10°).....10 to 40%
 - affecting both eyes (less than 10°).....40 to 65%
- Para-central scotoma of small size
 - one eye.....5 to 10%
 - both eyes.....10 to 30%

If the scotoma is large-sized, the functional constraint is intertwined with the decrease in vision.

- Hemianopsia with conservation of central vision
 - Homonymous right or left.....20 to 25%
 - Nasal.....5 to 10%
 - Bitemporal.....50 to 60%
 - Upper.....5 to 10%
 - Lower.....20 to 40%
 - In upper quadrant.....3 to 8%
 - In lower quadrant.....10 to 20%
- Hemianopsia with loss of central vision

The functional constraint is usually intertwined with the decrease in vision.

3) Binocular vision problems

- Diplopia in the upper positions of the sight.....3 to 10%
- Diplopia in the lower portion of the field.....10 to 20%
- Diplopia in the lateral field.....10 to 15%
- Diplopia by decompensation of a prior heterophoria.....1 to 5%

	10/10	9/10	8/10	7/10	6/10	5/10	4/10	3/10	2/10	1/10	1/20	UNDER 1/20	BLINDNESS
10/10	0	0	0	1	2	3	4	7	12	16	20	23	25
9/10	0	0	0	2	3	4	5	8	14	18	21	24	26

8/10	0	0	0	3	4	5	6	9	15	20	23	25	28
7/10	1	2	3	4	5	6	7	10	16	22	25	28	30
6/10	2	3	4	5	6	7	8	12	18	25	29	32	35
5/10	3	4	5	6	7	8	10	15	20	30	33	35	40
4/10	4	5	6	7	9	10	11	18	23	35	38	40	45
3/10	7	8	9	10	12	15	18	20	30	40	45	50	55
2/10	12	14	15	16	18	20	23	30	40	50	55	60	65
1/10	16	18	20	22	25	30	35	40	50	65	68	70	78
1/20	20	21	23	25	29	33	38	45	55	68	75	78	80
UNDER 1/20	23	24	25	28	32	35	40	50	60	70	78	80	82
TOTAL BLIND-NESS	25	26	28	30	35	40	45	55	65	78	80	82	85

The table hereinabove provides the percentage of disability of the aggregate visual function. If a single eye is affected, the level corresponding to the visual acuity prior to the accident needs to be calculated in order to deduce the level of aggravation therefrom.

4) Accommodation problems

Inability to adapt to darkness, mydriasis leading to functional constraint.....2 to 10%

5) Aphakia

In the case of unilateral aphakia, it is necessary to adopt, for visual acuity of the eye with aphakia, the figure obtained with conventional corrective lenses or pre-corneal prostheses.

The latter determines the level:

- if the acuity of the eye operated remains less than that of the contralateral eye, the level should be increased by 10%,
- if on the contrary, the acuity of the contralateral eye is less than that of the operated eye, this level should be then increased by 15%.

In case of bilateral aphakia, the base disability is 20%, the disability to be added to that resulting from visual acuity, without exceeding however the level of 85%.

6) Ocular adnexa

Lagophthalmos, lachrymation, ectropion or entropion.

If there is a functional constraint in addition to aesthetic damage.....0 to 5%

For painful sequelae, see F5.

E. - HEARING, EQUILIBRIUM, OTORHINOLARYNGOLOGY

The ORL expertise may be difficult: objective problems are often rather unremarkable, answers from the injured person sometimes vague.

The examination of sensory functions must be undertaken with great clinical and instrumental rigour.

1) Mutilation of the outer ear

Deformations affecting the earlobe do not lead to disability (aesthetic damage).

Stenosis of the external auditory meatus, independently of possible repercussion on audition.....0
to 4%

2) Lesions of the tympanic membrane

If tympanic modifications are often noted, they are far from always being the consequence of the traumatism.

If there were no initial otorrhagia, no otorrhea, notice of a dry perforation or of dripping must lead to a careful examination of anamnesis.

If otorrhea is accepted as traumatic, a level of disability resulting from the reduction of auditory acuity, will be added.....2 to 6%

3) Decrease of the auditory acuity

The determination of the magnitude of auditory loss generated by the accident and of the disability rate may only be established after a clinical and audio-metric evaluation.

The disability rate must take into account of:

- the age of the subject (correction of presbycusis),
- the previous condition: only possible aggravation due to the accident should be compensated.
- unilateral hypoacusis may lead to a PPD of.....0
to 12%
- bilateral hypoacusis may lead to a PPD of.....0
to 60%

This maximum of 60% corresponds to a bilateral cophosis. Representing the arbitrary level set for the auditory function, it may vary depending on the age at which the attack occurred and the possibilities of communication. The living and working conditions should be specified.

The following table may be used, where the hypoacusis is indeed the consequence of the accident.

When there is a possibility of using auditory equipment, the level must be calculated taking into account the result obtained with the prosthesis.

LOUD VOICE DEPTH PERCEPTION IN METERS			5	4	2	1	CONTACT	NOT HEARD	
WHISPER DEPTH PERCEPTION IN METERS			0.80	0.50	0.25	CONTACT	NOT HEARD		
	AUDITORY LOSS IN DECIBELS	0 to 25	25 to 35	35 to 45	45 to 55	55 to 65	65 to 80	80 to 90	
		0 to 25	0	2	4	6	8	10	12
5	0.80	25 to 35	2	4	6	8	10	12	15
4	0.50	35 to 45	4	6	10	12	15	20	25
2	0.25	45 to 55	6	8	12	15	20	25	30
1	CONTACT	55 to 65	8	10	15	20	30	35	40
CONTACT	NOT HEARD	65 to 80	10	12	20	25	35	45	50
NOT HEARD		80 to 90	12	15	25	30	40	50	60

4) Tinnitus

They are often associated with an auditory deficit.

If their existence and imputability are accepted, the PPD may be of.....1 to 3%

5) Dizziness and problems with equilibrium

Questioning during examination is sometimes difficult; a lot of patients describe poorly.

Under the general term of “dizziness” shall be included:

- dizzy spells of a rotating type with a sensation of rotation or of moving in comparison with the surrounding world,
- loss of equilibrium upon abrupt head movements, when getting up, lying down, walking.

Analysis of the sensations described by the injured person is important, it will be helpful to specify, according to their lifestyle, the manner in which they appear.

Interpretation of spontaneous labyrinthine signs must be very detailed: a deviation of the index fingers, a sign of Romberg, a deviation in blind walking, a spontaneous or position nystagmus must be interpreted in an oto-neurological context.

The results of the caloric test must also be analysed with care. In particular, the observation of disparity in nystagmus reactions obtained by the caloric test is an interesting sign.

After establishing labyrinthine anomalies, the expert must evoke the possibility of different former etiologies and take into account the age and future possibility of improvement: a certain number of vestibular sequelae fade over time.

Thus, numerous variable components intervene in the setting of the possible PPD level: the frequency and intensity of the dizzy spells, the results from the examination of the labyrinthine and the prognosis reported on the table.

The levels are, therefore, variable:

- if the labyrinthine examination is normal, ORL is no longer required for the problems and they must be evaluated within the framework of the subjective post-concussion syndrome.

- vestibular dissimilarity, according to the intensity and frequency of functional problems.....2 to 12%

It is rare that the dizzy spells lead to a higher PPD. Nevertheless, in exceptional cases where the injured person were to have major dizzy spells, sufficiently violent to inhibit their walking, lead to difficulties with work, the problems being objectified by the establishment of spontaneous vestibular signs and of significant inharmonious vestibular signs, the PPD could reach.....20 to 25%

Higher levels are practically never justified by purely vestibular sequelae. They would only be considered in the case of associated neurological problems.

In all cases, it is important to ensure that dizziness and problems with equilibrium, when they are associated with a post-concussion syndrome, are not evaluated under both headings.

Intervening in order to objectify a functional problem, for example, dizziness, the variations of the labyrinthine excitability must never, in any case, constitute a PPD factor by all by themselves.

6) Tracheal stenosis

Their sequelae are evaluated with respect to respiratory repercussions (see V) and to repercussions on speech (see herein after).

The very slow evolution of the process requires a time period for assessment which can reach up to three years.

7) Lesion of vocal cords

Problems with speech and language can affect the “communication” function of the subject with those around him.

Traditionally, dysphonia, dysarthria (verbal articulation problem – see I, F) and aphasia (comprehension and language problems – see I, B) are distinguished.

- Dysphonia: disturbance of speech, leaving contact with third parties possible (problems with loudness of the voice, with articulation, vocal fatigue).....0 to 10%
- Aphonia: disturbance of oral expression which becomes incomprehensible even for those around the subject.....30%

F. – MAXILLARY-FACIAL SEQUELAE

Maxillary-facial sequelae can be divided into several groups corresponding to different functions.

1) Orbital-malar region

Whether they involve the eye socket, eyeball or ocular adnexa (lids, tear glands, muscles and nerves), these sequelae have repercussions on the visual function with which they are assessed (see I, D).

A malar fracture only leads to the assessment of a PPD if there are repercussions on the visual (I, D), masticatory (F 3) or sensory (F 5) functions.

2) Ethmoidal-nasal region

(olfactory and respiratory functions)

Hyposmia and anosmia, whose diagnosis can be difficult, justify, when they are permanent, a level.....2 to 5%

Possible occupational repercussion is described by the expert, but not put in figure.

Nasal respiratory problems by bone or cartilage deformation justify most often a low level.....0 to 5%

Exceptional stenosis of the nostril with repercussions on the respiratory function, justify higher levels (see V). Most fractures of bone in the nose heal with slight aesthetic comfort, without permanent disability.

3) Maxillary-mandibular region

(masticatory function)

Along with the osteo-articulatory elements, teeth and their adnexa, soft tissues such as the tongue, lips and cheeks, this region takes part in the first stage of digestion, the attack of which primarily constitutes the sequelae.

Loss of teeth may be the subject of different evaluations.

a) In the case where teeth are not replaced

- incisors.....1.00%
- bicuspid.....1.25%
- canine and
- molar.....1.50%

with a maximum of 30% in case of complete edentulism which cannot be remedied to with devices.

b) In the case of prosthesis, the following indications shall be taken into account:

Loss of pulpal vitality of a tooth.....0.5%

- Total loss, root included, of a previously healthy dental organ: the levels shown in the table hereinabove (a) must be reduced by 1/2 in case of mobile prosthesis and of 2/3 in case of fixed prosthesis, with a maximum of 15% in case of complete edentulism with devices.

The maintenance and possible renewal of the prosthesis are obviously independent of the PPD level.

Problems of bite, limitations or imbalance in the mouth opening (lateral deviation, temporal-mandibular dysfunction, etc.), attacks on the tongue (independently of phonation problem, see 4), are evaluated depending on their repercussions on mastication and the persistence of painful phenomena:

- Constraint on mastication of solid foods, but their intake remains possible, interdental separation of 20 to 30 mm, problems of bite limited to a half-arch.....2 to 10%
- Diet limited to soft foods, partial edentulism, interdental separation of 10 to 20 mm, special diet.....10 to 15%
- Liquid diet, permanent constriction of jaws, interdental separation less than 10 mm.....35%

Mandibular pseudarthrosis, loss of bony substance, scarring lines are primarily evaluated depending on their repercussions on mastication and phonation. In case of oral-nasal and sinus communications, the expert must also take into consideration of the possible infectious element.

4) Tongue

Problems with phonation in comparison with an attack of the oral cavity and its components are rare and may justify of PPD of.....0 to 10%

It is only when phonation problems seriously disturb the communication function that a greater level shall be considered (see E 7).

Disturbances in taste are often associated to problems with smell (see F 2).

5) Sensory and motor sequelae B

(aches, facial paralyses)

Motor attacks (facial nerve) may be accompanied by facial spasms. The levels below do not take into account possible associated ocular problems.

- Total and irreversible unilateral facial paralysis.....20%
- Partial unilateral facial paralysis.....5 to 15%

Functional difficulties should be distinguished from aesthetic problems, as they will not be grouped together but individually analysed.

Sensory attacks concern the trigeminal nerve and its branches.

- Sub-orbital nerve.....1 to 5%
- Lower dental nerve (with or without labial incontinence).....1 to 5%
- Lingual nerve (dorsal surface of the tongue with frequent biting of the tongue and aches).....1 to 5%

G. CRANIUM, DOME OF THE SKULL

In the absence of a dural attack or cerebral concussion, the sequelae from a fracture of the cranial dome may be nil. It is not the fracture which, by itself, justifies a disability percentage, but the associated problems (deficit syndrome, subjective syndrome).

It should be borne in mind that, in jus commune, reservations are implicit, victims always being able to request another assessment of their damage in the event of the aggravation thereof. A “risk” of epilepsy or of an infectious complication would not justify a disability level, but a risk may be prejudicial when it involves a counter-indication in the exercise of a very specific activity.

However, the loss of substance which is not filled in, with dural palpitations and an impulse to cough may, for the difficulties that it leads to, justify a level of.....5 to 10%

H. SCALP

It is exceptional that the sequelae justify a PPD and they must be most often evaluated within the scope of aesthetic prejudice.

Painful scars or neuralgias (suborbital, occipital) may justify a level of.....1 to 4%

II- SUPPORT FUNCTION (RACHIS)

Supporting the axis of the body and serving as a protective canal for a part of the central nervous system, the rachis plays an essential role and it is traditional to insist on the psychological effect of its attacks.

In practice, it is the medullar attacks and the repercussion on lower limbs which may allow defining a maximum, as the rachis does not take on an independent function.

Once again, the expert must not be influenced by the anatomic lesion, but guided by the analysis of the repercussions of sequelae.

The sequelae of medullar trauma and neurological sequelae of spinal lesion are studied in another part (see I, B – III and IV).

The criteria to assess spinal sequelae are the nature of lesions (attack on posterior wall), deformations (rare and most often discreet), pains (spontaneous or provoked, with or without radiation), stiffness (often accompanied by contractures, limiting active or passive movements) and signs of irritation or radicular deficit.

- Painful progressive pressure on a known arthrosis, with return to previous condition.....0%
(to take into account in the temporary disability and the “endured suffering”.)
- Decompensation of a known or unknown arthrosis which becomes aggravated.....2 to 6%
- Segmental rachialgia with ligament or slight bony lesions, stiffness, without sensor-neural complication
- Cervical column.....5 to 12%
- Dorsal column.....5 to 10%
- Lumbar column.....5 to 12%
- Painful cervical stiffness, its significance consecutive to a luxation or to a radiologically authenticated vertebral fracture.....15 to 25%
- Significant dorsal or lumbar stiffness consequential to radiologically authenticated vertebral fractures.....10 to 20%
- Tenacious lumbar pains with static lumbosacral problems.....10 to 15%
- Coccygeal (see IV, B).

III- FUNCTION OF UPPER LIMBS (GRIPPING)

Upper limbs take on the function of gripping whose perfected development is a privilege of human kind. The loss of the two upper limbs, corresponding to the function’s loss, is set in this scale at a maximum of 90%.

Each of the segments plays a role in this overall function, role more or less important but non-detachable from the whole.

Amputation of the right upper limb for a right-handed person is evaluated at 60% (50% for a left-handed person). This ceiling must allow the assessment of disability of the subject examined by taking into account of the functional constraint clinically assessed, but also the possibilities of equipment and the repercussions on the subject’s daily life.

The anatomic attack does not justify a percentage of disability by itself, but its functional repercussion is a determining factor (articular stiffness, nervous and trophic problems, muscular strength). The latter shall serve as a guide and the expert shall bear in mind that the function of upper limbs is primarily gripping. A fracture of the clavicle or the humerus which heals well often leaves no sequelae, so no PPD.

The percentages indicated for the right side are valid for the dominant limb (left for the left-handed person).

The levels may be increased up to approximately the third of their value by added factors such as the poor position of an ankylosis, mobility in an unfavourable angle, pains, trophic problems. The expert shall take into account the remaining ability.

1) Total loss by amputation or paralysis

	RIGHT	LEFT
Arm	60%	50%
Forearm	55%	45%
Hand	50%	40%

Adapting an efficient functional prosthesis may justify a decrease of approximately a fourth.

2) Ankylosis in functioning position

	RIGHT	LEFT
Shoulder	30%	25%
Elbow	20%	15%
Wrist (and prono-supination)	20%	15%
Hand (all articulations)	50%	40%

3) Articular stiffness

They may be assessed according to the maxima defined for the ankylosis and the levels indicated for an average stiffness, knowing that the levels shall vary more or less according to this average stiffness, depending on the significance of the stiffness and especially on the use of the attacked area of amplitude.

	RIGHT	LEFT
Average stiffness of the shoulder	15%	12%
Average stiffness of the elbow	10%	8%
Average stiffness of the wrist (including prono-supination)	10%	8%
Average stiffness of the hand	25%	20%
Average stiffness of the isolated prono-supination	8%	6%

4) Paralysis

	RIGHT	LEFT
Radicular, Erb-Duchenne palsy type	45%	35%
Radicular, Dejerine-Klumpke palsy type	55%	45%
Circumflex nerve	15%	10%
Musculocutaneous nerve	12%	10%
Subscapularis nerve	8%	6%
Median nerve in the arm	35%	30%
Median nerve in the wrist	15%	10%
Ulnar nerve in the arm	25%	20%
Ulnar nerve in the wrist	15%	10%
Radial nerve above the tricipital branch	30%	25%
Radial nerve below the tricipital branch	20%	15%

5) Hand

a) Loss of fingers' segments:

Total loss of the function by amputation or ankylosis of all articulations

	RIGHT	LEFT
Thumb (including first metacarpal)	22%	18%
Thumb (two phalanx)	15%	12%
Index	12%	10%
Middle finger	8%	7%
Ring finger	6%	5%
Little finger	5%	4%

Partial or total stiffness

	RIGHT	LEFT
Thumb	10%	8%
Index	6%	5%
Middle finger	4%	3%
Ring finger	3%	2%
Little finger	3%	2%

b) In practice, the decrease of the functional value of the hand, an organ both complex and essential, requires an in-depth clinical examination.

The Functional value of the hand Sheet written by J. P. Razemon (Méd. légale et dom. Corp., 1974, No 1, 62-69) may be put to profit.

The method allows considering a figure which simply has to be multiplied by a corresponding coefficient to the total loss of the hand (0.5 for the right hand – 0.4 for the left hand).

IV- LOCOMOTOR FUNCTION (LOWER LIMBS, PELVIS)

A. - LOWER LIMBS

The lower limbs take on the locomotor function whose loss, if a certain harmony with the general economy is respected, represents a disability evaluated at 90%. It is in this spirit that the maximum suggested for the amputation of a lower limb is 75%, but it is obvious that this level must essentially take into account of the possibilities which the victim has to move around and go about their usual activities, the equipment providing, when efficient, significant changes to the levels proposed hereinafter.

Their essential function being walking, the criteria for assessment concern above all the stability and the mobility, the static and dynamic balance between the two lower limbs playing a capital role. Whereby the interest of the examination of the standing position and walking which condition the disability. A fracture of the femur or of the tibia, which heals well, may not leave any sequelae, therefore any disability.

Post-traumatic circulatory attacks on the lower limbs, hypodermic treatments, prolonged and repetitive trophic ulcerations, chronic infections or repetitive fistulisation may justify an increase in the level.

1) Shortening

If isolated, it may be compensated by the wearing a heel or orthopaedic sole.

- Less than 3 cm.....	0
to 3%	
- 3 to 6 cm.....	3
to 10%	
- 6 to 10 cm.....	10
to 20%	

These levels must not be mathematically added to the levels regarding a possible associated articular stiffness.

2) Total loss by amputation or paralysis

- At the level of the hip.....	75%	the
- At the level of the thigh.....	65%	the
- At the level of the knee.....	60%	the
- At the level of the leg to 50%.....	40	
- At the level of the ankle.....	30%	the
- Tarsometatarsal amputation.....	25%	
- Amputation of toes.....	15%	all

- Amputation of the big toe.....10%

The aforementioned levels may be decreased by 1/3 to 1/2 in the case of prosthesis or brace, well-tolerated and yielding a satisfactory functional result.

3) Ankylosis in functioning position

- Hip.....0%
- Knee.....5%
- Ankle (tibiotarsal) +15%
- Isolated subtalar.....8%
- Midtarsal.....8%

These levels must be increased from 1/4 to 1/2 in the case of defective position, shortening or associated instability, trophic problems.

4) Average stiffness

- Hip...20%
- Knee...10%
- Tibiotarsal.....6%
- Subtalar.....3%
- Midtarsal.....3%

These levels must be increased from 1/4 to 1/2 if there are associated problems such as articular instability, pains, poor position, shortening, trophic problems.

5) Articular instability

- Hip.....30 to 50%
- Knee
- Ligament laxity well-healed for walking but hindering certain activities.....3 to 5%
- Ligament laxity (sliding, laterality) with repercussion on walking.....15 to 25%
- Ankle
- Small, isolated diastasis leading to a discrete talus ballottement, but without clinical repercussions.....0 to 3%
- Diastasis provoking repetitive sprains.....3 to 8%
- Diastasis with constant constrain on walking.....8 to 12%

6) Total paralysis of a limb

- Lower.....75%

Sciatic (torso).....30
 to 40%
 External peroneal sciatic.....18
 to 25%
 Crural.....30
 to 40%
 The level must take into account, as a decrease, the possibilities and the efficiency of an
 orthosis-type equipment.

7) Sciatic neuralgia

Depending on the frequency of the crises and most importantly the repercussion on sleep,
 walking and activities in
 general.....10 to 30%

8) Total prosthesis of the hip

Independently of the functional constraint due to the condition of the hip, for the infra-clinical
 attack and the constraints due to the presence of
 prosthesis.....10%

9) Hydrarthrosis of the knee

It is not the hydrarthrosis itself which justifies a disability, but the problems from which it
 resulted (stiffness, instability, trophic problems). If the chronic hydrarthrosis is only
 accompanied by an atrophy, without limitation on movements or
 laxity.....2 to 5%

10) Total patellectomy

The repercussion on the knee function and the functional quality of quadriceps muscle are
 included essentially
 Base
 level.....5
 %

11) Lesions of the meniscus

In the absence of intervention, provisions are compulsory and it is difficult for the assessment to
 be final.
 Depending on the frequency of the blockages and the repercussion on activities.....5
 to 15%
 After intervention, it is the repercussion on the knee function which conditions the disability,
 the level ranging usually
 between.....3 to 6%

12) Particular case of the foot

Taking into account the anatomic complexity of the region, it is impossible to dissociate
 functional segments from it.
 The criteria for assessment are pain, mobility and stability, the examples hereinafter offering
 certain associations to allow assessing through assimilation (for more details, see: M. Galland
 and R. Pannetier, Criteria for assessing a functional disability pertaining to a traumatic foot, Rev.
 franc, dommage corp., 1960, 6, No 1, 37-39).
 - Some pains when walking, normal movements or slightly restrained, no
 claudication.....
 0 to 3%
 - Intermittent pains, moderate limitation of movements of various articulations, slight
 claudication but foot stability.....3
 to 8%

- Pains when walking after a rest, moderate limitation of movements, some circulatory problems, claudication restraining the walking, which can be performed without a cane.....9 to 15%
- Ankylosis of tibiotarsal and subtalar in functioning position, which does not lead to pains.....15%
- Rather sharp pains, significant stiffness or slight equinus deformity moderate trophic problems, limited walking necessitating a cane.....15 to 25%
- Sharp pains when walking or leaning, significant stiffness or equinus deformity, trophic problems, 2 canes needed to walk.....25 to 30%
- Sharp pains which can disturb sleep, ankylosis in defective position or significant deformation, trophic problems, walking with canes-crutches.....30 to 35%
- Very sharp and continuous pains, significant deformation of the foot, leaning impossible necessitating the use of canes-crutches.....35%

B. - PELVIS

Forming the pelvic girdle, the pelvis connects the rachidian vertical axis of the body to lower limbs. It thus participates in the locomotor function and some of its attacks are to be analysed through the function.

A particular case is understood as the sequelae which can have an obstetrical repercussion. The latter may only be evaluated in percentages of disability, but must be the subject of specific and justified provisions.

The sequelae of fractures of the pelvis (iliac bone, sacrum, coccyx) are most often evaluated depending on their repercussion on the lumbosacral rachis (see II), on the hip articulation (see IV), on the urinary system (see VII), or depending on the neurologic attack (see I, B).

The possible obstetrical repercussion (in a young woman) necessitates a radio-pelvimetry and supports the justification for provisions, but not a specific disability level.

Post-traumatic arthropathies or pubic or sacro-iliac separations are evaluated according to the pain and emotional constraint, the PPD being assessed depending on the repercussion on the vertebral static and locomotor function, which can reach.....5 to 20%

Post-traumatic coccygodynia, with or without fracture ascertained by radiography.....2 to 8%

Obturator neuralgia.....2 to 5%

V- THORAX: RESPIRATORY AND CIRCULATORY FUNCTIONS

The thorax includes essentially the bronchi-pulmonary system, which ensures the respiratory function, and the main parts of the cardiovascular system, which ensures the circulatory function and on which all of the other functions depend.

Both of the functions may be affected at the level of their nervous control, the functional difficulty being evaluated by its peripheral repercussion.

More than elsewhere maybe, it is not he lesions which justify the disability percentage, but their repercussion. Evaluation depends therefore on the changes imposed to the daily life and the result of the functional explorations.

The limits of this scale do not allow entering into details. Therefore, only schematic indications allowing the assessment through extrapolation are given.

A. – ATTACKS ON THE RESPIRATORY FUNCTION

Clinical criteria for assessment are dyspnea, cyanosis, tachycardia, thoracic expansion, and incidentally, the reduction of sonority or of breath sounds.

Supplementary examinations are most often indispensable:

- spirographic examinations: vital capacity, VEMS, Tiffeneau index, residual volume,
- X-ray examination with, in certain cases, dynamic tests revealing problems pertaining to thoracic-diaphragm kinetics and a pleural thickening,
- possibly a CO transfer test in order to evaluate the repercussion of a parenchymal amputation or more exceptionally of pleural origin,
- electrocardiogram where clinical signs of cardiac repercussion exist.

Interpretation of the functional deficit ascertained by the respiratory functional explorations only has value where it makes reference to the tables of theoretic values (in general, CECA tables).

The calculated percentage measured by the respiratory function tests must not be confused with the partial permanent disability percentage.

The expert must know to distinguish between what belongs to the previous condition and what results from the accident. The traumatic sequelae are most often understood as a restrictive syndrome. Any obstructive syndrome is to be interpreted with caution (previous pathological condition, except in case of tracheal or bronchial stenosis).

**1) Light respiratory insufficiency.....0
to 5%**

Dyspnea only appearing during significant efforts. Usual activities conserved.

**2) Moderate respiratory insufficiency.....5
to 30%**

Dyspnea which may appear during activities requiring a certain effort but which do not significantly hinder the daily life. Constraint due to precautions that the subject must take to avoid certain activities.

**3) Significant respiratory insufficiency.....30
to 60%**

Dyspnea during daily activities. Ventilation rate over 20. Signs of bronchial irritation. Clinical signs of pulmonary arterial hypertension. Significant constraint in daily life.

**4) Severe respiratory insufficiency..... >
to 60%**

Permanent dyspnea. More or less productive cough. Signs of pulmonary arterial hypertension. Significant constraint in all activities of daily life

B. – ATTACKS ON THE CIRCULATORY FUNCTION

The clinical and para-clinical criteria of evaluation are:

- dyspnea, cyanosis,
- acute or chronic pulmonary oedema,
- peripheral oedema,
- electric, biologic, radiologic signs,
- constraints due to treatments, continuous or not.

Examples of sequelae tables:

- Post-traumatic infarction with permanent or discontinued anticoagulant treatment.
- Valvular heart injury, tendinous cord ruptures,
- Constrictive pericarditis with or without cardiac insufficiency.

- 1) **No cardiac insufficiency**.....5
to 10%
Treatment and certain adjustments needed, but the subject can lead a normal life under this condition.
- 2) **Slight cardiac insufficiency**.....10
to 30%
Treatment, diet and precautions needed. Problems appearing during efforts. The subject must reduce certain activities but can lead a significantly normal life.
- 3) **Moderate cardiac insufficiency**.....30
to 60%
Continuous treatment and diet. Need to avoid all efforts. Daily life disturbed.
- 4) **Severe cardiac insufficiency**..... >
to 60%
Treatment, diet and rest needed. Any effort, even the slightest, is impossible. Daily life very disturbed.
 - Aortic prosthesis.....15%
 - Valvular prosthesis.....20%
 Base level taking into account the life constraints imposed on the victim, independent of the provisions and the possible cardiac repercussion.

VI- DIGESTIVE FUNCTION AND ABDOMEN

A. - LIVER AND BILIARY SYSTEM

In the case of partial hepatectomy, tissue regeneration occurs and the disability should not depend on the loss of weight of the liver mass.

Clinical sequelae of hepatobiliary trauma (pains, jaundice, anorexia, nausea and vomiting, pruritus, asthenia, weight loss, haemorrhages, ascites, oedema, consciousness disorders) may be evaluated by the numerous liver function tests.

- 1) **Minor problems** on liver tests or primal disorder of the bilirubin or transient episodes of biliary dyskinesia but no nutritional or general disorders, no ascites, jaundice or oesophageal varices.....0
to 10%
- 2) **Ascertained liver attack** on different tests or repeated attack on biliary tract despite a correct treatment, but without nutritional or general disorders, without ascites, jaundice or oesophageal varices.....10 to 20%
- 3) **Nutritional or general disorders.**
Previous ascites or haemorrhages related to oesophageal varices. Transient signs of portocaval encephalopathy. Obstruction of biliary tract with repeated cholangitis.....20 to 50%
- 4) **Evolving liver attack:** ascites, jaundice, haemorrhages. Manifestations of portocaval encephalopathy. Nutritional disorders.....50 to 80%

B. - SPLEEN

Independently of the scarring and parietal sequelae, the only sequel may be a high platelet count (above 500,000/mm³) and any expertise must include the count of platelets.

Due to possible infectious complications, healing should not occur prior to one year for an adult, two years for a child under 15 years old.

Sequelae of splenectomy without complication.....10%

If a high count of platelets without clinical translation persists, maintain provisions.

C. - ABDOMINAL WALL

Hernias. Eventration: depending on the size and above all on the functional constraint resulting therefrom.....5

to 20%

D. - STOMACH,

It is not the anatomic lesion which conditions a PPD percentage but the functional problems (pains, transit problems, digestive difficulties), the repercussion on the general condition (appearance, size, tonus), medical treatment and diet methods, radiological changes, notably functional, biological disturbances and above all, the impact on the daily life of the subject.

1) No operating sequelae.

Constant weight without diet or treatment.....0
to 5%

2) Transit problems controlled by diet or treatment. Weight loss less than

10%.....5
to 15%

3) Transit problems poorly controlled by diet or treatment. Loss of 10 to 20% of

average weight. Light anaemia. Weak electrolytic disturbances. Light absorption problems.....15
to 30%

4) Even weight loss. 4 to 6 diarrheic stools per day. Frequent cramps. Steatorrhea and

relatively significant electrolytic disturbances.....30 to 40%

5) Incontrollable transit problems.

Weight loss over 20%. Anaemia. Hypoproteinemia. Electrolytic deficit. Steatorrhea. Tetany. Vitamin A deficiency.....40 to 60%

E. - COLON

1) No functional disorder. Normal activity. Normal

weight.....0 to 5%

2) Occasional transit problems.

Moderate pains. Diet or treatment, but no nutritional problems.....5
to 15%

- 3) **Transit problems.** Intermittent or transient pains. Reduced activity. Diet and treatment. Anaemia. Weight loss.....15 to 30%
- 4) **Permanent transit problems.**
 Pains. Diet and treatment needed. Problems with general condition.....30 to 50%
 Caecostomy (right iliac anus).....50 to 70%
 Transversal anus.....30 to 40%
 Left iliac anus.....25 to 35%

VII- RENAL FUNCTION. EXCRETION

The renal function is considered “vital” in the sense that its total loss is incompatible with life. However, progress since 1960s enabled survival thanks to dialysis or renal transplantation. Therefore it is a field where elements for assessing disability have evolved the most. Difficult to definitively set, the disability level must depend essentially on the repercussion on the life of the subject and the constraints of treatment. The following indications can help the expert.

A. - KIDNEY AND UPPER SYSTEM

The sequelae of contusions (lesions of renal parenchyma, urinary tract and vascular pedicle) are the alteration of the renal function and post-traumatic arterial hypertension. After anatomic or functional loss of part of the renal parenchyma, there is a constant compensatory hypertrophy. Partial resection of a kidney may not justify by itself a percentage of disability.

The functional value of the kidney can be evaluated by the study of endogenous creatinine clearance (normally: 130 ml/min ± 3.9 per 1.73m² of body surface area), phenolsulfonephtalein tests (50 to 60% in 30 min, 10 to 15% between 30 and 60 min), intravenous urogram.

Nephrectomy (or renal atrophy).

Wait 6 to 12 months prior to setting the level.

Subject under 50 years old, with normal renal function, without hypertension, leading a normal life.....10%

In the case of attack on the remaining kidney function, evaluate according to the following criteria.

Renal insufficiency imputable

- 1) **Nephrectomy or partial atrophy.** No treatment. Normal life.....0 to 10%
- 2) **Normal life without subjective problems,** but minor renal insufficiency (creatinine clearance between 80 and 100 ml),
- 3) **Normal daily life, but with diet and treatment.** Clearance between 40 and 80 ml. Nitrogen diet. Nephrotic syndrome requiring a strict salt-free and a specific therapeutic diet. Hypertension between 18-20/10-11.....15 to 25%

- 4) **Daily life possible** but with restriction of activities (half time...), asthenia, anaemia, severe diet and treatment. Creatinine between 15 and 40 ml. Irreducible oedema.
 Minima over
 12.....25
 to 50%
- 5) **Disturbed daily life**, regular work impossible. Severe renal insufficiency. Severe nephrotic syndrome. Severe hypertension..... > 50%

The extra-renal cleansing offers improvement possibilities which render difficult a definitive evaluation.

Nephretic colic, depending on the frequency of crises.....2
 to 20%

Evaluation usually temporary, taking into account its evolving character.

B. - BLADDER AND LOWER SYSTEM

Independently of the possible repercussion on the upper system which is evaluated separately (see A), the attack on urinary tract can generate a constraint in the daily life of the subject. A maximum of 40% is considered for this constraint, corresponding to the cystostomy.

- Chronic or repeated cystitis.....5
 to 20%
- Chronic urinary retention
- Weekly catheterisation.....10
 to 15%
- Catheterisation several times a week.....20
 to 25%
- Indwelling catheter.....30
 to 35%
- Hypogastric eventration after
 cystostomy.....15%
- Shortening of the urethra stabilised, without urinary infection nor renal insufficiency,
 requiring only some catheterisation or annual
 dilations.....10%
- Shortening with infectious accidents and monthly dilations needed.....15
 to 30%
- Cystostomy.....
40%

VIII- REPRODUCTION FUNCTION AND GENITAL SYSTEM

The part of this function can be the subject of much discussion as it varies with age, temperament, psyche, individual ethics and familial aspirations.

Also, more than elsewhere, the following figures only give an average which can vary significantly.

A theoretic maximum of 50% can situate the ceiling for a young subject who would be deprived of their sexual functions, such disability rarely being isolated.

The "sexual function" is one of the functions of the body. It may not be the subject of the evaluation of a particular prejudice. Its criteria for assessment are the endocrine impregnation, realisation of the sexual act and fecundity.

Mechanical impossibility of sexual intercourses.....maximum 30%

It is difficult to assess, as its consequences vary. The true organic impotency must be distinguished from psychogenic impotencies which are more frequent and most often temporary.

The level must possibly be added to that provided for sterility.

- Loss of a functionally active ovary or testicle5%
- Bilateral castration or sterility (in the period of genital activity).....30%

Traumatic lesions of external genital organs, independently of associated urinary problems, are evaluated in accordance to the mechanical constraint on sexual intercourses.

IX- SCALE FOR ASSESSMENT OF SUFFERINGS ENDURED

- 1/7 – Very light
- 2/7 – Light
- 3/7 – Moderate
- 4/7 – Average
- 5/7 – Rather severe
- 6/7 – Severe
- 7/7 – Very severe

The following examples, borrowed from the work of M. Thierry and B. Nicourt (Gazette du Palais, 28 October 1981), concern some evolving tables of classical injuries.

2/7 – Cranio-cervical trauma with brief loss of consciousness. Suture of a scalp wound. Short-term hospitalisation. Cervical pains without fracture treated with analgesics, with reduction of symptoms within 15 to 20 days.

3/7 – Wrist fracture without remarkable movement, immobilised in a cast for three weeks to a month, followed by 10 to 15 re-education sessions.

4/7 – Closed fracture to two bones of the legs treated by osteosynthesis and by casting. Progressive leaning after three months. 20 to 30 re-education sessions.

5/7 – Cranio-facial trauma with maxillary fracture treated by osteosynthesis and bimaxillary blockage for a month + diaphyseal fractures of two bones of the forearm treated by the screw and plate system and by casting. Hospitalisation maintained during 30 days. 30 re-education sessions.

6/7 – Thoracic trauma with flail chest and hemopneumothorax having required reanimation, pleural drainage, respiratory re-education 20 sessions. Right humerus fracture with radial paralysis, osteosynthesis, nervous suture, progressive stabilisation of the radial paralysis. Luxation of the hip treated by blood decrease. Secondary necrosis of the femoral head having required the implementation of a total prosthesis. Open fracture of the leg treated by osteosynthesis by centro-medullary nailing. Several hospitalisations totalling 90 days. Long re-education treatment, approximately 100 sessions at the pace of 3 then 2 sessions per week.

From these five examples (2 to 6), it is easy to extrapolate the sufferings which could be categorised in 1/7: very light pain, or in 7/7: very severe pain.

The classic 7 value scale seems to be a good base for assessment if what is included within the value 4 Average is well-defined. It is easy to further refine by intermediate evaluations which, in

practice, are far from always constituting a kind of hesitation or compromise between two assessments, but correspond in fact, after an in-depth analysis, to a modulation according to reality.

Within such a framework, the qualification itself only has a relative value. It retains a meaning if the same scale remains used by all experts, and at the extremes, minimal pains or practically inexistent pains, or exceptionally severe pains can still be reported (for example, in multi-trauma patients remaining bedridden, operated 12 to 15 times or in serious burn victims).

BOOK III – COMPANIES

TITLE I – General provisions and control

Special chapter

Section I – General provisions

Article 300

Scope and extent of the supervision

The supervision shall be done in the interest of the insured, policyholders and contract holders – beneficiaries of insurance and investment contracts.

Shall be subject to this supervision:

- 1) companies which contract liabilities whose execution depends on the human life span or which call on savings for investment purpose and enter into determined agreements in exchange for single or periodical, direct or indirect, payments,
- 2) insurance companies of any type including companies with an assistance activity and others than those referred to in 1).

Companies with reinsurance as their exclusive purpose shall not be subject to supervision.

Article 301

Forms of insurance companies

(As amended on 4 April 2000 by Decision of the Council of Ministers)

Any insurance company of a Member State referred to in Article 300 must be set up in the form of a public limited company or a mutual insurance company.

However, an insurance company may not be set up in the form of a single member limited company.

A foreign company may only practice on the territory of a Member State one of the transactions referred to in Article 300 or reinsurance transactions where it fulfils the provisions of said State's domestic law.

Article 301-1

Groups – Definition

(As completed on 2 April 2008 by Decision of the Council of Ministers)

- 1) The terms “parent company” shall refer to a company which controls exclusively or jointly one or several other companies, or which exerts a dominant influence on another company by reason of important and lasting links of financial solidarity resulting from financial agreements, managers or common services,
- 2) The terms “subsidiary” shall refer to a company controlled exclusively or jointly by a parent company, as well as any other company by which a parent company exerts a dominant influence. Any subsidiary of a subsidiary shall also be considered a subsidiary of the parent company,
- 3) The term “participation” shall refer to the fact of owning, directly or indirectly, 20% or more of the voting rights or of the capital of a company,

- 4) The terms “participating company” shall refer to a parent company or a company which holds a participation in another company,
- 5) The term “affiliate” shall refer to a company which is either a subsidiary or another company in which a participation is held,
- 6) The terms “related company” shall refer to an affiliate, a participating company or an affiliate of the participating companies of the insurance company,
- 7) The terms “insurance group” shall refer to a group composed of:
 - a) at least two companies subject to the supervision of the Commission pursuant to Articles 300 and 309 and with their registered office in a Member State,
 - b) or, on one hand, a company subject to the supervision of the Commission pursuant to Articles 300 and 309 and with its registered office in a Member State, and on the other hand, at least an insurance company located in a third party country, an insurance group company or a reinsurance company.
The legal persons referred to in a) and b) must be related by any of the links set in 1) to 6) hereinabove.
- 8) The terms “insurance group company” shall refer to companies whose main activity consists in:
 - holding and managing participation (securities) in companies subject to the supervision of the Regional Supervisory Commission pursuant to Articles 300 and 309 or in reinsurance companies located in the CIMA zone or in insurance or reinsurance companies with their registered office outside of the CIMA zone,
 - and/or creating and managing important and lasting links of financial solidarity with mutual insurance companies governed by the Insurance Code or mutual reinsurance companies located in the CIMA zone or mutual insurance or reinsurance companies with their registered office outside of the CIMA zone.
At least one of these organisations shall be a company subject to the Regional Supervisory Commission pursuant to Articles 300 and 309.
- 9) The terms “mixed insurance group company” shall refer to parent companies of at least one company subject to the supervision of the Regional Supervisory Commission pursuant to Articles 300 and 309 and with its registered office in the CIMA zone, other than:
 - insurance group companies defined in 8)
 - companies subject to the Regional Supervisory Commission pursuant to Articles 300 and 309.

Article 302 Standard clauses

The Insurance Supervisory Commission may impose the use of standard contract clauses and determine the maximum and minimum pricing amounts.

Article 303 Documents intended for the public – Stipulations

Statements of any kind, prospectuses, notices, circulars, plates, printed material and all other documents intended to be distributed to the public or published by a company referred to in Article 300 must bear, after the name or corporate name, the following expression in uniform prints: “Company governed by the Insurance Code”. They must not contain any allusion to supervision, nor any assertion likely to lead the public to making an error on the true nature of the company or on the actual significance of its liabilities.

Article 304 Business documents – Pricing

Companies referred to in Article 300 must, prior to use, send to the Minister in charge of the insurance industry in the Member State, who may prescribe any rectification or modification required by the regulation in force, five copies in one of the official languages of the general conditions of their policies, proposals, insurance applications, prospectuses and printed material intended to be distributed to the public or remitted to contract holders or members.

The insurance companies must, prior to applying their rates, obtain the signature of the Minister in charge of the Insurance industry in the Member State, who takes a decision within three months of the filing of three rates specimen. Requests for approval of the rates applicable to life insurance contracts which include special clauses pertaining to accidental death and disability risks must be accompanied by the technical justifications pertaining to said clauses.

Within a period of three months of the submission of a rate or any other insurance document, the Minister in charge of the insurance industry in the Member State may prescribe the modification thereof. Upon expiry of this time limit, the document may be circulated to the public.

Where it appears that a document put into circulation is contrary to legislative and regulatory provisions, the Minister in charge of the insurance sector in the Member State may decide on its withdrawal or require modification thereof after the consent of the Insurance Supervisory Commission.

Approvals by the Minister in charge of the insurance industry in the Member State pursuant to the provisions of this Article shall only imply the absence of opposition on the part of the Minister, on the dates on which they are given; they may still be revoked by the Minister.

Article 305

Articles of association - Modifications

Companies referred to in Article 300 of this Code must, prior to submitting modifications to their Articles of association to the general meeting, obtain the approval of the Minister in charge of the insurance industry in the Member State who makes a decision within three months as of the filing of three specimens of the draft modification outlines for resolutions. Upon expiry of this time limit, in the absence of remarks by the Minister, the modifications shall be considered as approved. This time limit shall be reduced to forty-five days for increases in legal capital.

Article 306

Change in senior management

(As amended on 22 April 1999 by Decision of the Council of Ministers)

Any licensed company in application of Article 326 shall be obligated to notify the Minister in charge of the insurance industry in the Member State after approval of the Commission, prior to its realisation, any change of the holder of the positions of President or General Manager.

These Authorities have a three month time limit to decide. The absence of reply upon expiry of this time limit shall be deemed as agreement.

Article 306-1 (new) Approval of Auditors (Updated April 2011)

Any company registered under the provisions of section 326 shall submit for approval by the Committee prior to its implementation, any appointment or reappointment of the auditors.

These auditors must appear on a list of experts accredited to the Court of Appeal of the state concerned or any other authorized body.

To this end, the insurance company must submit an application of approval of the auditors that it proposes to appoint or replace. In case of replacement, the request is accompanied by minutes of the meeting of the General Assembly of shareholders.

In the cases of multiple auditors, the nominees may not be in the same office or buildings with links between them.

The authorities shall have three months to come to a decision. Failure to respond within the time limit constitutes acceptance. If it deems necessary, the Commission may request information in addition to those provided for in Article 328-4 h).

In the case of disapproval, the decision is justified. In particular it may be based on the fact that the auditors, or natural person proposed to carry out the task, do not provide the guarantee of experience, competence or independence necessary to perform these functions.

No person may hold office as auditor of an insurance company without the appointment having received prior approval of the Commission. The approval process is determined by the Commission. The approval may be revoked by the said Commission.

Insurance companies must ensure that approval of the Commission was obtained before the performance of audit duties. Otherwise, they breach the insurance regulations.

Within twelve months from the date of entry into force of this regulation, active insurance companies must submit, the information provided to the Commission for approval of their auditors.

Article 307

Contributions of insurance companies

Expenses of any kind resulting from the application of the provisions of this Code pertaining to supervision in the area of insurance, shall be by means of contributions, the amount and payment of which shall be defined in Articles 55 and 56 of the Treaty, the constitution of the General Secretariat of the Conference and those of IIA.

Premiums or contributions forming the contribution base shall be calculated by adding to the amount of issued premiums or contributions, including premium incidentals and policy costs, net of duties and taxes, net of cancellations for the fiscal year and from all previous fiscal years, the variation of earned premiums or contributions for the fiscal year and not yet issued; this amount shall be understood as without acceptances. Cession or retrocessions are not deducted.

Article 308

Direct insurance abroad

(As amended on 4 April 2000 by Decision of the Council of Ministers)

It shall be prohibited, unless explicitly authorised by the Minister in charge of insurance, to underwrite direct insurance of a risk concerning a person, property or liability located in the territory of a Member State with a foreign company which was not in conformity with the prescriptions of Article 326.

Any cession in reinsurance abroad on more than 75% of a risk concerning a person, property or a liability located in the territory of a Member State except for the classes referred to in paragraphs 4, 5, 6, 11 and 12 of Article 328, shall be subject to authorisation by the Minister in charge of insurance.

Article 308-1

Definition of risk situation

(As amended on 21 April 2004 by Decision of the Council of Ministers)

Shall be considered as State of the risk situation:

- 1) the State where the goods are located, when the insurance concerns buildings and their contents as far as the later is covered by the same insurance policy,
- 2) the State of registration, when the insurance concerns any type of vehicles,

- 3) the State where the contract was underwritten, if it concerns a contract for less than four (4) months, pertaining to risks incurred while moving, regardless of their class,
- 4) in any case other than those mentioned in 1), 2) and 3) hereinabove, the State in which the underwriter primarily resides or, where the underwriter is a legal person, the State where is located the registered office of the entity concerned by said contract.

Section II - Regional Insurance Supervisory Commission

Article 309

Regional Insurance Supervisory Commission

(As amended on 2 April 2008 by Decision of the Council of Ministers)

The Regional Insurance Supervisory Commission, hereinafter named Commission, shall be the regulating organisation of the Conference. It shall be assigned with supervision of companies and the supplementary surveillance of insurance companies which are part of an insurance group within the meaning of 7) of Article 301-1. It shall ensure general supervision and contribute to the organisation of national insurance markets.

Article 310

Role and expertise

(As amended on 2 April 2008 by Decision of the Council of Ministers)

The Commission organises supervision of insurance companies operating in the territory of Member States and that of insurance groups within the meaning of 7) of Article 301-1 on paper and on site. It shall have a supervising organ in the General Secretariat of the Conference. It shall receive all findings useful to the supervision carried out by national insurance boards within the scope of their own tasks.

The Commission may request from entities subject to its supervision the communication of auditors' reports and, in general, of all accounting documents of which it may, as need be, request certification.

Companies must place all documents referred to in the preceding paragraph at its disposal, as well as the qualified personnel to provide it with information which it deems necessary.

Insofar as necessary for the exercise of its supervisory function and under the conditions set by this Code, on-site supervision may be extended to parent companies and to subsidiaries of supervised companies and to any intermediary or any expert intervening in the insurance industry.

Article 310-1

Supplementary supervision – Definitions

(Added on 2 April 2008 by Decision of the Council of Ministers)

For the purpose of supplementary supervision of companies within an insurance group, shall be understood as:

- 1) "insurance company": a company having received the administrative approval in compliance with Article 326 and with its registered office in a Member State of CIMA,
- 2) "insurance company of a third party country": a company with no registered office in a State Member which, if it were to operate in this zone, would otherwise be obligated to be approved in compliance with Article 326,
- 3) "reinsurance company": a company other than an insurance company or a company insurance of a third party country, whose main activity consists in accepting risks ceded by an insurance company, an insurance company of a third party country or others reinsurance companies.

Article 310-2

Additional supervision – Applicability

(Added on 2 April 2008 by Decision of the Council of Ministers)

- 1) Insurance companies within the meaning of 1) of Article 310-1, within an insurance company within the meaning of 7) of Article 301-1, shall be subject to additional supervision of their financial situation, in compliance with Articles 310-4, 310-5 and 337-5 to 337-6.
- 2) Any insurance company, whose parent company is a mixed insurance group company, shall be subject to additional supervision in compliance with Articles 310-4 and 310-5.

Article 310-3

Additional supervision – Scope

(Added on 2 April 2008 by Decision of the Council of Ministers)

- 1) The Commission may decide not to take into account, in the additional supervision referred to in Article 310-2, companies with their registered office in a third party country where there are legal obstacles to the transfer of necessary information, without prejudice to the provisions of Article 337-6.
- 2) The Commission may also decide, on a case-by-case basis, not to take into account a company in the additional supervision referred to in Article 310-2 where the company to include is only of insignificant relevance for the purposes of the additional supervision of insurance companies within an insurance group.

Article 310-4

Additional supervision – Internal supervision

(Added on 2 April 2008 by Decision of the Council of Ministers)

Any insurance company participating in at least one company referred to in 1) to 3) of Article 310-1 must dispose of an internal supervision system to produce the data and information intended to enable the exercise of the additional supervision of its financial situation.

Article 310-5

Additional supervision – Intra-group transactions

(Added on 2 April 2008 by Decision of the Council of Ministers)

The Commission exercises a general supervision on transactions carried out by an insurance company:

- a) with its related companies,
- b) with an individual who holds a participation in one or several related companies,

These transactions concern notably:

- loans,
- guarantees and transactions outside the balance sheet,
- items acceptable for the constitution of the solvency margin,
- investments,
- reinsurance transactions,
- agreements to share costs,
- agreements on technical assistance.

If, due to these transactions, it appears that the solvency of the insurance company is jeopardised or likely to be, the Commission shall require of the company that it takes the necessary measures for the re-establishment or the maintenance of its solvency.

Article 310-6

Additional supervision – Co-operation between competent authorities

(Added on 2 April 2008 by Decision of the Council of Ministers)

The Commission may, with the supervisory authorities such as the Banking Commission of Central Africa, the Banking Commission of the West African Economic and Monetary Union and with any other authority in charge of supervising other financial sectors of a Member State, enter into agreements for the purpose of exchanging information necessary for the performance of their respective mandates.

The information thus collected is covered by professional secrecy, under the conditions applicable to the organisation which collected them, and to the organisation receiving them.

The Commission may, in addition, send information to the authorities in charge of supervising insurance companies in non-Member States of CIMA, under a reciprocity reserve and under the condition that these authorities are themselves bound by professional secrecy with the same guarantees as those required of the Members of the Commission.

Article 311 Injunctions

Where it observes, on the part of a company subject to its supervision, non-compliance with insurance regulation or a behaviour jeopardising the execution of liabilities contracted towards the insured, the Commission enjoins the company concerned to take all measures of rectification which it shall deem necessary.

Non-execution of measures of rectification within the prescribed time limits shall be liable of sanctions listed in Article 312.

Article 312 Sanctions

- a) Where it shall note a violation of the insurance regulations against a company subject to its supervision, the Commission pronounces the following disciplinary sanctions:
- warning,
 - reprimand,
 - limitation or prohibition of all or part of operations,
 - all other limitations within the exercise of the profession,
 - the suspension or dismissal from office of the responsible managers,
 - withdrawal of licensing.

The Commission may, in addition, inflict fines and pronounce the automatic transfer of the business portfolio.

- b) For the execution of the sanctions it pronounced, the Commission proposes to the Minister in charge of the insurance industry, where applicable, the appointment of a temporary administrator.

Where the decisions of the Commission require the appointment of a liquidator, it sends a request for this purpose to the competent President of the Court and notifies the Minister in charge of insurance thereof.

Article 313 On-site supervision – contradictory report

In the case of on-site supervision, a report after full argument on both sides shall be prepared. Where the observations are formulated by the inspector, the company shall be notified thereof. The Commission shall study the observations formulated by the inspector and replies made by the company.

The results of on-site supervision shall be communicated to the Minister in charge of the insurance industry and to the Board of directors of the company being supervised and are sent to the auditors.

Article 314 Decisions

The injunctions and sanctions pronounced by the Commission take the form of decisions made at the end of proceedings after full argument on both sides during which the managers were able to present their observations.

Article 315-1 Organisation of national markets

Within the scope of the supervision and organisation function defined in Article 309, the Commission shall:

- a) express an opinion which conditions the issuance of a license by the Minister in charge of the insurance industry in compliance with Article 315-2,
- b) have access to all documents and statistics concerning the national insurance markets in the territory covered by the Treaty,
- c) send to the Council its observations and proposals on the functioning of the insurance industry as well as on the amendments of the common legislation which it deems necessary,
- d) send to the authorities of the Member States its observations concerning the consequences of its decisions on the territory of the Member States as well as its recommendations on the functioning of the national insurance markets.

Articles 315-2 Terms and conditions of issuance of a license

The granting by the Minister in charge of the insurance industry of a license requested by an insurance company shall be subject to the approval of the Commission.

The Commission shall have a maximum time limit of two months to pronounce its decision. The absence of a reply upon expiry of this time limit shall be understood as acceptance.

Licenses granted by the national authorities prior to the effective date of these provisions shall remain valid.

Article 316 Enforceable decisions

Decision of the Supervisory Commission shall be sent to the interested companies and to the Minister in charge of the insurance industry in the Member State concerned. The decisions shall be enforceable forthwith after notification.

Article 317 Appeal

Appeal may only be brought against the decisions of the Commission before the Board and within a time limit of two months as of their notification.

The Board has the power to overrule the decisions of the Commission.

Appeals shall not be suspensive in nature.

However, where it pronounces the automatic transfer of the business portfolio or withdrawal of licensing, the Commission may, at the request of the Minister in charge of the insurance industry in the Member State concerned, authorise under conditions it specifies the pursuit of the company's business during a maximum time limit of six months as of notification of the decision and while awaiting the decision of the Board on a possible appeal.

Article 318 Composition

- 1) Shall be members of the Commission:
 - a) one legal expert with experience in insurance appointed by the Board,
 - b) one person who has exercised in the insurance industry, appointed for their experience in the African insurance market and appointed by the Board,
 - c) one personality with experience with supervisory problems of insurance in Africa within the scope of technical assistance provided by third party States or international organisations, appointed by the Board,
 - d) six representatives from national insurance boards of directors appointed by the Board,
 - e) the Managing Director of CICA-RE,
 - f) one individual qualified in the financial field named by mutual agreement by the governor of BEAC and the governor of BCEAO (and the Central Bank of the Comoros Islands),
The Board shall appoint the Chairman of the Commission from among the individuals designated in the preceding paragraphs.
For each one of the members referred to in a), b), c), d) and f) above, the Board appoints, according to identical criteria, an alternate member. The Managing Director of CICA-RE may have himself represented by the Deputy General Manager of CICA-RE.
- 2) Sitting in on the Commission without the right to take the floor or to vote are:
 - the President of FANAF, with the exception of cases where the agenda of a meeting calls for a decision involving the insurance company to which they belong,
 - the Secretary General of the Conference,
 - the Managing Director of IIA,
 - one representative of the Minister in charge of the insurance in the Member State where operates each company subjected to a disciplinary hearing or requesting the granting of a license.

Article 319 Mandate

The mandate of the members of the Commission who are not sitting in that capacity shall be set at three years, renewable, with the exception of those referred to in Article 23 paragraph d), whose mandate shall be renewable by rotation.

Whilst carrying out their duties, members of the Commission shall neither request nor accept instructions from any government nor any organisation.

Members of the Commission who can speak and vote shall abstain from any action incompatible with the duties of honesty and discretion associated with the carrying out of their duties. Except for the Managing Director of the CICA-RE, they may not, during the term of their mandate and in the two years following expiry of the latter, receive any retribution from an insurance company. Members of the Commission, as well as the individuals sitting there without the right to take the floor or vote must maintain strict confidentiality.

Outside of regular renewals and deaths, the duties of a member of the Commission come to an end through voluntary or automatic resignation.

Members of the Commission who have failed to meet their obligations may be considered by the Council as having resigned their post.

The General Secretary of the Conference shall be assigned to the General Secretariat of the Commission.

Article 320 Majority

Decisions of the Commission shall be made by simple majority of the members present or represented. The President holds a deciding vote in the event of a tie.
The Commission cannot validly sit unless nine of the members who form it are present or represented by their alternate.

Section III – Safeguard and recovery procedures

Article 321

Safeguard measures

(As amended on 24 April 1999 by Decision of the Council of Ministers)

Where the financial situation of a company subject to its supervision is such that the interests of insured and contract beneficiaries are jeopardised or likely to be, the Commission or the Minister in charge of the insurance industry in a Member State after approval by the General Secretariat of CIMA, may take one of the following emergency measures:

- a) put the company under permanent supervision,
- b) restrict or prohibit the free disposal of all or part of the company's assets,
- c) appointment of a temporary administrator to whom are transferred the powers necessary to administrate and manage the company. This appointment is made either following the request of the managers when they consider to no longer be able of performing their duties normally, or on the initiative of the Commission or its agent where management of the establishment may no longer be done in normal conditions, or when the sanction referred to in paragraph a) 5) of Article 312 has been imposed.

The measures mentioned in b) and c) of this Article shall end or be confirmed by the Commission, after an adversarial procedure, within a four month time limit.

During the time limit mentioned in the preceding paragraph, the company's managers may be heard. They may be assisted by an insurance professional of their choice.

Article 321-1

Recovery plan

(As amended on 24 April 1999 by Decision of the Council of Ministers)

Where a company subject to its supervision does not abide by the provisions of Articles 335 and/or 337, the Commission shall request that, within a one month time limit, the following shall be submitted to it:

- a recovery plan providing any measures to re-establish, within a three month time limit, a coverage in compliance with the regulation, where the company does not comply with the regulation on technical provisions,
- a short-term financial plan able to re-establish within a three month time limit, the solvency margin, if the latter does not reach the minimum set by regulation.

The Regional Insurance Supervisory Commission shall have the right to extend the time limits stated hereinabove.

It may block or restrict the free disposal of the company assets and/or appoint an auditor-controller to perform a permanent supervision of the company. This auditor-controller chosen among those of the Commission or of the National Insurance Board of the country concerned must see to the implementation of the recovery plan. The auditor-controller then disposes of extended investigatory powers and must notably be immediately notified of all decision taken by the Board of Directors or the company's management.

If the company does not submit the required plan within the time limit or if the one submitted does not meet the approval of the Commission or if the plan approved is not implemented under the conditions and in the time limits set, the Commission shall pronounce the sanctions set in Article 312.

Article 321-2 Supervisory board

(As amended on 24 April 1999 by Decision of the Council of Ministers)

Where, in compliance with Article 321 c), a temporary administrator is appointed for a company subject to the supervision of the Commission as pursuant to Articles 300 and 309, a supervisory board shall be formed by the Minister in charge of insurance. It is composed of the Director of insurance or their representative, of the legal State agent or their representative and of a representative of the State Agency of the Central Bank. The Director of insurance or their representative shall preside over it.

It shall exert a permanent control of the company's management and must notably be notified, prior to their execution, of all decisions taken by the temporary administrator.

The supervisory board shall approve the financial statements prepared by the temporary administrator as well as the management report prepared by the auditors.

Article 321-3

Restriction or prohibition of the free disposal of assets

(As amended on 24 April 1999 by Decision of the Council of Ministers)

Where the Commission or the Minister in charge of insurance, after approval of the General Secretariat of CIMA, is led to restrict or prohibit the free disposal of assets of a company, one or several of the following measures may be taken:

- prescription by registered letter to any company or group issuing or depositing to refuse the carrying out of any transaction on accounts of securities belonging to the company concerned, as well as payment of interest and dividends pertaining to said securities,
- subjecting the carrying out of these transactions to the prior approval of an auditor-controller or any person who has been empowered to do so,
- prescription to mortgage recording officers, by registered letter, to refuse the transcription of all instruments, the entry of any mortgage on buildings belonging to the company as well as the striking-off of any mortgage agreed on by a third party for the benefit of the company,
- deposit in a bank of the originals of any mortgages agreed on by said company,
- transfer to a bank, of all funds, securities and values held or owned by the company, in conditions to be set, so that they can be deposited in a blocked account. This account shall only be debited on its holder's order with the explicit approval of the Commission or of the Minister, and only for a fixed amount.

The directors of the company who do not perform the transfer mentioned in the preceding paragraph shall be liable for sanctions set in Article 312.

Article 322

Life insurance and investment companies

Where the circumstances so require, the Insurance Supervisory Commission may order a company to suspend payment of surrender values or payment of loans on policy.

Section IV – Portfolio transfer

Article 323

Procedure

Companies ensuring the operation referred to in Article 300 may, with the approval of the Insurance Supervisory Commission, transfer in whole or in part their business portfolio, with its rights and obligations, to one or several licensed companies.

The request for transfer shall be made known to creditors through a notice published in the Official Journal and/or in a legal announcement journal, which allows them at least a three month time limit to present their observations to the Minister in charge of the insurance industry in the Member State. The Minister notifies the Insurance Supervisory Commission

The insured have a one month time limit, as of the publication of this notice in the Official Journal and/or in a legal announcement journal, in order to terminate their contract. Under this reserve, the Insurance Supervisory Commission approves the transfer where it appears that the transfer is in compliance with the interests of creditors and the insured. This approval renders the transfer enforceable to the insured, policyholders, contract beneficiaries and creditors.

Article 324

Automatic transfer

Where the Insurance Supervisory Commission decides, pursuant to Article 312, to impose on a company the automatic transfer of its portfolio of insurance contracts, this decision shall be made known to all of the insurance companies of the Member State through a notice in the Official Journal and/or in a legal announcement journal. This notice sets off a fifteen day time limit during which the companies which would accept taking over the business portfolio in question must make themselves known to the Commission.

The company designated by the Insurance Supervisory Commission to take over the portfolio of insurance contracts transferred shall be notified of this designation by registered letter with acknowledgment of receipt.

The decision which pronounces the transfer sets the terms and conditions thereof, and the effective date.

Section V – Liquidation

Article 325

Procedure, opening

The bankruptcy of a company governed by this Code may only be pronounced regarding a company subject to the provisions of this book upon request of the Insurance Supervisory Commission; the court may also of its own accord or by request of the prosecution consider the matter of the opening of this procedure after the concurring opinion of the Insurance Supervisory Commission.

The presiding judge may only consider a request for the opening of the amicable settlement after the concurring opinion of the Insurance Supervisory Commission.

Article 325-1

Effects of withdrawal of license: liquidation

(As amended on 24 April 1999 by Decision of the Council of Ministers)

The decision of the Regional Insurance Supervisory Commission pronouncing the total withdrawal of the license carries ipso jure as of its publication in the Official Journal and/or in a legal announcement journal, where it concerns a company of a Member State, the dissolution of the company or where it concerns a foreign company, the liquidation of the assets and liabilities of the special balance of its transactions in national territory.

In both cases, liquidation shall be carried out by a legally empowered agent appointed at the request of the Insurance Supervisory Commission by ordinance rendered by the competent presiding judge. The judge shall appoint a liquidator among those listed as approved by the

court and appearing on the list communicated by the Regional Insurance Supervisory Commission in its request.

The judge shall appoint by the same ordinance a judge assigned to supervise liquidation transactions; said judge shall be assisted, in the exercise of their task, by one or several auditors-controllers appointed by the Regional Insurance Supervisory Commission.

The judge and/or the liquidator shall be replaced in the same manner.

The ordinances pertaining to the appointment or replacement of the judge-controller and of the liquidator may not be opposed, appealed or the subject of an action before the Cour de Cassation [highest court of the country].

Article325-2

Liquidator

(As amended on 24 April 1999 by Decision of the Council of Ministers)

The liquidator acts completely under his own responsibility. The liquidator has the broadest powers contingent on the provisions of this Chapter, to administrate, liquidate, create assets, both tangible and intangible, and to stop liabilities, taking into account of unsettled claims. Any action regarding movable and immovable shall only be monitored or brought by or against them.

Throughout the liquidation, the company shall remain subject to supervision of the Regional Insurance Supervisory Commission and of the judge-controller.

They may at all times request from the liquidator information and supporting documents and have them proceed to an on-site verification.

They shall send to the presiding judge all reports deemed necessary. The presiding judge may, where need be, rely on the report from the judge-controller or at the request of the Commission, proceed with the replacement of the liquidator by final ordinance.

Article325-3

Publication

(As amended on 24 April 1999 by Decision of the Council of Ministers)

The Regional Insurance Supervisory Commission shall publish the decision pronouncing the total withdrawal of licensing in the form of excerpts or opinion in a journal empowered to receive legal announcements, as of its notification to the managers of the insurance company.

Within ten days of the appointment of a liquidator and upon the latter's diligence, the ordinance of the presiding judge shall also be published in the form of excerpts or opinion in a journal empowered to receive legal announcements.

Article 325-4

Admission of creditors

The liquidator automatically admits certain creditors to liabilities. With the approval of the judge-controller, they register with reservation, on the liabilities side, the contested debts, where the alleged creditors have already applied to the competent jurisdiction or where they apply within a fifteen day time limit as of the receipt of the registered letter with acknowledgment of receipt which shall be sent to them for the purpose of letting them know that their debts were not automatically accepted.

Article 325-5

Liquidator, obligations

(As amended on 4 April 2000 by Decision of the Council of Ministers)

The liquidator shall establish without delay a summary assets and liability status of the company in liquidation and remit it immediately to the judge-controller and to the Commission.

In addition, the liquidator shall send them every three months a report on the status of the liquidation, of which a copy is filed with the court clerk.

A copy of this report shall be sent to the presiding judge, to the prosecution and to the Minister in charge of insurance.

This report shall include at least an accounting status for three months, a detailed report of realised assets, of discharged liabilities along with the prospect of the conclusion of the pending liquidation transactions.

Where the liquidator has knowledge of actions set in Article 333-4, committed by the legal or actual directors, apparent or hidden, remunerated or not, of the company in liquidation, the liquidation must inform the prosecution, the judge-controller and the Commission thereof immediately.

Article 325-5 (bis) Transitional provisions

(As amended on 24 April 1999 by Decision of the Council of Ministers)

Provisions of Articles 325-2 and 325-5 shall be applicable forthwith to all insurance companies, including those currently in liquidation.

Article 326 Salaries, privileges

In the event of liquidation carries out in the condition set in Article 325-1, salaries corresponding to the past sixty days of work and paid leaves, not exceeding thirty days of work, must be paid notwithstanding the existing of any other privilege.

Article 325-7 Salaries, privileges, subrogation

Notwithstanding the existence of any other debt, the debts guaranteed by the privilege laid down in Article 325-6 must be paid by the liquidator, on simple ordinance of the judge-controller, within ten days of the decision of the Insurance Supervisory Commission pronouncing the total withdrawal, where the liquidator disposes of the necessary funds.

However, prior to any establishment of the amount of these debts, the liquidator must, with the authorisation of the judge-controller and depending on the funds available, immediately pay the salaried employees, on a provisional basis, an amount equal to one month of unpaid salary on the basis of the last pay slip.

Where unavailable, the amounts due pursuant to the two preceding paragraphs must be paid with the first incoming funds.

In the event said amounts were to be paid by means of an advance, the lender shall hence subrogated in the rights of the interested parties and must be reimbursed as soon as the necessary funds come in without any other creditor being able to oppose it.

Article 325-8 Distribution

The liquidator proceeds with distribution with the authorisation of the judge-controller. They take into account privileges of creditors; among creditors equal in rights and among unsecured creditors, the distribution shall be carried out on a pro-rata basis.

As from the appointment of the liquidator, individual pursuits of creditors shall be suspended. Upon failure by creditors to have validly applied to the competent jurisdiction within the prescribed time limit, the contested or unknown debts shall not be included in the distribution to be made. If the debts are subsequently acknowledged, creditors shall not be able to claim anything on the distributions already authorised by the judge-controller, but they shall have the

right to collect on assets not yet distributed dividends pertaining to their debts in subsequent distributions.

The amounts which may be paid in distributions to contested creditors who have validly applied to the competent jurisdiction within the prescribed time limit shall be held in reserve up until a final judgment has been rendered on their debts. Creditors shall have the right to collect on the amounts held in reserve the dividends pertaining to their debts in the first distributions, without prejudice to their rights in the subsequent distributions.

Article 325-9 Transactions, transfers

The liquidator may, with authorisation of the judge-controller, compromise on the existence or the amount of contested debts on the debt of the company.

The liquidator may only transfer buildings belonging to the company and movable securities not quoted on the Stock Exchange by way of public auctions, unless with special authorisation of the judge-controller. The latter has the power to order expert evaluations at the expense of the liquidation.

Notwithstanding any provision to the contrary, securities and immovable property of foreign companies, mentioned in Articles 332 and 332-1 may be realised by the liquidator and the funds used by him for performance of the contracts.

Article 325-10 Liquidation, closing

The court pronounces the closing of the liquidation on the report of the judge-controller when all privileged creditors holding their rights from the performance of insurance, investment or savings insurance have been paid off or when the course of transactions is stopped due to a lack of assets.

Article 325-11 Withdrawal of licensing, termination of contracts – Damage insurance

In the event of withdrawal of licensing pronounced against a company mentioned in 2) of Article 300, all contracts underwritten by it cease ipso jure to be effective on the fortieth day at noon, as of the publication in the Official Journal and/or in a legal announcement journal of the decision of the Insurance Supervisory Commission pronouncing the withdrawal. Premiums or contributions due prior to the date of this decision, and unpaid on this date, are due in their entirety to the company, but they are only definitively earned by the latter in proportion to the period covered up until the date of the occurrence. The premiums or contributions maturing between the date of the decision and the date of termination of the contracts shall be only due in proportion with the period covered.

Article 325-12 Withdrawal of licensing, termination of contracts – Life insurance

After publication in the Official Journal and/or in a legal announcement journal of the decision of the Insurance Supervisory Commission pronouncing the withdrawal of licensing granted to a company referred to in 1) of Article 300, contracts underwritten by the company shall remain governed by their general and special conditions as long as the decision of the Insurance Supervisory Commission mentioned in the following paragraph has not been published in the Official Journal and/or in a legal announcement journal, but the liquidator may, with approval by the judge-controller, postpone the payment of claims, maturities and surrender values.

The Insurance Supervisory Commission, at the request of the liquidator and on the report of the judge-controller, shall set the date on which contracts cease to have effect, authorise their

transfer in whole or in part to one or several companies, extends their due date, decides on the reduction of the amounts payable in the event of life or death as well as the benefits allocated and surrender values, so as to bring back the value of the company's liabilities to the amount for which the status of the liquidation allows coverage.

The provisions of Articles 325-5, 325-4 and 324-8 shall not be applicable as long as the Insurance Supervisory Commission has not set the date on which the contracts cease to have effect, and the time limit of ten days, referred to in the first paragraph of Article 325-3, only begins as of the publication of this decision in the Official Journal and/or in a legal announcement journal.

Article 325-13

Nullity of transactions subsequent to withdrawal of licensing

A the request of the Insurance Supervisory Commission, the court may pronounce the nullity of one or several transaction carried out by the managers of a company provided with a liquidator following the withdrawal of the licensing; the burden is placed upon the Insurance Supervisory Commission to bring the proof that persons who contracted with the company knew that the assets were insufficient to cover the privileged debts of the insured and that the transaction in question was to have the effect of diminishing this coverage.

Article 325-14

Brokers, authorised agents

Where a company carrying out insurance transactions for land motor vehicles has its license withdrawn, the individuals or legal entities exercising insurance brokerage, through the intermediary of which the contracts covering the risks mentioned in Article 200 of Book II of this Code were underwritten with this company, must pay back to the liquidation one quarter of the amount for commissions collected, notwithstanding the circumstance, at the time of these contracts, since 1st January of the year preceding that during which the license is withdrawn.

The same provision shall be applicable to non-salaried agents of the same company, who were not obliged to reserve the exclusivity of the contracts they bring in to the latter.

TITLE II – Administrative system

Chapter I – Licenses

Section I – Issuing Licenses

Article 326

License

Companies subject to supervision pursuant to Article 300 may only begin their transaction after having obtained a license. However, as regards the transactions of acceptance in reinsurance, this license shall not be required.

The license shall be granted at the request of the company, for transactions of one or several classes of business. The company may only carry out transactions for which it has been licensed. Any company carrying out transactions defined in 1) of Article 300 may not carry out at the same time transactions defined in 2) of the same Article.

Companies which, at the date of entry into force of this Code, practice at the same time the transactions defined in 1) and 2) of Article 300 have a three year time limit to comply with the prescriptions of the two paragraphs hereinabove.

Article 327

Contracts underwritten in violation of Article 326

Contracts underwritten in violation of the preceding Article shall be null. However, this nullity shall not be opposable to underwriters and beneficiaries when they in good faith.

Article 328

Classes

(As amended on 20 April 1995 by Decision of the Council of Ministers)

The license referred to in Article 326 shall be granted class by class. For this purpose, insurance transactions shall be classified in classes as follows:

Fire, Accident, Miscellaneous Risks Classes

- 1) Accidents (including workmen's compensation)
 - a) contractual benefits,
 - b) compensatory benefits,
 - c) combinations,
 - d) persons transported.
- 2) Sickness
 - a) contractual benefits,
 - b) compensatory benefits,
 - c) combinations.
- 3) Land vehicles (other than railroad):
Any damage incurred by:
 - a) land motor vehicles,
 - b) land non self-propelled vehicles.
- 4) Railroad vehicles:
Any damage incurred by railroad vehicles.
- 5) Aircrafts:
Any damage incurred by aircrafts.
- 6) Sea, inland waterway and lake vehicles:
Any damage incurred by:
 - a) inland waterway vehicles,
 - b) lake vehicles,
 - c) sea vehicles.
- 7) Goods in transit (including merchandise, luggage and any other property):
Any damage incurred by goods in transit or luggage, whatever the means of transport.
- 8) Fire and natural elements:
Any damage incurred by goods (other than those included in classes 3, 4, 5, 6 and 7) when it is caused by:
 - a) fire,
 - b) explosion,
 - c) storm,
 - d) natural elements other than storm,
 - e) nuclear energy,
 - f) land subsidence.

9) Other damage to goods:

Any damage incurred by goods (other than those included in classes 3, 4, 5, 6 and 7) when it is caused by hail or ice, as well as by any event, such as theft, other than those included in class 8.

10) Civil liability – land motor vehicles:

Any liability arising from the use of land motor vehicles (including the carrier's liability).

11) Civil liability – aircrafts

Any liability arising from the use of aircrafts (including the carrier's liability).

12) Civil liability – sea, inland waterway and lake vehicles

Any liability arising from the use of sea, inland waterway and lake vehicles (including the carrier's liability).

13) General civil liability:

Any liability other than that mentioned in 10, 11 and 12.

14) Credit:

- a) general insolvency,
- b) export credit,
- c) instalment sale,
- d) mortgage loan,
- e) agricultural credit.

15) Guarantee:

- a) direct guarantee,
- b) indirect guarantee.

16) Various pecuniary losses

- a) employment risks,
- b) insufficient turnover (general),
- c) bad weather loss,
- d) loss of profits,
- e) loss of profits,
- f) unanticipated business expenses,
- g) loss of market value,
- h) loss of earnings or income,
- i) indirect business losses other than those mentioned previously,
- j) non-business pecuniary losses,
- k) other pecuniary losses.

17) Legal protection

18) Assistance:

Assistance to persons in difficulty, notably during travel.

19) (Reserved).

Life Classes

20) Life-death:

Any operation containing liabilities whose implementation depends on the human life span.

21) Insurance linked to investment funds:

Any transaction containing liabilities whose implementation depends on the human life span and linked to an investment fund. The classes mentioned in 20 and 21 include facultative insurance, in addition to the main risk, notably those with guarantees in the event of accidental death or disability.

22) Tontines:

Any transaction containing the setting up of groups assembling members for the purpose of investing their contributions and distributing the assets thus constituted, either among the survivors or among their beneficiaries.

23) Investment:

Any transaction calling for capital for the purpose of investment and containing, in exchange for single or periodic payments, direct or indirect, liabilities fixed as to their length and amount.

Ancillary risks

Any company obtaining the license for a main risk belonging to a class mentioned in 1 to 18 of Article 328 may also cover risks contained in another class without the requirement of a license for these risks, when they are linked to the main risk, concern the object covered against the main risk and are guaranteed by the contract covering the main risk.

However, risks contained in classes mentioned in 14 and 15 of Article 328 may not be considered as ancillary to other classes.

Article 328-2 Additional risks

Companies licensed to exercise in classes mentioned in 20 and 21 of Article 328 may directly carry out, on the ground of incidental insurance as part of a life insurance contract and in exchange for payment of a separate premium or contribution, facultative insurance against bodily injury risks including occupational disability, accidental death or disability following an accident of sickness. In this case, the contract must specify that these facultative coverage end, at the latest, at the same time as the principal coverage.

Application for certification of rates on life insurance contain facultative insurance against the risks mentioned in the first paragraph, which the companies shall be obligated to present in compliance with Article 304, must be accompanied by the technical supporting documents related to these additional guarantees.

Section II – Licensing conditions

Article 328-3 Criteria for granting or refusing the license

All documents supporting a request for license must be written in the official language(s).

To issue the opinion referred to in Article 20 of the Treaty, the Supervisory Insurance Commission shall take into account:

- technical and financial means of which the implementation shall be proposed and their adequacy with the company's business plan,
- the good repute and qualification of persons in charge of managing it,
- the distribution of capital or, for companies mentioned in Article 330, the terms and conditions of the start-up fund's constitution,
- the general organisation of the market.

Any unfavourable opinion must be justified and notified by the Insurance Supervisory Commission.

The unfavourable opinion leading to the total or partial refusal of the license may only be issued if the company has first been served notice by registered letter to present its observations by writing within a fifteen day limit.

The company may challenge the decision before the Council of Ministers within the two months following the notification of refusal of license, total or partial or, in the absence of notification, at the expiry of a six month time limit as of the submission of a regularly constituted file for the request of a license.

Article 328-4 Company of a Member State (Modified April 2011)

Any request of license submitted by a company of a Member State must be produced in five copies and include:

- a) the list, prepared in compliance with Article 328, of classes that the company intends to carry out,
- b) failing this, the indication of foreign countries where the company intends to operate,
- c) one of the duplicates of the original instrument of the company or a certified copy,
- d) the official report of the constitutive general meeting,
- e) two copies of the Articles of association and a certificate of bank deposit,
- f) the list of directors and managers, as well as any person called to exercise in their stead equivalent duties with the last name, first names, residence, nationality, date and place of birth of each of them.

The persons aforementioned must produce a copy of their criminal record of less than three months or a similar document issued by a competent judicial or administrative authority.

In addition, if they are of foreign nationality, these persons must comply with the provisions of laws and regulations on the situation and police for foreigners.

- g) a business plan including the following items:
 - 1) a document specifying the nature of risks which the company intends to cover,
 - 2) for each one of the classes subject of the licensing request, two copies of policies and printed materials intended for public distribution or publication,
 - 3) for each one of the classes subject of the licensing request, two copies of the rates.

Where it concerns insurance transactions containing liabilities whose execution depends on the human life span, transactions complementary to the previous transactions, the company must produce the rate pertaining to all these transactions, as well as a technical note explaining the method for establishing rates and bases for calculation of various categories of premiums or contributions.

Where it concerns transactions calling on capital for investment purposes, the company must produce the full rate of payments or contributions, along with tables indicating at least year by year the mathematical reserves and the surrender values, as well as a technical note explaining the method for establishing these various elements.
 - 4) the guiding principles which the company intends to abide by in terms of reinsurance,
 - 5) the production network, forecasts of set-up expenses of the administrative services and the production network, as well as the financial means intended to meet this,
 - 6) for the first three corporate fiscal year:
 - the forecasts pertaining the management expenses other than set-up expenses, notably general expenses and commissions,
 - the forecasts pertaining to premiums and claims,
 - the possible cash flows situation,
 - the balance sheet, operating account and forecast profit and loss account,
 - the forecast statement C1.
 - 7) for the same corporate fiscal year:
 - the forecasts pertaining to financial means intended to cover liabilities,
 - the forecasts pertaining to the solvency margin which the company must have in compliance with the provisions of this Code,
 - 8) in the case of a public limited company, the list of main shareholders as well as the part of registered capital held by each of them; in the case of a mutual insurance company, the methods of constitution of the start-up funds,
 - 9) the name and address of the main banking establishment where the accounts of the company are domiciled,
 - 10) in the event of a request of license extension, the documents mentioned in c), d) and e) of this Article shall not be required. The company must indicate, where necessary, any modification occurring regarding the application of the provisions of f) of this Article, as well as those of Article 328-5 and prove that it disposes of a solvency margin at least equal to the regulatory amount.

- h) the names, residence, nationality, place and date of birth of the individual or representative of the company auditor. These people must produce:
- criminal record certificate no older than three months, or an equivalent document issued by a judicial or administrative authority;
 - a curriculum vitae
 - a certificate of registration to the board of the organisation of chartered accountants in the Court of Appeal of the state concerned or any other authorised body.
 - the names of companies audited or in the course of being audited, especially insurance companies, as well as time spent on each body;
 - the honourable commitment of the auditors to not directly or indirectly practice in any incompatible activity, to not have any doubtful or disputed claim to the insurance company and avoid any conflict of interest.

Article 328-5

Competence and professional experience

When examining the licensing file, the Regional Insurance Supervisory Commission shall take into account the competence and professional experience of the persons mentioned in 1) f) of Article 328-4. The latter must produce a descriptive statement of their activities. They indicate, among others:

- 1) the nature of their current professional activities and those which they have exercised in the past ten years preceding the licensing request,
- 2) whether they were the subject, either of disciplinary sanctions imposed by a supervisory authority or a competent professional organisation, or a refusal of enrolment on a professional list,
- 3) whether they were the subject of a dismissal or a equivalent measure for fault,
- 4) whether they exercised director or management positions in companies having been the subject of recovery or liquidation measures, measures pertaining to personal insolvency and bankruptcies, or equivalent measures abroad.

Article 328-6

Foreign company (updated 2011)

- 1) Any licensing request submitted by a company whose registered office is located outside the territory of the Member State where it intends to operate, must be produced in duplicate and contain, in addition to the documents referred to in a), e) and f) and h) of Article 328-4:
 - a) the balance sheet, the general operating account and the general profit and loss account for each of the past three corporate fiscal years; however, where the company counts less than three corporate fiscal years, these documents must only be provided for closed fiscal years,
 - b) a certificate issued by the competent administrative authorities, enumerating the classes which the company is empowered to operate as well as risks which it effectively covers and attesting that it is constituted and that it operates in its country of origin in compliance with the laws of this country,
 - c) the proposal for acceptance of the Insurance Supervisory Commission of an individual with the capacity of general agent and fulfilling the conditions set by this Code,
 - d) a business plan containing the documents mentioned in g), 1) to 7) of Article 328-4,
 - e) the proof that the company has, in the territory of the Member State, a branch where it is resident.
- 2) In the event of a request for licensing extension, the documents mentioned in e) and f) of Article 328-4 as well as c) and e) of this Article shall not be required.

Article 328-7 General agent

General agents mentioned in Article 328-6 c) shall be individuals. They must have their domicile and have resided in the territory of the Member State for at least six months. They must produce an excerpt of criminal record of less than three months or an equivalent document issued by a judicial or administrative authority or, failing this, an affidavit or a solemn declaration made before a competent authority or a notary, in which terms they certify not having been the subject of a sentence abroad, which, had it been pronounced by a national jurisdiction, would be entered in the criminal records.

In addition, if they are of foreign nationality, general agents must comply with the provisions of the laws and regulations pertaining to the situation and police for foreigners.

Where general agents are salaried employees or agents remunerated to the commission of the company, their duties as general agent shall not cause them to lose this capacity.

General agents must produce, regarding their competence and professional experience, the information referred to in Article 328-5.

The provisions of this article shall be applicable to the general agent of Lloyd's.

Article 328-8 Report of performance

During the three fiscal years subject of the forecasts mentioned in g), 6) and 7) of article 328-4, the company must submit to the Insurance Supervisory Commission, for each semester, a report of the performance of its business plan.

If the reports thus submitted show a serious imbalance in the financial situation of the company, the Commission may at all times take the necessary measures to reinforce the financial guarantees deemed compulsory and, failing this, to proceed with the withdrawal of the license.

Section III – Publicity, suspension and lapsing of the license

Article 328-9 Publicity of the license

The license is published in the Official Journal of the Member State where the company must carry out its business.

Article 328-10 License terminating ipso jure after transfer of portfolio

In the event of a transfer occurring pursuant to Article 323 or Article 323 and pertaining to all of the contracts belonging to a determined class or sub-class, the license shall be terminated ipso jure for this class or sub-class.

Article 328-11 License terminating ipso jure for failure to underwrite

If a company which obtained the license for a class or sub-class has not yet carried out the corresponding transactions within one year as of the publication in the Official Journal of the decree of licensing, or if a company does not underwrite, for two consecutive fiscal years, any contract belonging to a class or sub-class for which it is licensed, the license shall be terminated ipso jure for the class or sub-class considered.

Article 328-12 Lapse of the license

At the request of a company agreeing to no longer underwrite new contracts in the future, which fall under one or several classes or sub-classes, the Minister in charge of the insurance industry on the Member State may, by decision published in the Official Journal, acknowledge the lapsing of said classes or sub-classes.

Chapter II – Constitution and functioning rules

Section I – Common provisions

Article 329 Approval of managers

(As amended on 24 April 1999 by Decision of the Council of Ministers)

To be eligible for the position of General Manager, candidates must be holders of:

- either of a secondary education degree in insurance or actuaries and proof of a minimum experience of five years in a position of senior manager in an insurance company, an insurance organisation, a brokerage firm or in an insurance supervisory administration,
- or a secondary education degree in an economic or legal subject with a five year experience in managerial position in a company of financial nature,
- or a secondary education degree with a minimum experience of ten years in senior managerial positions in a company or administration.

Persons who have not been sentenced for a jus commune offence, for theft, for breach of trust, for swindling, or for any crime punishable by law with sanctions for swindling, theft committed by a person with public authority, extortion of funds or securities, writing returned checks in bad faith, threat to the credit of the Member State, concealment or handling of goods obtained through these offences, shall in any capacity whatsoever, found, direct, administrate, manage and liquidate the companies subject to supervision of the Regional Supervisory Commission pursuant to Article 300 and, generally, insurance and reinsurance companies of any type and investment companies. Any sentence for attempt or complicity of the offences hereinabove, or any sentence of at least a year of imprisonment, regardless of the nature of the offence committed, shall lead to the same unfitness.

The prohibitions stated in the preceding paragraph shall be imposed on undischarged bankrupts as well as directors, general managers of insurance companies and persons in similar positions having been the subject of a withdrawal of license.

However, for the application of the prohibition mentioned in the preceding paragraph imposed on directors, general managers of insurance companies and persons in similar positions, the Commission shall take into account their liability in the bankruptcy of the company concerned.

Article 329-1 Object

Companies subject to the supervision pursuant to Article 300 may not have an object other than that of carrying out transactions mentioned in Article 328, as well as those directly derived from them, except for any other commercial activity.

They may underwrite insurance contracts on the account of other licensed companies with which they have entered into agreement for such a purpose.

Article 329-2 Drawing lots

It shall be forbidden, for transactions other than those mentioned in 23) of article 328, to stipulate or to perform contracts or allocate benefits by means of drawing lots.

Section II – Public limited insurance and investment companies

Article 329-3 Registered capital

(As amended on 4 April 2007 by Decision of the Council of Ministers)

Companies subject to supervision pursuant to Article 300, constituted in the form of public limited companies and whose registered office is located in the territory of a Member State must have an issue capital at least equal to 1 billion CFA Francs, excluding contributions in kind. Each shareholder must pay, prior to the definitive incorporation, at least three quarters (3/4) of the amount of shares subscribed them in cash.

Payment of the remainder must intervene within three years maximum as of the registration in the Trade and Personal Property Credit register, under the conditions set by the Articles of association or by decision of the Board of directors.

Companies which, at the date of entry into force of these provisions, have a capital or equity funds lower than this minimum, must comply with them within a three year time limit.

Article 329-4 Auditors: special report

The special report of auditors, provided for by the law on commercial companies, must contain, in addition to the stipulations set by this law and concerning agreements, an indication of the amount of sums paid to directors and managers as a remuneration or commission for insurance and investment contracts underwritten through their intermediary.

Article 329-5 Loans, publicity, mention of privilege

In the prospectus, posters, circulars, notices, announcements or any documents whatsoever pertaining to loans of companies mentioned in Article 329-3, it must be explicitly reminded that a privilege is granted for the benefit of the insured by Article 332 and indicated that the lender, even where it is insured, shall not benefit from any privilege regarding the interest and the reimbursement of this loan. This mention must also appear in clear prints on the loan documents.

Article 329-6 Issued documents, mention of capital

Prospectus, posters, circulars, notices, announcements or any documents whatsoever, as well as policies issued by public limited companies mentioned in the present Section must indicate, under the mention of the registered capital, the part of this capital already paid up.

Article 329-7
Equity participation greater than 20%, acquisition of the majority of voting rights,
authorisation of the Minister in charge of insurance
(As amended on 24 April 1999 by Decision of the Council of Ministers)

Any sales transaction having the effect of directly or indirectly giving, to a natural or legal person shareholder or to several legal persons shareholders connected by parent and subsidiary company relations, either an equity participation of 20% of the registered capital, or the majority of voting rights at the general meeting of a company mentioned in Article 329-3 must, prior to its realisation, obtain the authorisation of the Minister in charge of insurance in the Member State.

The file of this authorisation request must notably include the following items:

- 1) All information pertaining to the transaction considered and notably:
 - the part of capital or voting rights already held by the purchaser or by persons belonging to the same group,
 - the nature, amount, objectives, expected consequences and mechanisms of the cession planned,
- 2) All information pertaining to the purchaser:
 - a) Where it concerns an individual:
 - their last name, first name, residence, nationality, date and place of birth,
 - a descriptive statement of their activities containing the information mentioned in Article 328-5,
 - all the information enabling an evaluation of their assets,
 - whether they were or likely to be the subject of one of the procedures referred to in Article 329.
 - b) Where it concerns a legal person:
 - the corporate name and the address of its registered office,
 - any document certifying the validity its incorporation, according to the laws and regulations of the country of its registered office,
 - the list of directors and managers with last name, first name, residence, nationality, date and place of birth,
 - the distribution of capital and the voting rights held by each of them,
 - the description of its business and the detail of its participations in insurance companies,
 - the balance sheets and general operating statements of the closed past two fiscal years,
 - whether it was or likely to be the subject of an investigation or a professional, administrative or judicial procedure, the sanctions or financial consequences resulting or likely to result from it,
 - whether it concerns an insurance company, the rate of coverage of its solvency margin and its liabilities regulated in compliance with the legislation in force in the country of its registered office.

Upon receipt of the complete file, the Minister shall dispose of a three month time limit to decide on the cession, after prior approval of the Regional Supervisory Insurance Commission.

The cession may be realised upon receipt of an authorisation of Minister or, in the event of silence, at the expiry of the time limit stated in the preceding paragraph.

The provisions of this Article shall also be applicable to cessions of shares of companies with their registered office in a Member State of CIMA whose principal activity consists in participating in companies mentioned in Article 300.

In the event of violation of the provisions of this Article, the Minister, after prior approval of the Commission, shall suspend, until regularisation of the situation, the exercise of voting rights attached to the shares, directly or indirectly, held irregularly.

Article 329-8

Dividends, distributions

(As amended on 4 April 2000 by Decision of the Council of Ministers)

Distribution of dividends may only be done after the constitution of reserves and provisions prescribed by laws and regulations in force, after full depreciation of set up expenses and after regulatory provisions regarding the solvency margin and the coverage of regulated liabilities have been fulfilled.

Section III – Mutual insurance companies

Article 330

Mutual insurance companies – Definition

Mutual insurance companies shall have a non-commercial purpose. They shall be formed to cover the risks brought by their members. In exchange for the payment of a fixed or variable contribution, they shall guarantee to the latter the complete settlement of the liabilities contracted. However, the mutual insurance companies carrying out life insurance or investment transactions may not receive variable contributions.

I – Constitution

Article 330-1

Surplus income, distribution

Surplus income of mutual insurance companies practicing one or several classes mentioned in 1 to 18 of Article 328 shall be distributed between the members under the conditions set by statutes, contingent on the provisions of paragraph 1 of Article 330-35.

Article 330-2

Start-up funds

(As amended on 4 April 2007 by Decision of the Council of Ministers)

Mutual insurance companies must have a start-up fund at least equal to CFA Francs 800 millions.

Companies which, at the date of entry into force of these provisions, have a start-up fund lower than this minimum must comply with it within a three year time limit.

Article 330-3

Issued documents, mentions

Mutual insurance companies governed by this Section must write in their Articles of association and all the documents mentioned in Article 304 one of the following two mentions, in uniform prints: “Mutual insurance company with fixed contributions” or “Mutual insurance company with variable contributions”, according to the contribution system applied to the members.

Article 330-4

Constitution, types

Companies mentioned in this section must be constituted in due legal form in duplicate original regardless of the number of signatories of the instrument.

Article 330-5

Drafts of Articles of association

The drafts must:

- 1) indicate the object, duration, registered office, the corporate name and the company's territorial area of its transactions, determine the method and general conditions under which are contracted the liabilities between the company and the members and specify the insurance classes directly guaranteed or accepted in reinsurance,
- 2) set the minimum number of members, which may not be less than five hundreds,
- 3) set the minimum amount of contributions paid by members for the first annual period and specify that these contributions must be paid in full prior to the declaration mentioned in Article 330-9,
- 4) indicate the method of remuneration of the management and, where applicable, the directors in compliance with the provisions of Article 330-14,
- 5) provide for the constitution of a start-up fund intended to meet, within the limits set by the business plan referred to in g) of Article 328-4, the expenses of the first three years and to cover the liabilities of the company, and specify that the start-up fund shall be paid in full in cash prior to the declaration mentioned in Article 330-9,
- 6) provide for the method of distribution of surplus income,
- 7) provide, for companies carrying out the transactions mentioned in 20 to 23 of Article 328, the payment of fixed contributions.

Article 330-6
Special advantages prohibition

In the draft Articles of association, no special advantage for the benefit of the founder members shall be provided.

Article 330-7
Complementary corporate fund

(As amended on 4 April 2000 by Decision of the Council of Ministers)

The draft Articles of association may provide for the constitution of a complementary corporate fund intended to procure for the company the elements of solvency which it must have at its disposal to comply with the regulation in force. This fund shall be funded by loans and/or collections of membership fees for the purpose of financing an improvement plan of the operating or a development plan on the medium or long term. Members may be obligated to contract the loans under the conditions referred to in Article 330-33.

The collections of membership fees mentioned hereinabove must be authorised by the General Meeting, voting as provided for in Article 330-23, and be the object of a special resolution whose content must be first approved by the Commission. It shall be compulsory for the amount to be paid by member and the total amount expected of this transaction to be attached to the text of the resolution.

Article 330-8
Membership form, stipulations

The entire text of the draft Articles of association must be reproduced on every document intended for the receipt of memberships.

Article 330-9
Memberships, notarised declaration

Where the conditions mentioned in Articles 330-5 to 330-8 are met, the signatories of the original instrument or their empowered agents shall acknowledge it in a declaration before a notary.

To this declaration shall be attached:

- 1) the duly certified nominative list of members containing their last name, first names, capacity and residence, and, where applicable, the corporate name and the registered office of member companies, the amount of assets guaranteed by each one of them and the amount of their contributions,
- 2) one of the duplicates of the company instrument or an enforceable certified copy if it has been certified by a notary other than the one receiving the declaration,
- 3) the statement of contributions paid by each member,
- 4) the statement of paid amounts towards the constitution of the start-up fund,
- 5) a notarised certificate recording that the funds were paid prior to the declaration mentioned in this Article.

Article 330-10 Constitutive assembly

The convening of the first general meeting, which is requested by signatories of the original instrument, shall verify the sincerity of the declaration mentioned in Article 330-9; it shall appoint the members of the Board of directors, and for the first fiscal year, the auditors mentioned in Article 330-27.

The official report of the meeting shall record the acceptance of members of the Board of directors and of auditors present at the meeting.

The company shall only be finally incorporated after this acceptance.

II – Administration

Article 330-11 Administration

The administration of the company is entrusted to a Board of directors appointed by general meeting and composed of five members at least excluding, where applicable, the directors elected by the salaried personnel in compliance with the provisions of Article 330-12 and the number of which must appear in the Articles of association.

The directors shall be chosen among the members who are up-to-date with their contribution payments, except for those who are elected by the salaried. They must be replaced when they no longer fulfil this condition.

They shall not be appointed for more than six years; they can be re-elected, unless otherwise provided in the Articles of association.

They can be revoked for serious misconduct by general meeting.

The Articles of association must provide for, as regards the exercise of director duties, an age limit applicable, either to all the directors, or to a set percentage of them.

In the absence of explicit provision in the Articles of association, the number of administrators over age seventy may not be greater than a third of the administrators in duty.

Any appointment occurring in violation of the provisions of the preceding paragraph shall be null.

Article 330-12 Board of directors

The Board of directors may include, in addition to the directors whose number and method of appointment are provided for in this Code, one or several directors elected by the salaried personnel. The number of these directors, set by the Articles of association, may not be greater than four nor exceed the third of that of the other directors. Where the number of directors elected by the salaried personnel is equal or greater than two, senior staff and similar members of personnel have at least one seat.

For the application of this Article, the terms and conditions of directors elected by the salaried personnel shall be set in compliance with the provisions of the law on commercial companies. The Articles of association may not subordinate to any condition whatsoever the election to the Board of directors any member who is up-to-date with their contribution payments. Any appointment occurring in violation of this Article shall be null. This nullity shall not entail that of the deliberations in which the director irregularly appointed took part.

Article 330-13 Chairman and Vice-chairman

The Board of directors shall elect among its members a Chairman and where necessary a Vice-chairman, whose functions last three years; they may be re-elected. The Articles of association must provide for an age limit for the exercise of the position of Chairman and Vice-chairman of the Board of directors which, in the absence of explicit provision, shall be set to sixty five years old. Any appointment occurring in violation of the provisions of the preceding paragraph shall be null. Where this age limit is reached by the Chairman or Vice-chairman of the Board of directors, they shall be considered to have automatically resigned. The deliberations shall be made at the absolute majority of the voted of the Board members. Proxy voting shall be prohibited. The powers of the Board of directors shall be determined by the Articles of association, within the limits of laws and regulations in force.

Article 330-14 Managers

Directors may choose among themselves or otherwise, where the Articles of association allow it, one or several managers; they shall be responsible towards the company for their management. The Articles of association must provide for an age limit for the exercise of the position of manager which, in the absence of explicit provision, shall be set to sixty five years old. Any appointment occurring in violation of the provisions of the preceding paragraph shall be null. Where this age limit is reached by a manager, they shall be considered to be automatically retired. The total amount of remuneration that directors may collect in one year from the company, whatever the reason may be, may neither exceed the set annual salary of the manager, nor the percentage of management expenses set by the general meeting. No compensation directly or indirectly related to the turnover of the company may be allocated, whatever the reason may be, to a director or a manager. The manager and the employees, other than the personnel directly in charge of marketing may only be compensated by a fixed salary and additional advantages such as, either aid or assistance to themselves or to their family members, or contribution to a pension funds to their benefit. These advantages may not in any case, consist in variable benefits with the activity of the company, notably with the amount of contributions, the amount of insured assets, or the number of members. The additional advantages which would be granted to the manager or any of the employees, other than those in charge of investment and contract underwriting and those who are in charge of this activity or ensure its management, may not represent more than 20% of the total of the amounts allocated by the company to such advantages, nor more to 25% of the amount of the salary of the interested party. Mutual insurance companies may not in any case contractually allocate their management to any person or any organisation whatsoever.

Article 330-15
Directors, liability

Directors shall be liable, civilly and criminally, for their management actions, in compliance with the legislative provisions in force.

Article 330-16
Directors, prohibition

Directors and managers shall be prohibited to take or hold a direct or indirect interest in a company, market, treaty or a business or financial transaction carried out with the company or on its account, unless they are authorised to do so by the general meeting.

Each year, a special report of the performance of markets, companies, treaties or business or financial transactions authorised by the general meeting, under the terms of the preceding paragraph, shall be given to the latter.

This special report shall be the subject of a report by the auditors.

Article 330-17
General meeting, composition

The Articles of association determine the composition of the general meeting. The latter shall be composed either of all the members who are up-to-date with their contribution payments, or of delegates elected by these members. For the application of this second option, members may be divided in the following groups according to the nature of the contract underwritten or according to regional or professional criteria. The number of delegates may not be set at less than fifty.

The Articles of association may make applicable to the members any provision pertaining to the vote by mail provided for shareholders, according to the corresponding provisions of the law on commercial companies.

Article 330-18
General meetings, convening

The Articles of association shall indicate the conditions under which the convening to general meetings shall be made; such convening shall be made through the insertion in a journal empowered to receive legal announcements and precede by at least fifteen days the date set for the meeting.

The convening must mention the agenda; the meeting may only deliberate on items appearing on this agenda.

The agenda may only contain the proposals of the Board of directors and those which it received at least twenty days prior to the general meeting, with the signature of at least one tenth of the members, or of one hundred members if one tenth is greater than one hundred.

All members who requested so shall be informed of the general meeting by a stamped letter, at their own expenses, and sent within the time limit allowed for the convening of the general meeting.

Article 330-19
General meeting, prohibition of census access conditions

Statutory clauses which subordinate participation to the general meeting or to the election of members of the general meeting among those who are up-to-date with they contribution payments, to a condition of amount of contribution shall be null.

Article 330-20

General meeting, attendance sheet

In all general meetings, an attendance sheet shall be kept. It contains the name and residence of the members present or represented.

This sheet, duly signed by the members or their proxies, and certified by the bureau of the general meeting, must be filed at the registered office and sent to any person requesting it.

Article 330-21 Members, information

Any member may, within fifteen days preceding the general meeting, at the registered office, have access in person or through a proxy, to the balance sheet, the general operating account and the general profit and loss account which shall be presented at the general meeting as well as to all documents which must be communicated to the general meeting.

Article 330-22 General meeting, periodicity

At least one general meeting shall be held during the quarter set by the Articles of association and under the conditions set by them. At this meeting, the Board of directors shall present the balance sheet, the general operating account and the general profit and loss account of the past fiscal year.

The Board of directors may, at all times, convene a general meeting.

Article 330-23 General meeting, quorum

The general meeting shall deliberate validly if the members present, represented or having made use of the option to vote by mail, number at least one quarter of the total number of the members. Failing this, a new meeting shall be convened, in the forms and time limits prescribed by Article 330-18; this meeting shall deliberate validly regardless of the number of members present, represented or having made use of the option to vote by mail.

Article 330-24 General meeting, deliberations

The general meeting which must deliberate on the appointment of the members of the first Board of directors and on the sincerity of the declaration made, pursuant to Article 330-9, by the signatories of the original instrument, shall be composed of all members having joined prior to the final incorporation of the company.

It shall deliberate validly if the members present, represented or having made use of the option to vote by mail, form the majority.

Otherwise, it may only perform a temporary deliberation; in this case, a new general meeting shall be convened. Two notices, published with an eight day interval, at least one month in advance, in one of the journals empowered to receive legal announcements, shall inform the members of the temporary resolutions adopted by the first general meeting, and these resolutions shall become definitive after approval by the new general meeting which shall deliberate validly if the number of members present, represented or having made use of the option to vote by mail, reaches at least one fifth of the total number of members.

Article 330-25 General meeting, modification of the Articles of association, increase of member liabilities

The general meeting deliberating as stated below may modify all provisions of the Articles of association. It may not, however, change the nationality of the company, reduce its liabilities, increase member liabilities resulting from existing contracts, except in the event of an increase in duties and taxes of which the recovery from members is not prohibited and as pursuant to the following paragraph.

Statutory modifications for the purpose of replacing the fixed contribution by a variable contribution shall be applicable to existing contracts, notwithstanding any clause to the contrary, at least one month after notification of the insured in the terms stated in Article 330-26. However, in the month following this notification, the insured has the right to terminate the contracts underwritten with the company, under the conditions set by paragraphs 2 and 3 of Article 23 of Book I of this Code.

The general meeting shall deliberate validly if the number of members present, represented or having made use of the option to vote by mail, represents at least two thirds of the total number of members.

If the first meeting has not met the preceding quorum, a new meeting can be convened. The convocation contains the agenda indicating the date and result of the preceding meeting.

The second meeting shall deliberate validly if the number of members present, represented or having made use of the option to vote by mail, reaches half of the total number of members.

Where this second meeting does not meet the quorum states in the preceding paragraph, a third meeting may be convened which shall deliberate validly if the number of members present, represented or having made use of the option to vote by mail, reaches a third of the total number of members,

Failing the quorum, this third meeting may be postponed to a later date of at most two months as of the day on which it was convened.

This meeting shall deliberate validly is the number of members present, represented or having made use of the option to vote by mail, reaches a third of the total number of members.

In the general meetings mentioned in this Article, the resolutions, to be valid, must always reach at least two thirds of the votes of members present, represented or having made use of the option to vote by mail.

Article 330-26

Articles of association, modification, notice

Any modification to the Articles of association shall be made known to the members, either by remittance of document against receipt, or by registered letter, or at the latest, with the first notice of payment or receipt of contribution which are sent to them. This modification shall also be mentioned on riders to existing contracts.

Modifications of the Articles of association which are not notified to a member in the terms stated in the preceding paragraph may not be enforced on them.

Article 330-27

Auditors, appointment

The general meeting appoints for six fiscal years one or several auditors.

May not be appointed auditors of a company governed by this Section:

- 1) the founders and directors of the company, as well as their immediate family and relatives up to the fourth degree inclusive,
- 2) the persons and the partners of persons who receive, from those mentioned in 1) hereinabove, or from the company a salary or any type of remuneration by reason of a position other than auditor,
- 3) auditors' companies in which one of the partners is in one of the situations referred to in 1) and 2) hereinabove.

Auditors may not be appointed as directors or managers of companies that they supervise within less than five years after the termination of their duties. The same prohibition shall be applicable to partners in an auditors' company.

Article 330-28
Auditors, disqualification – “minority” expertise

The supervision of mutual insurance companies shall be exercised by one or several auditors in compliance with the corresponding provisions of the law on commercial companies.

The right to disqualify one or several auditors and the right to apply to court for the appointment of an expert in charge of presenting a report on one or several management transactions shall be open to members accepted to be part of the general meeting and representing at least one tenth of the latter.

The President of the High court shall rule, acting in a summary jurisdiction, on members' applications to court for the supervision of auditors.

Article 330-29
Auditors, convening

Auditors shall be convened, at the same time as directors, to the meeting of the Board of directors which closes the accounts of the past fiscal year. They shall also be convened, at the latest along with the convening of members, to all general meetings.

Auditors may only call a general meeting after having requested in vain its convocation to the Board of directors by registered letter with acknowledgment receipt. If the auditors disagree on the convenience of calling the meeting, one of them may request of the President of the High court, acting in a summary jurisdiction, to proceed with this convocation, other auditors and the chairman of the Board of directors duly called on.

Communication to auditors of documents held by third parties who have realised transactions on the account of the company shall be authorised by the President of the High court, acting in a summary jurisdiction.

Article 330-30
Auditors, fees

The amount of auditors' fees shall be determined by mutual agreement between the latter and the company.

The President of the High court, acting in a summary jurisdiction, shall be competent to hear any litigation regarding the determination of the fees amount.

III – Obligations of members and the company

Article 330-31
Members, limitation of liabilities

Members may not be liable in any case, except by application of the provisions of paragraph 1 of Article 330-25, either above and beyond the contribution recorded in their policy in the case of a company with fixed contributions, or above and beyond the maximum amount of contribution indicated on their policy in the case of a company with variable contributions.

The maximum amount of contribution expected in the latter case may not be less than one and a half times the amount of the normal contribution necessary to meet probable expenses resulting from claims and management fees.

The amount of normal contribution must be indicated on the policies issued by companies with variable contributions to their members,

The fractions of the maximum amount of contribution that the insured of companies with variable contributions may, should such be the case, have to pay in addition to the normal contributions, shall be set by the Board of directors.

The provisions of this Article shall not apply to companies carrying out one or several classes mentioned in 20 to 23 of Article 328.

Article 330-32 Rating

The Board of directors decides on the admissibility and rating of any risk referred to by the Articles of association, contingent on the application of the laws and regulations in force. No preferential treatment may be granted to a member.

Article 330-33 Mutual, loans

Mutual insurance companies may only contract loans to constitute:

- 1) start-up funds which they may have to constitute in accordance with Article 330-5,
- 2) new start-up funds which they may have to constitute, in accordance with the aforementioned Article 330-5, when they request the license for new classes,
- 3) funds which may be necessary in order to develop their transactions and the financing of new production,
- 4) complementary corporate fund. All loans intended to form the funds mentioned in 2) and 3) of the preceding paragraph must be first authorised by the general meeting deliberating as stated in Article 330-25.

Any loan intended for the constitution and, possibly, the funding of the complementary corporate fund must be authorised by the general meeting deliberating as stated in Article 330-23 and be the subject of a special resolution whose content must first be submitted for approval of the Insurance Supervisory Commission, which will make the decision on the basis of one of the plans mentioned in Article 300-7. This plan must compulsorily be attached to the text of the resolution.

Upon expiry of a two month time limit as of the filing of the text of the resolution and of the document aforementioned, and in the absence of an explicit decision of the Commission, the authorisation shall be considered as granted. The resolution shall determine which members must sign the loan, without this obligation being able to involve members with existing contracts at the time the Articles of the association were modified. The participation of members who are already members of the company, at the time it decides to grant a loan, may not be greater than 10% of their annual contribution.

In all the prospectus, posters, circulars, notices, announcements or any documents whatsoever pertaining to the company loans, it must be explicitly reminded that a privilege shall be granted for the benefit of the insured by Article 332 and indicated that the lender, even where it is insured, shall not benefit from any privilege regarding the interest and the reimbursement of this loan. This mention must also appear in clear prints on the loan documents.

Article 330-34 Mutual, loans and subordinated securities

(As amended on 4 April 2000 by Decision of the Council of Ministers)

- I- The loans and subordinated securities, as constitutive items of the solvency margin, referred to in Article 337-1, must meet the following conditions:
 - 1) In the hypothesis of a debtor insurance company being liquidated, these loans may only be reimbursed after the settlement of all other debts existing at the date of the liquidation or contracted for the needs thereof.

- 2) The contract of issuance or loan contract does not include any clause providing that, in the circumstances set, other than liquidation of the debtor insurance company, the debt shall be reimbursed prior to the agreed due date.
 - 3) The contract of issuance or loan contract shall provide that it may only be modified after the Commission declares not to be opposed to the modification considered, after having verified that the modified contract will keep on fulfilling the conditions set in this Article.
 - 4) The contract of issuance or loan contract must provide for a due date of the funds reimbursement at least equal to five years or, when no due date is set, a prior notice of at least five years for any reimbursement.
- II- At the latest one year prior to the expected start date for the reimbursement of all or part of the funds mentioned in paragraph I hereinabove, the debtor insurance company shall submit to the Commission a plan indicating how the solvency margin shall be maintained, after reimbursement, at the level required by regulation. This plan shall not be required where the part of funds included in the solvency margin is progressively and validly brought to zero by the insurance company during at least the past five fiscal years prior to the reimbursement due date.
- III- Funds from loans and subordinated securities with a fixed length which compose the solvency margin may be prepaid at the debtor insurance company's diligence if the Commission has first authorised such a prepayment, after having ensured that the solvency margin does not risk being brought below the level necessary to ensure in a lasting manner the compliance with the margin required by regulation. Under the same conditions, the Commission may authorise the reimbursement of funds from loans and subordinated securities of indeterminate duration as a component of the solvency margin without application of the notice provided for in 4) of paragraph I of this Article. In the cases referred to in this paragraph, the debtor insurance company submits at least six months in advance to the Regional Insurance Supervisory Commission, supporting its request for authorisation, an outline indicating how the solvency margin shall be maintained, after the reimbursement, at the level required by regulation. The absence of decision notified to the company upon expiry of a six months time limit shall be deemed an authorisation. Shall notably be subject to the provisions of this paragraph the early depreciation by public tender offer or public exchange offer and the redemption in the Stock exchange of quoted securities; however, an issuer may redeem in the stock exchange without prior authorisation up to 5% of issued securities, under the condition that it informs the Commission of the realised redemptions.
- IV- The contracts of issuance pertaining to loans and subordinated securities of indeterminate duration which formally provide that any reimbursement shall be subordinated to the prior authorisation of the Commission shall not have to provide for the minimum time limit referred to in 4) of paragraph I of this Article.

Article 330-35

Loan – Representative security

The security remitted to any member having subscribed to a loan to constitute or fund the complementary corporate fund must be established in the form provided for by the General Secretariat of the Conference.

Article 330-36

Surplus income, distribution

Distribution of surplus income may only be carried out after constitution of the reserves and provisions prescribed by the laws and regulations in force, after total depreciation of start-up expenses and after the regulatory provisions regarding the solvency margin are complied with. The Supervisory Commission may be opposed to the allocation of surplus to free reserves.

Article 330-37
Surplus which may be distributed

The surplus income which may be distributed in application of Article 330-25 shall be allocated in priority to prepayments of the loan mentioned in Article 330-7 in proportion to the underwriting of each member.

Where the company takes the initiative to bar a member, the latter may ask to be immediately reimbursed of their contribution to this loan. The same shall occur where the member makes use of the right provided for in paragraph 2 of Article 23 of Book II of this Code.

Article 330-38
Force majeure, partial settlement

In the event of force majeure resulting from weather conditions and animal diseases of exceptional nature, a decree based on the report of the Insurance Supervisory Commission and the Minister of Agriculture of the Member State, may authorise one or several companies governed by this Section, after exhaustion of their available resources, to only pay partially an immediate settlement of the claims due to these events.

Companies which received this authorisation must allocate in priority all surplus income noted at a late stage, to the payment of the outstanding indemnity due to each beneficiary.

The provisions of this Article shall not apply to companies carrying out one or several classes mentioned in 20 to 23 of Article 328.

Article 330-39
Losses reaching half of the contracted loans

Where, due to losses recorded in the accounting documents, the net assets become less than one half of the amount of the start-up fund, the Board of directors must call a general meeting deliberating as stated in Article 330-25, in order to rule on the question of knowing whether to pronounce the dissolution of the company.

Article 330-40
Mutual insurance companies, dissolution, excess asset surplus

In the event of a dissolution that is not justified by a licensing withdrawal of a mutual insurance company, the excess of net assets over liabilities shall be devolved, by decision of the general meeting, either to other mutual insurance companies, or to associations known as being of public interest.

IV – Mutual reinsurance companies

Article 330-41
Mutual reinsurance companies

Among the companies governed by this Section, mutual reinsurance companies may be constituted with the reinsurance of risks directly covered by the companies which belong to them as their objective.

These reinsurance companies shall be subject to the provisions of this Section. However, they shall be validly incorporated when they assemble at least seven member companies; their Articles of association shall determine, without the condition of a minimum amount, the amount of their start-up fund; the general meeting shall be composed of all the member companies.

V – Publicity

Article 330-42

Mutual insurance companies, constitution, formalities

During the month of the setting up of any mutual insurance company, a copy of the constitutive instrument, its attachments and a certified copy of the deliberations made by the general meeting mentioned in Article 330-10 shall be filed in duplicate with the clerk of the High court of the registered office.

Article 330-43

Publicity, excerpts

Within the same time limit of one month, an excerpt of the documents mentioned in Article 330-42 shall be published in one of the journals empowered to receive legal announcements. The insertion shall be justified by a copy of the journal certified by the printer and registered within three months of its date.

Article 330-44

Excerpt

The excerpt must contain the corporate name adopted by the company and the indication of its registered office, the name of the persons authorised to manage, direct and sign on the account of the company and, in addition, the number of members, the amount of contributions paid below which the company could not have been validly incorporated, the date on which the company was constituted, that on which it should end and the date it was filed with the clerk of the High court.

It shall also indicate the amount and the method of constitution of the start-up funds and, where applicable, the amount of the entrance fee.

The excerpt of the filed instruments and documents shall be signed, for public documents, by the notary.

Article 330-45

Modification of the Articles of association, dissolution

All documents and deliberations whose subject is the modification of the Articles of association or the continuation of the company beyond the term set for its duration, or the dissolution of the company prior to this term shall be subject to the formalities prescribed hereinabove.

Article 330-46

Documents filed with the clerk, communication

Any person shall have the right to have access to the documents filed with the clerk of the High court or even to have delivered to them, at their own expenses, a copy or an excerpt by the clerk or the notary custodian of the records.

Any person may also require that, at the company's registered office, a certified copy of the Articles of association be delivered to them, in exchange for payment of an amount not exceeding CFA Francs 500.

VI – Nullity

Article 330-47 Nullity of incorporation

Any company mentioned in this Section incorporated in violation of Articles 330-4 to 330-24 shall be null.

However, neither the company nor the members may enforce against third parties acting in good faith the aforementioned nullity.

Article 330-48 Nullity, effects

Where the company shall be thus nullified, the founders to whom the nullity shall be imputable and the directors in office at the time where it was incurred shall be jointly liable towards third parties and towards the members for the loss resulting from this termination.

If, in order to block the nullity, a general meeting were to be called, the action of nullity shall no longer be admissible as of the date of the valid convocation to this meeting.

The action of nullity of the company or documents or deliberations subsequent to its constitution shall be extinguished where the cause of nullity has ceased to exist prior to the introduction of the request or, in any case, from the date on which the court rules on the grounds in a first hearing.

Notwithstanding adjustment, the fees of actions of nullity previously brought to court shall be at the expense of the defendants.

The court to which an action of nullity was brought may, even automatically, set a time limit to block the nullity.

An action for liability, for the expenses resulting from the nullity, shall also cease to be admissible where the cause of the nullity has ceased to exist, either prior to the introduction of the claim, or on the date on which the court rules on the grounds in a first hearing, or within a time limit set to block the nullity and, in addition, where three years have passed since the date on which the nullity was incurred.

The aforementioned actions of nullity shall have a five year prescription.

Article 330-49 License, action of nullity, restriction

As of the date on which a company governed by this Section shall be notified of the decree by the Insurance Supervisory Commission granting it the license mentioned in Article 326, the action of nullity referred to in Article 330-47 may only be brought by the Insurance Supervisory Commission.

VII – Mutual insurance group companies

Article 330-50 Mutual insurance group companies (Added on 2 April 2008 by Decision of the Council of Ministers)

Where an insurance group company shares, with an affiliate within the meaning of 5) of Article 301-1, significant links of financial solidarity which do not result from participation within the meaning of 3) of Article 301-1, these links shall be defined by an affiliation agreement.

A mutual insurance company may only be affiliated to an insurance group company where its Articles of association explicitly provide the possibility thereof.

The insurance group company may decide to function without corporate capital under the condition of having at least two affiliates. These affiliates may only be mutual insurance

companies or mutual reinsurance companies whose registered office is located in a Member State of CIMA. Where it meets these conditions, the insurance group company may be named “mutual insurance group company”.

Article 330-51

Rules on constitution

(Added on 2 April 2008 by Decision of the Council of Ministers)

- I- The constitution of mutual insurance group companies referred to in paragraph 3 of Article 330-50 shall be covered by the provisions of Articles 330-4 and 330-10 of this Code.
- II- The signatories of the constitutive instrument of the company mentioned in Article 330-4 or their empowered agents shall certify its creation by way of declaration before a notary. To this declaration shall be attached:
 - a) the list duly certified of signatory companies mentioning, for each of them, their corporate name, their registered office, the amount of their technical liabilities and their turnover per class,
 - b) a copy of their Articles of association,
 - c) the documents mentioned in 2), 4) and 5) of Article 330-9.
- III- The provisions of Articles 330-42 to 330-43 related to the publicity shall be applicable to companies governed by this paragraph.

Article 330-52

Control of affiliations – Articles of association

(Added on 2 April 2008 by Decision of the Council of Ministers)

- I-
 - 1) Articles of association of mutual insurance group companies must set the conditions of admission, withdrawal or exclusion of companies with an affiliation agreement with the insurance group company. They must provide that the admission or exclusion of a company with an affiliation agreement shall be the subject of a declaration to the Minister in charge of the insurance industry in the Member State first, along with a file whose composition shall be set at Article 330-53.
 - 2) Articles of association of mutual insurance group companies must also do the following:
 - a) set, with no minimum required, the amount of their start-up funds,
 - b) provide that the general meeting is composed of all companies with an affiliation agreement, each exclusively represented by one of their executive directors or directors duly mandated or a representative directly appointed either by the general meeting, or by the representatives themselves appointed by the general meeting of the company with an affiliation agreement,
 - c) set the number of votes which each company has, which could be proportional to the amount of its cash-ins or to its number of members, direct or indirect.
- II-
 - 1) Articles of association may give the mutual insurance group company powers of control over companies with an affiliation agreement, under the condition that their Articles of association allow it, including where it concerns their management. They may notably, under the same condition:
 - a) subordinate to the prior authorisation of the Board of Directors of the company, the conclusion by these companies of transactions listed in the Articles of association, notably transfers of fixed assets, total or partial

transfer of assets or participations, constitution of securities and grant of sureties, endorsements and other guarantees,

b) provide for sanctioning powers of the company over the other companies.

2) Articles of association may also provide that any company requesting its admission to the mutual insurance group company arrange for prior modification of its own Articles of association in order to give to the mutual insurance group company the right to call a general meeting of said company and propose during the meeting the election of new candidates for the position of director.

III- Provisions of 4) of Article 330-5 and Article 330-6 shall be applicable to Articles of association of mutual insurance group companies.

Article 330-53

Control of affiliations – file submitted to the Minister

(Added on 2 April 2008 by Decision of the Council of Ministers)

As regards the affiliation to the insurance group companies mentioned in Article 330-50, as well as their withdrawal or exclusion, the file mentioned in Article 330-52 shall be composed of the following documents written in French or accompanied by their certified translation in French:

I- Information pertaining to the entities concerned by the transaction:

- a) the corporate name and address of entities for which the transaction is considered,
- b) a document proving the valid incorporation of each one of them according to the laws and regulations of the State of their registered office, except for insurance companies licensed in a Member State of CIMA,
- c) the list of principal directors of each of them, including the last name, first names, residence, nationality, date and place of birth,
- d) description of business for each one of them and details of their participation in insurance companies of a Member State of CIMA or in insurance companies of a third party country within the meaning of 2) of Article 310-1,
- e) failing this, for each one of them, a list of principal entities within the scope of combination or consolidation as defined by Article 434 of this Code, completed by a detailed organogram,
- f) for each one of them, the balance sheet and general operating account and general loss and profit account of the past two closed fiscal years as well as, where applicable, the consolidated or combined account for the past two closed fiscal years,
- g) where one of them has been or is likely to be the subject of an inquiry or professional administrative or judicial procedure, sanctions or financial consequences resulting or likely to result from it,
- h) for the company desiring to affiliate, where it concerns an insurance company, the coverage rate of its solvency margin and its regulated liabilities,
- i) for the group company, the additional supervision file of all affiliates.

II- Information pertaining to the considered transaction:

- a) the affiliation agreement mentioned in Article 330-59,
- b) the decision of the general meeting of the company requesting the affiliation or pronouncing the withdrawal, under the conditions stated in Article 330-53,
- c) the decision of the general meeting of the group company approving the affiliation or pronouncing the exclusion,
- d) any information pertaining to the objectives et expected effects of the considered operation, and notably:

- in any case, a forecast business plan of the new consolidated or combined group over five years, containing the balance sheets and forecasts, the main financial flows and the forecasts pertaining to solvency margin,
 - in the event of withdrawal or exclusion, a forecast business plan of the entity considering the termination of the affiliation agreement or being the subject of an exclusion. In addition to the stipulations mentioned in the preceding paragraph, this business plan shall include the provisions pertaining to the cover of its regulated liabilities,
- e) any information pertaining to the methods of the continuous supervision of businesses and results of the company which considers such affiliation.

Article 330-54

Methods of affiliation to an insurance group company

(Added on 2 April 2008 by Decision of the Council of Ministers)

The decision to affiliate to an insurance group company or to terminate this affiliation shall be taken during the general meeting of each mutual insurance company deciding under the conditions stated in Article 330-25. The same general meeting shall proceed to the possible modifications of Articles of associations pertaining to this decision and to the approval of affiliation agreement described in Article 330-59.

Article 330-55

Board of directors, directorship

(Added on 2 April 2008 by Decision of the Council of Ministers)

- I- Administration of the mutual insurance group company shall be entrusted to a Board of directors composed of members appointed by the general meeting and whose number, which may not be less to five, must appear in the Articles of association.
- II- The provisions of paragraphs 3 to 7 of Article 330-11 and of Articles 330-13, 330-14, 330-15 and 330-16 shall be applicable to directors and managers of mutual insurance group companies.

Article 330-56

General meeting, auditors, loans, mutual proxy

(Added on 2 April 2008 by Decision of the Council of Ministers)

- I- At least one general meeting shall be convened each year under the conditions stated by the Articles of association. At this meeting the Board of directors shall present the balance sheet, the general operating account and the general loss and profit account of the past fiscal year.
The general meeting may, in addition, be convened at all times by the Board of directors.
- II-
 - 1) Convocation to the General meeting must be done by registered letter sent to the companies with an affiliation agreement, at least fifteen days prior to the date set for the general meeting indicating the agenda; the meeting may only deliberate on items appearing on this agenda.
 - 2) The agenda contains proposals of the Board of directors and those which it has received from any company with an affiliation agreement at least twenty days prior to the general meeting.

- III- Any company with an affiliation agreement may, within the fifteen days preceding the general meeting, receive, at the registered office, on its own or by an agent, the balance sheet, the general operating account and the general loss and profit account of the mutual insurance group company which shall be presented at the general meeting as well as all documents which must be communicated to the meeting among which must be the balance sheet, the general operating account and the general loss and profit account of each of the companies with an affiliation agreement to the mutual insurance group company.
- IV- The general meeting shall deliberate validly where the companies with an affiliation agreement present or represented amount to at least half of both the total number of affiliates and the votes which they have. Failing this, a new general meeting shall be convened in the conditions and time limits prescribed by the articles of association; this meeting shall deliberate validly whatever the number of members present or represented.
- V- The general meeting, where it deliberates at a two thirds majority at least, in number and votes, of the companies with an affiliation agreement, may modify the Articles of association in all their provisions except for the nationality of the company; it may, under the same conditions, authorise the merger of the company with another mutual insurance group company.
- VI- The provisions set in Articles 330-27 to 330-30 shall be applicable to mutual insurance group companies.
The provisions of Article 330-28 shall be applicable to the companies with an affiliation agreement, the right to challenge stated in paragraph 2 being open to these companies under the condition that they represent, in number or in votes, the tenth of the group.
- VII- In the event provided for in Article 330-39, the general meeting shall deliberate in the conditions set in V.
- VIII- Any decision to borrow must be authorise by the general meeting deliberating in the conditions set in V and be the subject of a special resolution whose contents shall be first submitted to the approval of the Insurance Supervisory Regional Commission. The latter shall decide, making sure that the interests of the insured of companies with an affiliation agreement are protected, upon reading a file including a detailed presentation of the objectives sought, of the consequences of the loan on the financial situation of the company and of affiliates, as well as, where applicable, a specific description of cases of prepayment.
Upon expiry of a two month time limit as of the submission of the text of the resolution and of the file mentioned hereinabove and in the absence of an explicit decision of the Commission, the authorisation shall be considered granted. In the event of explicit decision, it shall be communicated to the general meeting.

Article 330-57

Nullity of constitution

(Added on 2 April 2008 by Decision of the Council of Ministers)

Any mutual insurance group company constituted in violation of Articles 330-50 to 330-55 shall be null.

The provisions of paragraph 2 of Article 330-47 and those of Article 330-48 shall then apply to it.

Article 330-58

Control of affiliations to a non-mutual insurance group company

(Added on 2 April 2008 by Decision of the Council of Ministers)

The provisions of paragraph 2 of 1) of I of Article 330-52 shall be applicable to insurance group companies mentioned in Article 330-50 which do not have the capacity of mutual insurance group companies defined in paragraph 3 of this Article.

Article 330-59

Affiliation agreement – contents, approval by general meetings

(Added on 2 April 2008 by Decision of the Council of Ministers)

- I- The affiliation agreement mentioned in paragraph 1 of Article 330-50 shall contain the description of links, liabilities, agreements and conditions of cost sharing or any other form of co-operation between an insurance group company and the affiliate. It must contain the agreement of the latter to subordinate its possible withdrawal to the compliance with conditions set in paragraph 2 of 1) of I of Article 330-52.
- II- The affiliation agreements, their modifications and their possible termination must be approved by the general meetings of the insurance group company and of the affiliate.

Section IV – Tontines

Article 331

Tontines, definition

Tontines shall be mutual insurance companies which assemble their members in separate groups called associations and distribute, upon expiry of each one of these associations, the funds coming from the investment in common of their contributions, minus the part allocated to management expenses, among survivors of the associations in the case of life or the beneficiaries of those deceased in the event of death, taking into account the age of the members and their payments.

Companies governed by this section must bear, after their corporate name, in their Articles of association, contracts of bonds it issued and in other documents of any kind intended to be distributed to the public or published, the following mention in uniform prints: “tontines”.

With the exception of 3 of Article 330-5, Articles 330-31, 330-55 to 330-38 and 330-40, the provisions of Section III of this Chapter shall be applicable to tontines, contingent on the exclusions provided for in this Section.

Article 331-1

Underwriting, deductions

Funds coming from underwriting must be entirely paid to the associations minus statutory management fees only.

Management fees may only be deducted in advance on the payments pertaining to each underwriting in a uniform proportion during their entire length. However, to meet the acquisition costs of the contracts and within the limit of these costs, companies may deduct in advance from the first payments pertaining to each underwriting, where the Articles of association so provide, 3.50% at the most of the amount of underwriting, without being able to exceed, in any case, one half of the total statutory deduction.

Funds for each association must be managed separately and may not be mingled in any respect with those of other associations.

Article 331-2
Number of members of the associations

The associations in the event of survival or in the event of death created by tontines may only be validly constituted where they include at least two hundred members.

Article 331-3
Duration

No association in the event of survival may have a term less than ten years and no greater than twenty-five years, as of 1st January of the year during which it started.

The term during which an association in the event of survival remains opened must be less by at least five years than its total term.

Article 331-4
Enrolment

The opening and constitution of each association in the event of survival as well as the closing of the enrolment lists for said associations and must be certified through deliberations of the company's Board of directors.

Article 331-5
Return of premiums

For one same company with a saving scheme, the association in the event of death must be single. However, a second association called return of premiums insurance, compulsorily separate from the first one, may be constituted for the sole purpose of compensating the loss which may result from the death of members for the policyholders to the associations formed by the company in the case of survival.

Article 331-6
Liquidation of associations in the event of death

Contributions returned to associations in the event of death shall be calculated by taking into account of the age of the members at the time of their maturity and according to a rate established on a mortality table specified by the Articles of association. They shall be proportional to the amount, set by means of said rate, of the probable amount to obtain at the time of the distribution.

Article 331-7
Distributions

Upon expiry of each association, a deliberation of the Board of directors of the company shall determine the distribution among the beneficiaries. A copy of this deliberation, certified by the director of the company and by two members of the Board of directors specially appointed for this purpose, shall be sent to the Insurance Supervisory Commission with a list of names of the distribution in duplicate.

Article 331-8
Liquidation of associations in the event of survival

In associations in the event of survival, the distribution concerns the entire amount of assets held by the association. It shall be carried out among the beneficiaries pro rata of the amount of

their purchase. However, beneficiaries whose rights would have been reduced following the termination of payment of the annuities due by the policyholders shall only participate in the distribution on the bases specified in the company's Articles of association.

The rights of the beneficiaries shall be brought back down to proportional equality by means of distribution scales established according to a mortality table and, where applicable, an interest rate specified by the Articles of association and taking into account the age of the members as well as the method and the time of the payments.

The distribution referred to in Article 337-1 may only be decreed in light of the certificate of existence of surviving members or death certificates of said members, where they died after the date set on the contract for expiration of the association, contingent on the time limits set in the Articles of association for the production of said documents.

Article 331-9 Distributions

At the end of each year, the entirety of the assets of each association in the event of death shall be distributed among the beneficiaries of the deceased members during the year, minus the deduction which might be specified by the Articles of association in compliance with 9 of Article 331-12 only.

The distribution shall be done pro rata of the amounts corresponding to each contribution, in compliance with Article 331-6.

For the association called reciprocal insurance, the distribution shall be done pro rata of the amounts paid for the underwriting to the associations in the event of survival.

The distribution may only be decreed in light of documents proving the death of members, contingent on the time limits set by the Articles of association for the production of said documents.

Article 331-10 Date of liquidation

Each association in the event in the case of survival must be liquidated in the year following its expiration. Associations in the event of death must be liquidated at the end of the year.

Articles 331-11 Estimate of an amount determined in advance, prohibition

The object of tontines may not only be to guarantee their members that the liquidation of an association shall procure them an amount determined in advance.

Article 331-12 Articles of association, compulsory mentions

Articles of association of tontines must specify, contingent on prescriptions contained in this Book:

- 1) the conditions of constitution and term of associations in the event of survival and in the event of death,
- 2) the termination, in the event of death of the member, of the payment of annuities that the policyholder would still have to pay to the associations in the case of survival,
- 3) the reduction of the rights acquired by the beneficiary where there is termination of payments by the policyholder to the associations in the event of survival, under the condition of proving the existence of the member and the payment of a fraction of the total underwriting, without the Articles of association being able to set this fraction at more than three tenths,

- 4) the bases of distribution for contracts reduced in this manner with exclusion or not of the sharing of interests and benefits,
- 5) the time limits and forms in which the company must notify the interested parties of the expiration of the associations in the case of survival,
- 6) the time limits for the producing of documents and regulatory justifications supporting the liquidations of associations, as well as the allocation of the amounts not withdrawn by the beneficiaries, within a set time limit, as of 31st December of the year during which the distribution occurred,
- 7) the allocation of funds of the associations in the event of survival, which could not be liquidated as a consequence of death or debarment of all their members, as well as of associations in the event of death which could not be liquidated as a consequence of the absence of death,
- 8) the method of payment of contributions to the associations in the event of death, which must be due and payable in advance at the beginning of each year, except the first, which may be paid on the due date chosen by the policyholder and which must, therefore, be reduced by one quarter, one half or three quarters, according to whether the contribution payment took place in the second, third or fourth quarter of the year,
- 9) the quota of the deductions which could be allocated to the constitution of a reserve for the benefit of the survivors of associations in the event of death,
- 10) the conditions under which the company, in the event of dissolution not due to the withdrawal of licensing, may proceed with the liquidation in advance of current associations, by virtue of a special deliberation of the general meeting of the policyholders.

Article 331-13
Board of directors, members

Participation in general meetings shall be performed under the conditions mentioned in Article 330-17. However, for the election of delegate, the grouping of members shall be performed on the basis of the associations.

Article 331-14
Board of Directors: Responsibilities
(Updated September 2009)

The Board delegates its responsibilities and establishes the procedures for decision making. The Board establishes for the directors, management and all staff, the management rules and ethics concerning, in particular, private transactions, insider trading, and the preferential treatment of certain entities internally as well as externally, as well as other best business practices beyond principles of free market competition. The company must have a permanent, appropriate and effective system to ensure compliance with these rules.

The Board may create committees for specific tasks, such as remuneration, audit or risk management.

When the Board of Directors creates committees for specific tasks, their mandate, composition and their operating procedures should be clearly defined and disclosed by the Board.

The board should ensure that the remuneration of directors and senior executives is reasonable in light of the company's resources and excludes bonuses or abnormal benefits likely to encourage reckless behaviour.

Article 331-15
Internal Control Measures
(Updated September 2009)

Any company of a member state mentioned in Article 300 of the Insurance Code is required to put in place permanent internal control measures adapted to the nature, importance and complexity of its activities.

These measures especially include a written internal procedures manual, consistent and cross-checks all areas of activity of the company. It must be the object of periodic monitoring to verify the consistent application of procedures for the company, the effectiveness of these procedures and address any shortcomings.

Article 331-16
Report on the internal controls
(Updated September 2009)

The Board of Directors approves, at least annually, a report on the internal control, which is sent to the Minister in charge of the insurance sector in the members state and the CRCA under the conditions laid down in Article 425.

The first part of the report details the conditions of preparation and organisational work of the Board, the rate of attendance of directors at meetings, directors' allowances, the remuneration and benefits in kind granted to certain directors, and, if necessary, the limitations imposed by the Board of Directors on the powers of the Director General in the carrying out of the job. This section also provides membership information of directors to the board of directors of other companies, clearly specifying these companies.

The second part of the reports details:

- a) The objectives, methodology, position and general organisation of internal controls within the company; the measures taken to ensure the independence and effectiveness of internal controls and especially the competence and experience of the teams in charge of its implementation, as well as the results of any recommendations made by persons or bodies in charge of internal control;
- b) The permanent procedures to ensure that the activities of the company are conducted within the policies and strategies established by management bodies and the permanent procedures to ensure compliance of insurance operations to legislation and regulations.
- c) The methods used in order to make sure the evaluation and the control of investments, in particular with regards to the assessment of the quality of assets and the management assets and liabilities.
- d) The internal control measures for investment management, which includes delegation of authority, circulation of information, internal control procedures or audit and the internal assignment of responsibilities to staff, the persons responsible for carrying out transactions cannot be responsible for their monitoring.
- e) The permanent procedures and measures to identify, evaluate, manage and control the risks associated with the company's commitments, as well as methods used to verify compliance practices with regards to acceptance and pricing of risk, reinsurance cession and the provision of regulated commitments to business standards in these areas.
- f) The measures taken in order to monitor claims management, the monitoring of subsidiaries, control of outsourced activities and methods of marketing the company's products as well as the risks which may potentially arise.
- g) The procedures of putting together and verifying financial information and accounting.

Article 331-17
Investment Policy
(Updated September 2009)

The Board of Directors or the supervisory board establishes, at least once a year, the guidelines of the investment policy. In particular it decides upon the method for choosing financial intermediaries, the management of assets and liabilities, the quality and allocation of assets with regard to diversification and dispersion requirements.

To this effect, it is based upon the report mentioned in Article 426, which is a separate section on investments; it presents the results obtained for each portfolio and each investment class during the past period.

Article 331-18
Reinsurance Policy
(Updated September 2009)

The Board of Directors or supervisory board approves at least once a year the guidelines of the reinsurance policy.

A report on the reinsurance policy is submitted annually. The report describes:

- a) The decision taken by the company with regards to reinsurance cession, in particular concerning the nature and level of applied protection and the choice of reinsurance companies;
- b) The qualitative and quantitative criteria that the company uses in order to ensure the adequacy of its reinsurance cessions with the risks underwritten.
- c) The reinsurance policy guidelines concerning the risks underwritten in the course of the financial year following the last financial year as well as the main reinsurance cessions.
- d) The organisation concerning the definition, implementation and the control of the reinsurance program;
- e) The methods of analysis and monitoring used by the company regarding the compensation associated with the reinsurance operations as well as the results from the use of these methods.

After it is approved, the report is sent to the minister in charge of the insurance sector in the member state and the CRCA under the conditions of Article 425.

The provisions of this article shall apply to companies mentioned in the first paragraph of Article 301, as well as branches of foreign companies mentioned in the third paragraph of Article 301.

For the latter, the authorised representative of the company replaces the Board of Directors.

Chapter III – Privileges

Article 332
Other insurance transactions: privilege

Transferable assets of companies subject to supervision pursuant to Article 300 shall be allocated by a general privilege pertaining to the settlement of their liabilities towards the insured and beneficiaries of contracts. This privilege shall be ranked according to the order established by the laws of each Member State.

For foreign companies, the transferable assets representing technical provisions and guarantees shall be allocated by a special privilege pertaining to the settlement of their direct insurance transactions for contracts underwritten or performed in the territory of the Member State.

Article 332-1
Mortgage

Where the assets allocated by a company to the representation of reserves it shall be required to constitute are insufficient or where the financial situation of this company shall be such that the interest of the insured and beneficiaries of contracts are jeopardised, buildings belonging to the assets of said company may have a mortgage recorded at the request of the Insurance Supervisory Commission. This mortgage shall be compulsory where the company is the subject of a licensing withdrawal by the Insurance Supervisory Commission or in the case of foreign companies by the Minister in charge of insurance in the location of their registered office.

Article 332-2 Secured debts

For companies carrying out the transactions mentioned in 1) of Article 300, the debt secured by first or legal mortgage shall be set at the amount of the mathematical reserve, minus, where applicable, policy loans, including interests, and increased, should such be the case, of the amount of the individual account for profit-sharing, open under the name of the insured, where these benefits are not immediately payable after the liquidation of the fiscal year having produced them.

For other insurance, the secured debts shall be set, concerning direct insurance, at the amount of indemnities due following claims and at the amount of parts of premiums paid in advance or premiums reserves corresponding to the period in which the risk was not incurred, indemnity debts being paid in priority. For indemnities due in the form of annuities, it shall be fixed at the amount of the mathematical reserve.

For transactions of any type of reinsurance, it shall be set at the amount of the corresponding reserves as defined in this Code.

Article 332-3 Reinsurance transactions

For reinsurance transactions, the amount of reserves corresponding to the debt secured by privilege or legal mortgage mentioned in Articles 332 and 332-1 shall be set at an amount equal to the difference between the amount of the technical reserves appearing in the liabilities side of the last balance sheet of the reinsurer under acceptances and the amount of all net debts of said reinsurer over the cedant, as they appear in the same balance sheet as acceptances.

Article 332-4 Guarantees constituted abroad

Where a company of a Member State has constituted guarantees in a foreign country for the benefit of creditors whose rights derive from insurance contracts performed in said country, the privilege as defined by paragraph 1 of Article 332 may not have the effect of putting these creditors in a situation more favourable than that of creditors whose rights derive from contracts performed in the territory of the Member State.

Chapter IV – Sanctions

Article 333 Violations of Article 329

Violations of the provisions of Article 329 shall be punishable by a prison term of six months to two years and a fine of CFA Francs 300.000 to 3.000.000 or by one of these two sanctions only.

Article 333-1 Sanctions

Directors of a company who do not respect the obligations or prohibitions resulting from Articles 310 paragraph 3, 303, 304, 306, 329-2, 329-5, 330-35 paragraph 1, 334-1, 335, 401, 404 shall be punishable by a prison term of eight to fifteen days and a fine of CFA Francs 18.000 to 36.000 or by one of these two sanctions only.

In the event of repetition, the prison term may be increased to one month and the fine to between CFA Francs 360.000 to 720.000.

Article 332-2 Company director, notion

For the application of sanctions listed in this Chapter, the chairman and managing director, chairman, directors, assistant general managers, managers, members of the supervisory board and of the Board of directors, the managers and any other de facto director of a company of a Member State, and in the case of a foreign company, the general agent shall be considered as company directors.

Article 333-3 Violations of Article 308

(As amended on 4 April 2008 by Decision of the Council of Ministers)

Any violation of the provisions of Article 308 shall be punishable by a fine of 50% of the amount of premiums issued or ceded in reinsurance abroad above the ceiling set in Article 308.

In the event of repetition, the fine will be increased to 100% of said amount. The court decision shall be published at the expense of the persons convicted or of the civilly liable companies.

Article 333-4 Bankruptcy

Where the financial situation of the company dissolved by total withdrawal of the license is such that it no longer offers sufficient guarantees for the execution of its liabilities, shall be punished by the sanctions of bankruptcy with irregularities deemed a breach of the law the chairman, directors, general managers, members of the Board of directors, managers or liquidators of the company, regardless of its form, and generally, any person who directly or through an intermediary person directed, managed or liquidated the company, under the authority or instead of its legal representatives, who have, in such capacity and in bad faith:

- 1) either spent large amounts belonging to the company while carrying out hazardous or fictitious transactions,
- 2) or, in the intent to delay the licensing withdrawal of the company, used onerous means to obtain funds,
- 3) or, after the licensing withdrawal of the company, irregularly paid a creditor or had a creditor paid,
- 4) or had the company, on the account of another person, without it receiving securities in exchange, contract liabilities deemed too significant in light of its situation at the time it contracted them,
- 5) either irregularly kept or had kept, or let the keeping of the company's accounting,
- 6) or, in view of protecting all or part of their estate from actions from the company in liquidation or from those of partners or corporate creditors, embezzled or concealed or attempted to embezzle or conceal part of their assets or who fraudulently acknowledged themselves as debtors of amounts which they did not owe.

The aforementioned persons shall be punished by the sanctions of fraudulent bankruptcy where they have:

- 1) either removed books from the company,
- 2) or embezzled or concealed part of its assets,
- 3) or acknowledged the company as debtor of amounts it did not owe, either in the entries, or by means of public documents or liabilities bearing a private signature, or in the balance sheet.

Article 333-5

Liquidator, prohibitions

The liquidator and all those who took part in the administration of the liquidation shall be forbidden from personally acquiring, either directly or indirectly, amicably or by judicial sales, all or part of the transferable of fixed assets if the company in liquidation.

Any liquidator or any person who took part in the administration of the liquidation who, in violation of the provisions of the preceding paragraph, has acquired on their own account, directly or indirectly, assets of the company shall be punished by the sanctions provided for in the case of breach of trust.

Any liquidator who is liable for embezzlement in their management shall be punished by the same sanctions.

Article 333-6

Sentences, publications

All decrees and judgments of sentences handed down pursuant to Articles 333-4 and 333-5 paragraph 2 shall be, at the expenses of the persons convicted, posted and published in a journal empowered to receive legal announcements.

Where there is a sentence, the Treasury may only take action against the debtor after the closing of the liquidation.

Article 333-7

Legal costs, responsibility for payment

Costs of the legal action brought by a creditor shall be borne, where there is a sentence, by the Treasury, except for legal action against the debtor under the conditions set in Article 333-6 and, where there is release, by the prosecuting creditor.

Article 333-8

Sanctions in the case of liquidation of classes of foreign companies

The provisions of Articles 333-4 to 333-7 shall be applicable at the time of the liquidation of the assets and liabilities of the special balance sheet of transactions of a foreign company whose registered office is not located in the territory of a Member State.

Article 333-9

Sanctions of rules pertaining to formation and to underwriting of contracts

Shall be punished by a prison term of one to five years and a fine of CFA Francs 360.000 to 720.000 or only one of these two sanctions, those who knowingly:

- 1) in the declaration provided for the validity of the formation of the company, have stated the underwriting of contracts which they knew to be fictitious, or reported payments of funds which were not definitively placed at the disposal of the company,
- 2) through fictitious underwriting of contracts or by publication or allegation of underwriting which do not exist or of any other false facts, have obtained or attempted to obtain underwriting of contracts,

- 3) in order to motivate the underwriting of contracts, have published the names of persons wrongly designated as being or purportedly being attached to the company in any capacity whatsoever,
- 4) have proceeded to any other fraudulent declaration or concealment in any document produced to the Insurance Supervisory Commission, to the National Insurance Board or made known to the public.

Article 333-10 Sanctions of the operating rules

The chairman, directors, managers or general managers of non-commercial companies mentioned in Article 300 shall be punished by a prison term of one to five years and a fine of CFA Francs 360.000 to 720.000 or only one of these two sanctions, where they have:

- 1) knowingly, published or presented to the general meeting an inaccurate balance sheet in order to conceal the true situation of the company,
- 2) in bad faith, used property or credit of the company in a way which they knew to be contrary to the interests of the company, for personal purposes or to benefit another company in which they were directly or indirectly interested,
- 3) in bad faith, used the powers they had or the votes they disposed of in their capacity in a way which they knew to be contrary to the interests of the company, for personal purposes or to benefit another company in which they were directly or indirectly interested.

The provisions of this Article shall be applicable to any person who, directly or through an intermediary person, shall have in fact directed, administrated or managed said companies under the authority or instead of their legal representatives.

Article 333-11 Sanctions of rules pertaining to liquidation

(As amended on 4 April 2000 by Decision of the Council of Ministers)

In the case of liquidation carried out under the conditions set in Article 325-1, the following provisions shall be applicable:

- 1) If the financial situation of the company dissolved after the total withdrawal of licensing reveals an insufficiency of assets compared to the liabilities which must be settled during the liquidation, the court may, in the event of mismanagement having contributed to this insufficiency of assets, decide at the request of the liquidator or even automatically, that the company's debts shall be borne fully or partly, with or without joint liability, by all or some of de jure or de facto directors, remunerated or not. The action has a three year prescription as of the filing with the clerk of the eighth quarterly report of the liquidator.
- 2) Directors who are liable for the acts mentioned in Article 333-4 may be imposed the sanctions provided for in the event of personal bankruptcy.

Article 333-12 Sanction of rules pertaining to standard clauses and to contribution and non-production of documents to supervisory authorities

Any breach of the provisions of Articles 302 and 307 shall be punishable by a fine of CFA Francs 180.000 to 360.000. As regards the violations of the provisions of Article 302, the fine shall be imposed for each breach found without the total of fines incurred exceeding CFA Francs 3.000.000.

The same sanctions shall be applicable in the event of non-productions of documents to the Supervisory Commission and to the National Insurance Boards.

Article 333-13

Breaches of rules pertaining to the form of companies, to publicity, licensing, and safeguard procedures

Any breach of the provisions of Article 301, 304 paragraph 3, 326 and 322 shall be punishable by a prison term of one month to five years and a fine of CFA Francs 360.000 to 3.600.000 or by only one of these sanctions.

Article 333-14

Criminal interference – sanctions

Any impediment to the carrying out of the duties of the Insurance Supervisory Commission or of auditor-controllers in insurance shall be punishable by a prison term of one to six months and a fine of CFA Francs 360.000 to 1.000.000 or by one of these sanctions only.

TITLE III – Financial system

Chapter I – Regulated liabilities and technical provisions

Section I – General provisions

Article 334 Regulated liabilities

The regulated liabilities which the companies mentioned in Article 300 must, at all times, be able of justifying the evaluation, shall be the following:

- 1) technical reserves sufficient for the total settlement of their liabilities towards insured or contract beneficiaries,
- 2) liabilities entry corresponding to other privileged debts,
- 3) security deposits of agents, insured and third parties, where applicable,
- 4) an employee benefit reserve for the benefit of employees and agents intended to meet the liabilities made by the company towards its personnel and collaborators.

The technical reserves mentioned in 1) of this Article shall be calculated, without deducting the reinsurance ceded to licensed or unlicensed companies, under the conditions set in Articles 334-2, 334-8, 334-9, 334-10, 334-11 to 334-13.

Article 334-1 Liabilities in foreign currency

Where contract coverage is expressed in a set currency, in compliance with the exclusion provided for in Article 3 of Book I of this Code, the liabilities of an insurance company mentioned in Article 334 shall be drawn up in this currency.

Where the coverage of a contract is not expressed in a set currency, the liabilities of an insurance company shall be drawn up in the currency of the country where the risk is located. However, this company may choose to draw up its liabilities in the currency in which the premium is expressed where, upon underwriting of the contract, it appears likely that a claim shall be paid, not in the currency of the country where the risk is located, but in the currency in which the premium was drawn up.

Where a claim was reported to the insured and where the benefits shall be payable in a set currency other than that resulting from the application of the preceding provisions, the liabilities of the insurance company shall be drawn up in the currency in which the indemnity to be paid by this company was set by a court decision or by agreement between the insurance company and the insured.

Where a claim is evaluated in a currency known in advance by the insurance company but different than that which results from the application of the preceding provisions, insurance companies may draw up their liabilities in this currency.

Section II – Technical provisions of life insurance and investment transactions

Article 334-2 Technical provisions (life and investment)

Technical provisions corresponding to life insurance and investment transactions shall be the following:

- 1) mathematical reserve: difference between current probable values of the liabilities respectively made by the insurer and the insured,
- 2) provision for profit-sharing: amount of dividends allocated to contract beneficiaries where these dividends are not immediately payable after liquidation of the fiscal year which produced them,
- 3) all other technical provisions which may be set by the Insurance Supervisory Commission.

Article 334-3

Life insurance and investment – Mathematical reserves – Fees

The mathematical reserves of all life insurance and investment contracts whose guarantees are expressed in CFA Francs or which are unit-linked must be calculated by taking into account of the fees intended as acquisition fees in the agreement of the payer of premiums.

Where these fees are not known, these shall be evaluated on the level used for the calculation of the surrender values such as was explained in the technical note filed for the rate approval.

In the possibility that, for a contract, this level is not set, the value paid into an account must be equal at the most to 110% of the surrender value.

The reserve resulting from the previous calculation may neither be negative, nor less than the surrender value of the contract nor less than the reserve corresponding to the reduced capital.

Article 334-4

Mathematical reserves

The mathematical reserves of life insurance contracts must be calculated according to the mortality tables mentioned in article 338 and according to the interest rate mentioned in the same article.

Where the term of the premium payments is less than the contract duration, the mathematical reserves must include, in addition, a management provision allowing the management costs to be covered. These costs must be estimated at a justifiable and reasonable amount, without being able to be less, every year, than:

- a) death insurance: 0.30 per thousand of capital insured for term insurance and 0.75 per thousand of sum insured for the other types of insurance,
- b) life insurance: 0.75 per thousand of capital insured.
For immediate annuities, 3% of the amount of each instalment.
For the application of this Article, deferred annuities shall be considered as the combination of a deferred capital and an immediate annuity,
- c) insurance having simultaneously a death guarantee and a life guarantee: the rate fixed in b) hereinabove applies to life insurance and the rate fixed in a) for term insurance in the event of death applies to the surplus of death guarantee over life guarantee.

The Insurance Supervisory Commission may, upon justification, authorise a company to calculate the mathematical reserves of all its existing contracts, with the exception of those which are mentioned in Article 338-2, applying to them at the time of all subsequent annual inventories, the technical bases defined in this Article. Where applicable, the Insurance Supervisory Commission may authorise the company to distribute over a five year period at most the effects of the modification of the bases of calculation of the mathematical reserves.

Article 334-5

Life annuities: mathematical reserves

Mathematical reserves of all individual and group contracts of life annuities must be calculated by applying to said contracts, at the time of all their annual inventories as of this date, the technical bases defined in paragraph 1 of Article 334-4 and, possibly, of Article 334-6.

However, the Insurance Supervisory Commission may, upon justification, authorise a company to distribute over a five year period at most the effects resulting from the provisions set in the preceding paragraph.

Article 334-6

Mathematical reserve of contracts with increased rates

The mathematical reserves pertaining to life insurance contracts and investment contracts mentioned in Article 338-2 must be calculated according to a rate at the most equal to the lowest of the following interest rates:

- either the tariff rate,
- or the rate of the actual return, decreased by one fifth, of the assets representative of the corresponding liabilities.

Article 334-7

Premiums paid in advance

The premiums of life insurance contracts paid in advance of the valuation date in addition to instalments payable must be carried over to the mathematical reserve in their gross amount, decreased by the collection commission, discounted at the tariff rate.

Section III – Technical provisions of other insurance transactions

Article 334-8

Technical provisions (Fire, Accident, Miscellaneous Risks)

(As amended on 11 September 2006 by Decision of the Council of Ministers)

Technical provisions corresponding to the other insurance transactions shall be the following:

- 1) mathematical reserve of annuities: actual value of the liabilities of the company as regards the annuities and incidentals of annuities for which it is responsible,
- 2) provision for outstanding risks: reserve intended to cover the risks and general expenses pertaining thereto, for each of the contracts with premiums payable in advance, in the period included between the date of inventory and the next premium due date or, where applicable, the term set by the contract,
- 3) provision for outstanding claims: appraised value of expenses in principal and in fees, both internal as well as external, necessary for the settlement of all the claims which occurred and are not paid, including therein consecutive capitals not yet put at the responsibility of the company,
- 4) provision for increasing risks: reserve for insurance transactions against the risks of sicknesses and disability and equal to the difference of the current values of the liabilities respectively made by the insurer and by the insured,
- 5) equalisation reserve: reserve intended to meet exceptional costs pertaining to transactions covering risks due to natural causes, atomic risk, public liability risks due to pollution and special risks,
- 6) mathematical reserve for reinsurance: provision to be constituted by the companies mentioned in paragraph 2 of Article 300 which accept in reinsurance risks ceded by life insurance companies and equal to the difference between the actual values of the liabilities respectively made by one towards the other by the reinsurer and the cedant,
- 7) provision for cancellation of premiums: provision intended to cover possible future cancellations of issued premiums and not collected. The methods to calculate this technical provision shall be determined by circular of the Insurance Supervisory Commission,

- 8) all other technical provisions which may be set by the Insurance Supervisory Commission.

I – Provision for outstanding risks

Article 334-9

Amount

The minimum amount of the provision for outstanding risks must be calculated in compliance with the provisions of Articles 334-10 and 334-11. This provision must be, in addition, sufficient to cover the risks and general expenses pertaining to, for each of the contracts with premiums or contributions payable in advance, the period included between the inventory date and the next premium due date or, where applicable, the term set by the contract.

Article 334-10

Amount – Methods of calculations

The minimum amount for the reserve for outstanding risks shall be obtained by multiplying the percentage of 36% premiums or contributions of the inventoried fiscal year, not cancelled at the time of the inventory and set as follows:

- 1) premiums or contributions with annual notice of payment issued during the fiscal year,
- 2) premiums or contributions with semi-annual notice of payment issued during the second semester of the fiscal year,
- 3) premiums or contributions with quarterly notice of payment issued during the last quarter of the fiscal year,
- 4) premiums or contributions with monthly notice of payment issued during the month of December.

Premiums or contributions with a due date shall be excluded from the calculation. Premiums or contributions payable in advance shall be understood as including incidentals and policy costs.

In addition to the minimum amount set as provided for hereinabove, a special reserve must be constituted, for outstanding risks, pertaining to contracts whose premiums or contributions are payable in advance for more than a year or for a length different from that stated in 1), 2), 3) and 4) of paragraph 1 of this Article. For the fiscal year, the calculation rate is that stated hereinabove; for the following fiscal years, it shall be equal to 100% of premiums or contributions.

In the event of unequal distribution of notices of payment of premiums or parts thereof during the fiscal year, the calculation of the provisions for outstanding risks may be done by means of a pro rata temporis method.

In the same hypothesis, the Insurance Supervisory Commission may prescribe that a company make appropriate arrangements for the calculation of said reserve.

In the event that the ratio of claims or general expenses to premiums is greater than the normal ratio, the Commission may also prescribe that a company apply a percentage higher than that set in this Article.

The reserve for outstanding risks must be calculated separately in each of the classes mentioned in Article 328.

Article 334-11

Reinsurance

The provision for outstanding risks pertaining to cessions in reinsurance or retrocessions may not in any case be entered under liabilities of the balance sheet for an amount lower than that for which the part of the reinsurer or retrocessionaire in the provision for outstanding risks appears under assets.

When cession treaties in reinsurance or retrocession treaties provide for, in the event of termination, part of prepaid premiums write-offs to the cedant or retrocedant, the provision for outstanding risks pertaining to acceptances must not, in any case, be less than the amount of premiums write-offs calculated in the hypothesis where treaties would be terminated at the inventory date.

II – Provisions for outstanding claims

Article 334-12

Terms and conditions for calculation

(As amended on 11 September 2006 by Decision of the Council of Ministers)

The provision for outstanding claims shall be calculated fiscal year by fiscal year.

Without prejudice to the application of rules specific to some classes mentioned in this Section, the evaluation of known claims shall be done file by file, the cost of a file including all external expenses per item; it shall be increased by an estimate of the cost of the claims occurred but not declared. The methods to estimate the cost of claims occurred but unreported or those reported with delay shall be set by circular of the Insurance Supervisory Commission.

The provision for outstanding claims must always be calculated for its gross amount, without taking into account of actions to be brought; receivable recoveries shall be the subject of a distinct evaluation.

As an exclusion to the provisions of paragraph 2 of this Article, the company may, with the agreement of the Insurance Supervisory Commission, use statistical methods to evaluate claims which occurred during the last two fiscal years.

Article 334-13

Management fees

The reserve for outstanding claims calculated in compliance with Article 334-12 shall be completed, by reason of fees, with an estimate of management fees which, taking into account of items already included in the provision, must be sufficient to liquidate all claims and may not be less than 5%.

Chapter II – Regulation of investments and other asset items

Article 335

Coverage – Location – Congruence

(As amended on 24 April 1999 by Decision of the Council of Ministers)

Regulated liabilities as defined in Article 334 must at all times be represented by equivalent assets, invested and located in the territory of the Member State in which the risks were underwritten.

However, in a maximum quota of 50% of assets representative of regulated liabilities, assets invested and located in other Member States of CIMA shall be accepted.

Article 335-1

Representation of regulated liabilities of companies referred to in 2) of Article 300

(As amended on 15 September 2007 by Decision of the Council of Ministers)

Contingent on the exclusions set in Articles 335-3, 335-4 and 335-5, the regulated liabilities of companies carrying out transactions in the classes 1 to 18 of Article 328 shall be represented in the assets side of the balance sheet in the following manner:

- 1) Shall be accepted within an aggregate limit of 50% and with a minimum of 15% of the total amount of the regulated liabilities,
 - a) liabilities and other securities issued or covered by a Member State of CIMA,
 - b) liabilities issued or covered by an international financial organisation with a public nature of which one or several Member States of CIMA are part,
 - c) liabilities issued or covered by a financial institution specialised in the development or a multilateral development bank competent for the Member States,
- 2) Shall be accepted within an aggregate limit of 40% of the total amount of the regulated liabilities:
 - a) liabilities other than those referred to in 1) having been the subject of a public offer and being the subject of transactions on a functionally operational and regulated market of a Member State of CIMA and registered on a list set by the Supervisory Commission after assent of the competent central bank, or listed on the official quote of the stock exchange of a Member State of CIMA,
 - b) stocks and other, equitable, transferable securities listed on the official quote of the stock exchange of a Member State of CIMA or having been the subject of a public offer or the subject of transactions on a functionally operational and regulated market of a Member State of CIMA and registered on a list set by the Supervisory Commission after assent of the competent central bank, other than those referred to in c) and e),
 - c) stocks of insurance or reinsurance companies with their registered office in the territory of one of the Member States of CIMA or in which one or several Member States of CIMA are stockholders,
 - d) stocks, bonds, shares and rights issued by commercial companies with their registered office in the territory of one of the Member States of CIMA, other than the securities referred to in a), b), c), e) of 2) of this article,
 - e) shares of open-ended investment companies and shares of mutual funds whose objective is limited to managing a portfolio of securities mentioned in 1), 2)a) and b) of this Article,
- 3) Shall be accepted within the limit of 40% of the total amount of the regulated liabilities:
 - real rights pertaining to buildings located in the territory of one of the Member States of CIMA,
- 4) Shall be accepted within the limit of 20% of the total amount of the regulated liabilities:
 - loans obtained or guaranteed by the Member States of CIMA,
- 5) Shall be accepted within the aggregate limit of 10% of the total amount of regulated liabilities:
 - a) first mortgage loans to individuals or legal persons with their residence or registered office in the territory of the Member State of CIMA in the conditions set by Article 335-7,
 - b) loans obtained or guaranteed by credit establishments with their registered office in a Member State of the free zone, financial institutions specialised in development or multilateral development banks competent for the States of CIMA,
- 6) Shall be accepted for a minimum amount of 10% and within the limit of 40% of the total amount of regulated liabilities:
 - accounts opened in an establishment located in the State in whose territory the contracts were underwritten.

Bookkeeping shall be done by credit establishments, Treasury accountants or postal check centres. They must be drawn up in the name of the insurance company or its class in the State in whose territory the contracts were underwritten and may only be debited with the agreement of a director, the general agent or a person appointed by them to this effect.

Interests due and/or accrued of investments listed hereinabove shall be assimilated to said investments.

Where the payment of one or several claims, whose cost exceeds 5% of premiums issued has the effect of lowering the part of assets referred to in Article 335-1 6) below the minimum threshold of 10%, the situation must be solved within a one month time limit.

Article 335-2

Representation of regulated liabilities of companies referred to in 1) of Article 300
(As amended on 22 April 1999 by Decision of the Council of Ministers)

The rules set in Article 335-1 shall be applicable to regulated liabilities of companies carrying out transactions in classes 20 to 23 of Article 328, the ceiling set in Article 335-1 6) being lowered to 35% for these classes.

Shall be accepted in representation of regulated liabilities of companies carrying out transactions in classes 20 to 23 of Article 328, the contract advances and premiums or contributions remaining to be recovered of three months at most, within the respective limits of 30% and 5% of the mathematical reserves.

Article 335-3

Arrears of less than a year

(As amended on 24 April 1999 by Decision of the Council of Ministers)

The provision for outstanding risks of companies carrying out the transactions mentioned in classes 1 to 18 of Article 328, except for classes 4 to 7, 11 and 12, may be represented, up to 30% of its amount by premiums or contributions net of duties, taxes and commissions and of one year at most.

The technical provisions pertaining to classes 4 to 7, 11 and 12 may be presented, up to 30% of their amount by premiums or contributions net of duties, taxes and commissions and of one year at most.

Article 335-4

Dispersion

(As amended on 24 April 1999 by Decision of the Council of Ministers)

As compared to the total amount of regulated liabilities, the value on the balance sheet of assets mentioned herein after may not exceed, except in the event of exclusion granted on a case-by-case basis by the Supervisory Commission:

- 1) 5% for all the issued securities and loans obtained by the same organisation, except for issues securities and loans obtained by a Member State of CIMA, However, the *jus commune* ratio of 5% may reach 10% for securities of the same issuer, under the condition that the value of the securities of all the issuers whose issuances are accepted above the ratio of 40% of the amount set hereinabove,
- 2) 15% for one single building or for the shares or stocks of one single real estate or land company,
- 3) 2% for the securities mentioned in d) of 2) of Article 335-1, issued by the same company.

An insurance company may not allocate more than 50% of the stocks issued by one single company to the representation of its regulated liabilities.

Article 335-5

Debt on reinsurers

(As amended on 24 April 1999 by Decision of the Council of Ministers)

Technical reserves pertaining to business ceded to a reinsurer must only be represented by cash deposits of the amount guaranteed.

For the representation of technical reserves corresponding to classes 4 to 7, 11 and 12 of Article 328, debts on reinsurers shall be accepted within the limit of 20% of said technical reserves.

Article 335-6
Acceptances in reinsurance

Technical reserves pertaining to acceptance in reinsurance must be represented in the assets side by cash receivables held over cedants by reason of said acceptances.

Article 335-7
Property rights

Companies may not purchase buildings with real rights representing over 65% of their value, nor give real rights on their buildings, except with the authorisation, granted on an exceptional basis, by the Supervisory Commission.

Article 335-8
Privileged loans

(As amended on 20 April 1995 by Decision of the Council of Ministers)

Mortgages mentioned in 5) a) of Article 335-1 must be guaranteed by a first mortgage taken out on a building located in the territory of one of the Member States of CIMA, on a ship or on an aircraft. All of the privileges and first mortgages must not exceed 65% of the market value of the building, ship or aircraft constituting the guarantee of the loan, evaluated on the date of conclusion of the contract.

Article 335-9
Transferable securities

Transferable and similar securities must be the subject of either an accounting entry, or a deposit, with an establishment referred to in Article 335-1, or a registered entry in the accounts of the issuing organisation, under the condition that the latter be located in the Member State of CIMA in whose territory the risks were underwritten.

Documents of ownership of fixed assets, documents and securities certifying the loans or debts must be kept in the territory of the Member State of CIMA in which the risks were underwritten.

Article 335-10
Guarantee of debts on reinsurers

(As amended on 24 April 1999 by Decision of the Council of Ministers)

Guarantee of debts on reinsurers mentioned in paragraph 2 of Article 335-5 shall be constituted either by cash deposits, or by letters of banking credits, or by the pledging of securities referred to in 1) and 2) of Article 335-1.

Pledged securities shall be evaluated in compliance with the provisions of Articles 335-11 and 335-12.

Letters of credits mentioned in the first paragraph of this Article may only be issued by a credit establishment residing in a Member State of CIMA and which does not belong to the same group as the cedant and/or the reinsurer.

Article 335-11
Depreciable transferable securities

Depreciable transferable securities listed in 1) and 2)a) and b) of Article 335-1 shall be evaluated at their lowest value resulting from the comparison between the purchase value, the redemption value and the market value.

Article 335-12 Methods of evaluation – Principles

With the exception of securities evaluated as determined in Article 335-11, the assets mentioned in Article 335-1 shall be the subject of a double evaluation:

- 1) An evaluation on the basis of the purchase or cost price shall be made first,
 - a) transferable securities shall be valued at their purchase price,
 - b) buildings shall be valued for their purchase or cost price except where they were the subject of a re-evaluation accepted by the Insurance Supervisory Commission in which case the revaluated value shall be used. The securities shall be decreased by depreciations at an annual rate of 2%. The cost price of buildings shall be that which arises from construction and improvement works, except for maintenance works themselves,
 - c) loans, bare ownerships and usufructs shall be evaluated according to the rules set by the Supervisory Commission. In all cases, reimbursements made and reserves for depreciation shall be deducted, where applicable.
- 2) An evaluation of the realisation value of investments shall be then made:
 - unquoted securities shall be valued at their market value corresponding to the price which would have been obtained under the normal market conditions and depending on its usefulness for the company,
 - quoted securities shall be valued at their last price quoted on the date of the inventory,
 - buildings shall be valued at a realisation value under the conditions set in each case by the Insurance Supervisory Commission, that is to say, a value set after expertise carried out in compliance with Article 335-13.
- 3) The value entered in the balance sheet is that which results from the application of 1) of this Article. In the event where a realisation value of all investments evaluated as determined in 2) were to be lower, a reserve for depreciation equal to the difference between these two values shall be constituted.

Article 335-13 Expertise

The Supervisory Commission may have an expert determine the value of all or part of the assets of companies and notably of buildings and shares and stocks of real estate companies which belong to them or on which they have granted a loan or an opening of mortgage credit.

The value resulting from the expertise must appear in the evaluation of the realisation value of investments referred to in Article 335-12 2). It may also be entered under the assets of the balance sheet within the limits and under the conditions set in each case by the Supervisory Commission.

Companies shall bear the expertise costs.

Chapter III – Investment income

Article 336 Maintenance of net investment income

Life or investment insurance must maintain their net investment income at an amount no less than that of the interest with which the mathematical reserves are credited.

Article 336-1 Investment income - Calculation

The net income from investments in depreciable securities shall be obtained by adding to the amount of the coupons net of taxes, the income supplement corresponding to the excess of the redemption price of stocks and shares to their allocation value to the reserves.

Where the allocation value of the stocks is greater than their net redemption price, the loss of income corresponding to the difference shall be deducted from the amount of the coupons.

The supplement or loss of income shall be calculated by making use of a discount rate equal to the average rate of the reserves, determined as indicated in Article 336-2.

The income from investments other than those in depreciable securities shall be represented by coupons or earnings from the last known fiscal year, net of duties and taxes.

Article 336-2 Interest credited to mathematical reserves

The amount of interest with which the mathematical reserves are credited shall be obtained by multiplying the amount of reserves of companies by the interest rate which serves as the basis of rate calculation.

Where the mathematical reserves are calculated by evaluating the effective liabilities of the parties at an interest rate lower than that of the tariff, the calculation rate of the reserves may be substituted for the tariff rate.

The amount of interest used for reserves for profit sharing shall be obtained by multiplying the amount of these reserves by the interest rate provided for in the corresponding contracts.

The average rate of the reserves shall be obtained by dividing the amount of interests to be used for reserves by the total amount of the reserves.

Article 336-3 Increase of mathematical reserves

Where the total income from investments is less than the total amount of interests with which the reserves are credited, it shall be necessary to subject the latter to an increase intended to make up the current and future insufficiency of income from investments pertaining to existing contracts.

This increase shall be entered into the liabilities side of the balance sheet under the heading of mathematical reserves.

Its amount must be at least equal to ten times the current insufficiency of income and decreased, should such be the case, by the appreciation revealed by the investments on the date set for the calculation of income, estimated, for investments, according to the rules of Article 335-12.

Exceptionally, time limits for the constitution of this increase may be granted by the Insurance Supervisory Commission.

Article 336-4 Exclusions

Companies shall only be obligated to make the calculations mentioned in Articles 336-1 to 336-3 where the annual income, excluding profits coming from sales or conversions, is less than the amount of interest with which the mathematical reserves must be credited. The calculations shall be made by investing for the companies on 31st December. They may be revised each year.

Chapter IV – Solvency of companies

Article 337 Principle

Any company subject to supervision pursuant to Article 300 must prove the existence of a sufficient margin of solvency, pertaining to all its activities.

Article 337-1

Items constituting the solvency margin

(As amended on 4 April 2000 by Decision of the Council of Ministers)

The solvency margin mentioned in Article 337 shall be constituted, after deduction of losses, depreciations remaining to be made on commissions, start-up or development costs and other intangible assets, by the following items:

1. the capital stock paid or the start-up fund constituted,
2. one half of the unpaid instalment of the capital stock or of the part remaining to be reimbursed from the loan for the start-up fund,
3. the loan or loans for an additional registered fund; however, as of one half of the term of the loan, the latter shall only be retained in the solvency margin for its value, progressively reduced each year by a constant amount equal to twice the total amount of this loan divided by the number of years in its term;
4. reserves of any denomination, regulatory of free, not corresponding liabilities,
5. profits carried forward,
6. at the request and justified by the company and with the approval of the Insurance Supervisory Commission, the capital gains which may result from the undervaluation of asset items and the overvaluation of liability items, insofar as such capital gains are not exceptional in nature,
7. the funds effectively collected from the issuance of securities or subordinated loans, these securities and loans must meet the conditions, notably of duration and reimbursement, which are set in Article 330-33 bis; taking into account of these funds shall be accepted up to 50% of the solvency margin referred to in this Article; however, taking into account of those funds from securities or fixed-term loans shall only be accepted up to 25% of this margin. Any reimbursement carried out irregularly may, pursuant to the provisions of Article 312 of this Code, lead to the imposition of sanctions by the Commission.
8. membership fees collected from new members of mutual insurance companies in compliance with Article 330-7 bis.

Article 337-2

Minimum amount of the solvency margin of Fire Accident Miscellaneous Risks companies

(As amended on 20 April 1995 by Decision of the Council of Ministers)

For all classes mentioned in 1 to 18 of Article 328, the minimum regulatory amount of the solvency margin shall be equal to the highest results obtained by application of the two following methods:

- a) First method (calculation in relation to premiums)

To 20% of the total direct premiums or those accepted in reinsurance issued during the fiscal year and net of cancellations shall be applied to the existing ratio, for the last fiscal year, between the amount of outstanding claims payable by the company after cession and retrocession in reinsurance and the amount of gross reinsurance claims, without this ratio being less than 50%.

b) Second method (calculation in relation to the yearly average cost of claims)

To the total of claims paid for direct business during the last three fiscal years, without deduction of claims payable by reinsurers and retrocessionaire, shall be added, on one hand, claims paid under the heading of reinsurance or retrocession acceptances during the same fiscal years, on the other hand, the reserves for outstanding claims constituted at the end of the last fiscal year, both for direct business as well as for reinsurance acceptances.

From this amount shall be deducted, on one hand, the recoveries collected during the last three fiscal years, on the other hand, the reserves for outstanding claims constituted at the beginning of the second fiscal year preceding the last fiscal year, both for direct business as well as reinsurance acceptances. A percentage of 25% shall be applied to one third of the amount thus obtained.

The result determined by application of the second method shall be obtained by multiplying the amount calculated in the preceding paragraph by the existing ratio, for the last fiscal year, between the amount of claims remaining payable by the company after reinsurance cession and the amount of gross reinsurance claims, without this ratio being less than 50%.

Article 337-3

Minimum amount of the solvency margin of life companies

For all classes mentioned in 20 to 23 of Article 328, facultative insurance not included, the minimum regulatory amount of the margin shall be calculated in proportion to the mathematical reserves. This amount shall be equal to 5% of the mathematical reserves, pertaining to direct insurance transactions without deduction of reinsurance cessions and acceptances, multiplied by the existing proportion, for the last fiscal year, between the amount of mathematical reserves after reinsurance cessions and the amount of gross mathematical reserves for reinsurance, without this proportion being less than 85%. The amount corresponding to the facultative insurance calculated according to the method defined in Article 337-2 for classes 1 to 18 shall be added to this.

Article 337-4

Case of mixed companies

Where a company performs, at the same time, transactions in classes 1 to 18 and in classes 20 to 23 of Article 328, in compliance with the provisions of the last paragraph of Article 326, the minimum regulatory amount of the solvency margin shall be equal to the sum of the minimum solvency margins obtained by applying separately the methods defined in Articles 337-2 and 337-3 respectively to the transactions performed in classes 1 to 18 and in the transactions performed in classes 20 to 23 of Article 328.

Article 337-5

Adjusted solvency – General principle

(Added on 2 April 2008 by Decision of the Council of Ministers)

Any company required to prepare consolidated or combined accounts as pursuant to Article 434 must show evidence of a positive adjusted solvency for the account of consolidated or combined entities.

Article 337-5-1

Adjusted solvency – Definition

(Added on 2 April 2008 by Decision of the Council of Ministers)

The adjusted solvency of a consolidating or combining company is the difference between the available solvency margin and the minimum amount of solvency margin, calculated on the basis of consolidated or combined data according to the provisions of Article 434-3.

Article 337-5-2

Available solvency margin

(Added on 2 April 2008 by Decision of the Council of Ministers)

The available solvency margin, consolidated or combined, shall be the sum of the following items:

- 1) items of capital listed in 1) to 5) and 8) of Article 337-1 resulting from consolidated or combined accounts after deduction of intangible items of all nature and after allocation of results,
- 2) the unrealised gains subject to the conditions set in Article 337-5-4 after elimination of intra-group transactions,
- 3) minority interests subject to the conditions set in Article 337-5-4,
- 4) subordinated loans subject to the conditions set in Article 337-5-4 after elimination of intra-group transactions.

The unrealised gains referred to in 2) as well as subordinated loans mentioned in 4) shall be where applicable adjusted by amounts already entered into the consolidated or combined capital.

Article 337-5-3

Minimum amount

(Added on 2 April 2008 by Decision of the Council of Ministers)

The minimum amount of the solvency margin is the sum of:

- 1) minimum amounts of solvency margin of insurance companies, within the meaning of 1) of Article 310-1, consolidated through full integration or combined;
- 2) rates of minimum amounts of margin of insurance companies, within the meaning of 1) of Article 310-1, proportionally consolidated or equity-accounted. These rates correspond to these companies' percentages of control.
The minimum amounts mentioned in 1) and 2) are calculated in compliance with Articles 337-2 and 337-3;
- 3) amounts pertaining to third party countries insurance companies and reinsurance companies, within the meaning of 2) and 3) or Article 310-1, consolidated or combined. These amounts are calculated in the same conditions as the minimum amounts of solvency margin for similar risks, and according to the principles set in 1) and 2).

Article 337-5-4

Items accepted for the constitution of the available margin other than capital

(Added on 2 April 2008 by Decision of the Council of Ministers)

The following items shall be considered as possible components of the adjusted solvency of consolidating or combining companies:

- 1) unrealised gains on assets. However, as regards life insurance or investment companies, unrealised gains shall only be accepted within the limit of the minimum amount of solvency margin of the company on the assets side in which they are entered; beyond that, they are only taken into account after the deduction of the insured's right to profit-sharing, which are considered representing at least 85% of the unrealised gains,
- 2) minority interests, the extent to which they can contribute towards the solvency margin of the company of which they represent a part of capital and within the limit of the part of the minimum amount of solvency margin of this company corresponding to the ownership percentages by said minority interests,
- 3) securities and subordinated loans held outside the group, the extent to which they can contribute towards the solvency margin of the company on the liabilities side in which they are entered. In addition, securities and subordinated loans of insurance group

companies referred to in 8) of Article 301-1 are accepted where they meet conditions identical to those mentioned in Article 337-1.

In any case, assets of companies whose registered office is located in a State restricting movement of capital may not be considered as possibly constituting the adjusted solvency.

The Commission shall have the ability to consider as acceptable a lesser or greater part of unrealised gains and securities and subordinated loans, because of the adequate allocation within the group of all the items acceptable for the margin.

Article 337-5-5

Adjusted solvency of a third party country insurance company

(Added on 2 April 2008 by Decision of the Council of Ministers)

To calculate the adjusted solvency, the Regional Insurance Supervisory Commission may take into account minimum amounts of solvency margin and the elements of available margin acceptable by the authorities of a non-Member State of CIMA in which an insurance or reinsurance company has its registered office and whose solvency requirements are considered equivalent.

Article 337-5-6

Negative adjusted solvency

(Added on 2 April 2008 by Decision of the Council of Ministers)

Where a consolidating or combining company does not show evidence of a positive adjusted solvency, the Commission shall require of the concerned company that it takes the necessary measures to re-establish a positive adjusted solvency.

Failure to propose or execute these measures under the conditions and in the time limits prescribed or accepted by the Commission may lead to sanctions listed in Article 312.

Article 337-6

Information unavailable

(Added on 2 April 2008 by Decision of the Council of Ministers)

Where the Commission does not have, whatever the reason may be, information necessary to calculate the adjusted solvency pertaining to a consolidated or combined company with its registered office in a Member State or a third party country, the accounting value of this company in the consolidated or combined accounts is deducted from the available solvency margin. In this case, no unrealised gains related to this contribution shall be accepted as item of the available solvency margin.

Chapter V – Rates and acquisition costs and administrative expenses

Article 338

Mortality tables and interest rate

(As amended on 24 April 1999 by Decision of the Council of Ministers)

The rates presented for approval of the Minister in charge of insurance by life insurance companies or to the Insurance Supervisory Commission by this authority must, subject to the provisions of Article 338-2, be determined according to the following items:

- 1) table of mortality TD for death insurance and TV for life insurance, attached to this Article,
- 2) interest rates equal at most to 3.5%.

These rates must include the fees allowing recovery by the company of an amount of justifiable and reasonable expenses.

Article 338-1
Inventory rate

For the application of Article 74 of Book I of this Code, the inventory rate includes the fees allowing recovery of legal expenses equal to those referred to in Article 334-3.

Article 338-2
Increased rate, segregated assets

Rates of immediate life annuity contracts taken out by persons over age 65, as well as life and investment contracts with single premium of a maximum term of ten years, may be determined according to an interest rate greater than the rates mentioned in Article 338.

In this case and for each of the rates, approval shall be subject to the following conditions:

- 1) assets representing the liabilities corresponding to these contracts must be isolated within the accounting of the company,
- 2) these assets must be able to generate a rate of return at least greater than the interest rate of the tariff by one third.

For contracts mentioned in the first paragraph of this Article, where the rate of return of new investments made during the fiscal year and allocated in representation of liabilities corresponding to a set rate is less than that of this rate increased by 33%, the contracts cease to be presented to the public.

MORTALITY TABLE TD

l_x = number of persons alive at age x - d_x = number of deaths between age x and $x + 1$

x	l_x	d_x	x	l_x	d_x
0	1 000 000	24 280	54	835 348	10 512
1	975 720	2 220	55	824 836	11 310
2	973 500	1 100	56	813 526	12 158
3	972 400	750	57	801 368	13 054
4	971 650	610	58	788 314	14 000
5	971 040	530	59	774 314	14 992
6	970 510	470	60	759 322	16 029
7	970 040	440	61	743 293	17 110
8	969 600	410	62	726 183	18 227
9	969 190	390	63	707 966	19 377
10	968 800	380	64	688 579	20 552
11	968 420	379	65	668 027	21 741
12	968 041	390	66	646 286	22 934
13	967 651	430	67	623 352	24 119
14	967 221	510	68	599 233	25 278
15	966 711	649	69	573 955	26 393
16	966 062	800	70	547 562	27 446
17	965 262	970	71	520 116	28 412
18	964 292	1 110	72	491 704	29 269
19	963 182	1 221	73	462 435	29 989
20	961 961	1 299	74	432 446	30 547
21	960 662	1 370	75	401 899	30 914
22	959 292	1 420	76	370 985	31 067
23	957 872	1 470	77	339 918	30 980
24	956 402	1 490	78	308 938	30 633
25	954 912	1 530	79	278 305	30 013
26	953 382	1 560	80	248 292	29 110
27	951 822	1 580	81	219 182	27 923
28	950 242	1 606	82	191 259	26 464
29	948 636	1 646	83	164 795	24 752
30	946 990	1 729	84	140 043	22 820
31	945 261	1 853	85	117 223	20 710
32	943 408	1 989	86	96 513	18 473
33	941 419	2 136	87	78 040	16 171
34	939 283	2 297	88	61 869	13 867
35	936 986	2 471	89	48 002	11 628
36	934 515	2 662	90	36 374	9 513
37	931 853	2 868	91	26 861	7 576
38	928 985	3 093	92	19 285	5 859
39	925 892	3 336	93	13 426	4 389
40	922 556	3 601	94	9 037	3 174
41	918 955	3 888	95	5 863	2 209
42	915 067	4 199	96	3 654	1 475
43	910 868	4 536	97	2 179	941
44	906 332	4 901	98	1 238	570
45	901 431	5 295	99	668	328
46	896 136	5 720	100	340	177
47	890 416	6 182	101	163	90
48	884 234	6 677	102	73	43
49	877 557	7 210	103	30	19
50	870 347	7 783	104	11	7
51	862 564	8 398	105	4	3
52	854 166	9 057	106	1	1
53	845 109	9 761			

MORTALITY TABLE TV

l_x = number of persons alive at age x - dx = number of deaths between age x and $x + 1$

x	l_x	dx	x	l_x	dx
0	1 000 000	18 490	54	909 956	5 353
1	981 510	1 990	55	904 603	5 847
2	979 520	909	56	898 756	6 389
3	978 611	610	57	892 367	6 983
4	978 001	480	58	885 384	7 632
5	977 521	400	59	877 752	8 340
6	977 121	34	60	869 412	9 110
7	976 781	300	61	860 302	9 949
8	976 481	271	62	850 353	10 856
9	976 210	249	63	839 497	11 838
10	975 961	241	64	827 659	12 896
11	975 720	240	65	814 763	14 031
12	975 480	249	66	800 732	15 245
13	975 231	270	67	785 487	165 388
14	974 961	310	68	768 949	17 906
15	974 651	360	69	751 043	19 347
16	974 291	410	70	731 696	20 853
17	973 881	471	71	710 843	22 414
18	973 410	520	72	688 429	24 018
19	972 890	570	73	664 411	25 647
20	972 320	600	74	638 764	27 281
21	971 720	619	75	611 483	28 891
22	971 101	650	76	582 592	30 449
23	970 451	681	77	552 143	31 915
24	969 770	718	78	520 228	33 251
25	969 052	757	79	486 977	34 407
26	968 295	799	80	452 570	35 339
27	967 496	843	81	417 231	35 992
28	966 653	892	82	381 239	36 318
29	965 761	941	83	344 921	36 268
30	964 820	995	84	308 653	35 805
31	963 825	1 039	85	272 848	34 897
32	962 786	1 088	86	237 951	33 533
33	961 698	1 143	87	204 418	31 717
34	960 555	1 205	88	172 701	29 478
35	959 350	1 271	89	143 223	26 869
36	958 079	1 346	90	116 354	23 965
37	956 733	1 430	91	92 389	20 870
38	955 303	1 520	92	71 519	17 695
39	953 783	1 624	93	53 824	14 566
40	952 159	1 735	94	39 258	11 604
41	950 424	1 861	95	27 654	8 911
42	948 563	1 999	96	18 743	6 573
43	946 564	2 152	97	12 170	4 636
44	944 412	2 321	98	7 534	3 110
45	942 091	2 509	99	4 424	1 974
46	939 582	2 715	100	2 450	1 179
47	936 867	2 944	101	1 271	658
48	933 923	3 196	102	613	340
49	930 727	3 474	103	273	162
50	927 253	3 781	104	111	70
51	923 472	4 120	105	41	28
52	919 352	4 493	106	13	13
53	914 859	4 903			

TITLE IV – Transitional provisions

Article 338-3 Transitional provisions

The provisions of Articles 335-1, 335-4, 335-11 and 335-12 shall enter into effect at the latest 3 years after the entry into force of this Code. During the transitional period, the Council of Ministers shall determine the temporary rules applicable by insurance companies. These rules may differ from one State to another in order to take into account the prevailing situation at the time of the entry into force of the instrument.

BOOK IV – ACCOUNTING RULES

APPLICABLE TO INSURANCE

ORGANISATIONS

Chapter I – General principles

Article 401 Accounting rules

Insurance companies subject to supervision by the State, whether companies governed by national law or branches of foreign companies, must set up their accounting in the form provided for in this Code. Their accounting must, notably, show per fiscal year and for each one of the categories indicated in Article 411, the following elements of their gross cession and ceded business transactions: premiums, claims, commissions, technical reserves.

Article 402 Inventory

The inventory, which must be prepared every year, must include the detailed estimate of all items which enter into the composition of the entries under assets and liabilities.

Article 403 Corporate fiscal year

Except for an impossibility recognized by the Insurance Supervisory Commission, the corporate fiscal year begins on 1st January and ends on 31st December of each year. Exceptionally, the first fiscal year of the companies beginning their transactions during a calendar year may be closed at the end of the following year.

Article 404 Keeping of accounting documents

Companies must keep for at least ten years their accounting books, the letters which they receive, copies of letters which they send, as well as all supporting documents regarding their transactions.

Article 405 Annual reports

Every year, companies must submit to the Insurance Supervisory Commission and the Minister in charge of insurance in the Member State, at the latest by 1st August, the detailed annual report of their transactions.

Companies must send the Insurance Supervisory Commission and the Minister in charge of insurance in the Member State, at its request, all information and documents allowing appraisal of the value of any buildings, loans, securities or debts whatsoever appearing in their balance sheet under any heading whatsoever and in any form whatsoever, and all other information on

their transactions which the Insurance Supervisory Commission and the Minister in charge of insurance in the Member State deem necessary to carry out the supervision.

The Insurance Supervisory Commission and the Minister in charge of insurance in the Member State may request that the general operations account, the profit and loss account and the balance sheet be sent to them before being submitted to the general meeting at the latest on the date on which they must be made available to auditors.

Chapter II – Accounting of insurance and investment companies

Section I – General provisions

Article 406

Accounting books and documents – Accounting: bookkeeping

The books or documents referred to in this chapter may be prepared by all methods or procedures conferring a degree of authenticity to the accounting documents and allowing supervision of accounting.

Accounting shall be kept in double-entry.

Article 407

Accounting: bookkeeping

Companies whose accounting system makes use of computers must comply with the following rules:

- the organisation of the data-processing system must guarantee all possibilities of future supervision,
- the data-processing system must prepare, on paper or else on any means of support offering the guarantee and conservation conditions set as way of proof, periodic, numbered and dated statements summing up in a chronological order all of the data entered therein, in a form prohibiting any inserts as well as all subsequent removal or additions,
- the source, contents and allocation of each piece of data must be clearly indicated. In addition, each piece of data must rely on a supporting written document,
- when the data is taken over by a process which, otherwise, would not leave any trace, it must be recorded in an intelligible directly written document,
- it must be possible, at all times, to reconstitute based on the data defined above, the items of accounts, statements and information, to relocate the data entered. Any balance of account must be able to be proven by a statement of the entries from which it arises based on another balance of this same account. Each of the entries must contain a reference allowing identification of the corresponding data,
- any control performed must contain the right of access to the documentation pertaining to data analyses, programming and processing,
- automatic data processing accounting procedures must be organised in such manner as to allow control of whether the security and reliability requirements have indeed been met,
- in the event that a list is necessary to prove an amount entered into accounts (outstanding claims, mathematical reserves, premiums issued, etc.), each item of the list must contain the references essential for supervision and the totalling must be done page by page, cumulatively, and at the end of each subdivision,
- if the company wishes not to edit such a list, at the time of posting the accounting entry, it must then save the data which it contains on appropriate data processing support, such as a tape.

Article 408

Accounting documents – justification

Companies must be able to produce justification of all their accounting documents, including those which pertain to foreign transactions.

In support of annual inventory transactions, balances of all accounts and sub-accounts are prepared; these balances must allow supervision of the centralisation of entries contained in the general ledger.

Article 409 Liabilities in foreign currency

In the event that the company possesses an asset expressed or liabilities drawn up in foreign currencies, the accounts concerned are kept in these currencies.

The annual inventory, balance sheet, operating statement account, profit and loss account and other published documents shall be drawn up in CFA Francs; foreign currencies shall be converted into CFA Francs according to the exchange rates recorded and provided by the Insurance Supervisory Commission.

Possible net capital gains shall be carried over, as appropriate, to a “Special reserve for exchange rate fluctuations” or “Special reserve for foreign guarantee” account.

Article 410 Accounting of securities

Accounting of securities shall be kept by purchase price.

The depreciation which may result from a discrepancy between the purchase value and the clearance value shall be the subject of a provision in the inventory’s entries, except with special authorisation of the Insurance Supervisory Commission.

Cessions of portfolio securities shall be considered focussing primarily on securities of the same type acquired or subscribed on the farthest date back.

Capital gains or losses resulting from these cessions shall be determined according to the original value for which the securities appeared on the balance sheet.

Article 411 Risks – breakdown per category

Risks must be broken down among the following categories:

- personal accidents and sickness (including accident at work),
- land motor vehicles: civil liability,
- land motor vehicles: other risks
- fire and other property damage
- general civil liability,
- air transport,
- maritime transport,
- other transport,
- other direct risks,
- life insurance: large branch,
- life insurance: collective,
- life insurance: additional,
- life insurance: other risks,
- investment,
- life acceptances.

Article 411-1 Land motor vehicle risks: breakdown

(As amended on 20 April 1995 by Decision of the Council of Ministers)

Land motor vehicle risks shall be broken down among the following categories:

- tourist industry vehicles,

- private transport vehicles,
- public transport of goods vehicles,
- public transport of persons vehicles,
- two-wheeled vehicles,
- other vehicles (special vehicles, construction machines, etc.).

Section II – Accounting documents and records

Article 412 Books

Companies must notably keep the following ledgers, books or files:

- a) a general journal book, bound, in which periodic recaps of the various transactions shall be reported. The journal book shall be kept in chronological order, without blanks, gaps, or a mark in the margin,
- b) a general ledger in which shall be kept:
 - all the main accounts in conformity with Chapter III of this heading,
 - other accounts necessary to prepare the balance sheet, operating statement and profit and loss account.

Keeping in the ledger of all the main accounts or sub-accounts derived from the same account in a higher class shall exempt from opening the latter.

Keeping of all the main accounts or sub-accounts necessary for the establishment of the statements referred to in Article 422 shall also be compulsory, in a form left up to the free choice of the companies.

Companies wishing to further making proper entries, beyond these compulsory accounts, must use the sub-accounts defined in Chapter III of this Book, with their number and title,

- c) a verification book of quarterly balances giving on the last day of each calendar quarter the summary of balances and all accounts open in the general ledger; each balance must be set within three months of this date,
- d) a bound book of annual inventories, on which the results of the latter shall be transcribed,
- e) a file of inventory transactions assembling the supporting documents of the inventory figures, balance sheet, operating statement and profit and loss account, or the references allowing these documents to be located immediately,
- f) one or several cash books providing the daily cash balance, breakdown and classification of entries and withdrawals,
- g) bank books and postal check books kept in the same manner as the cash books,
- h) daily statements of the amount of the treasury assets: cash, banks and postal checks.

The cash book, bank and postal check books provide the totals by month and the summary since the beginning of the fiscal year. They may be kept in one single document.

Data of supplementary records or documents serving as such must be summarised periodically and at least once a month.

Article 413 Securities, buildings and loans

Transferable securities, buildings and loans shall be the subject of a permanent inventory based on the keeping of individual statements and transaction records.

- a) Individual statements shall be drawn up, in the order referred to in the accounting rules, in a record or on sheets; one page or one sheet is reserved for each security heading. Indications to be posted there shall be:

- for transferable securities: the name of the security, the entry or exit dates, the number of securities purchased, sold, reimbursed, the balances in number, the net purchase prices, the sale or redemption prices, the exit prices, the balance in value as well as the delivery date of the securities and that of the financial settlement. The numbers of the securities may be reproduced, either on the statement, or on a separate inventory. The entries must be made at the latest on the day following that of the receipt of the purchase or sale notice delivered by the intermediary or of the agreement by the other party and, for reimbursements on annuities or on securities, at the latest on the day following that of the collection thereof;
 - for buildings: the date of the transactions: upon entry, the broken down amounts actually paid, where applicable, in payments of principal and acquisition fees; on each inventory, the corresponding depreciations; upon sale, the sale price and the amounts actually collected. The sheet or card is created as of the signature of the purchase document or promise of purchase or as soon as the adjudication is carried out. Promises of sale shall be mentioned as of the onset of commitments;
 - for loans: the name of the investment, the date and price of entry, the interest rate, the date of payment of interest, the date of total reimbursement or the due dates of partial reimbursements as well as, for mortgage loans, the value of the security on the date of the conclusion of the loan. The amount of the reimbursements is recorded at the latest on the day following their collection. In the event of lateness of over three months in the payments referred to, mention thereof is made on the page or the sheet;
 - for securities remitted by reinsurers or by other individuals or legal entities: in addition to the similar indications, the name of the depositor;
 - for securities which are not at the company headquarters: the place of deposit. Investments allocated by the company to the representation of mathematical reserves of annuities for work-related accidents shall be subject to a special reference.
- b) Transactions shall be transcribed on one or several records; a separate statement is kept by category of fixed securities or financial accounts forming the subject of a main account of the accounting rules. These transcriptions shall be posted without delay; however, those pertaining to investments other than transferable securities may only be posted at the end of each month. For each transaction the date, the number and designation of securities shall be stated, and the amount, either of the entry, or of the withdrawal; the balance of the securities must be able to be determined at all times and must actually be printed at least once a month. The purchases and sales of buildings shall be posted as of the existence of the liabilities; promises of purchases or sales and sales dependant on a condition not yet realised shall be stated in a memorandum. In addition, a bound record, kept in chronological order, shall receive on a monthly basis the report of the balances of the various accounts and that of order entries, purchase or sales promises being re-entered each month until extinction of the commitments; the reports shall be signed, for certification, monthly by the director and at least quarterly by the chairman of the Board of Directors, the president of the executive council or the general manager.
- c) Companies which keep a register of “entry of securities” and a register of “exit of securities” allowing the “Investments in the process of settlement” account to be constantly kept up-to-date shall not be compelled to mark investments not yet settled on the cards or in the accounts referred to in a) and b) above. The balance of the “Investments in the process of settlement” account is entered on a monthly basis in the transactions record.

Section III – Keeping of documents pertaining to contracts, claims and reinsurance

Article 414 Registration of contracts

Companies must either issue policies under a continuous numbering which may include several series, without omission or duplication, successive riders attached to the original policy, or affect to the insured or shareholders continuous numbers meeting the same conditions.

Information pertaining to these documents must be, at all times, easily accessible and contain at least the following elements:

- either the policy number or rider number, or number of the insured or shareholder with all policies or riders concerning the latter,
- date of underwriting and duration of the contract,
- names of the underwriter and the insured,
- possibly name or code of the intermediary,
- date and time of the effective date specified in the contract,
- date and grounds of possible withdrawal,
- currency in which the contract is drawn up,
- classes and sub-classes of insurance,
- amount of coverage limits, capital or annuity insured.

Article 415 Claims recording

Except for sickness and goods in transit insurance transactions, events and claims involving or likely to involve at least one of the coverage provided for in the contract, or withdrawals shall be recorded as soon as they are known, under a continuous numbering which may include several series. This recording is organised by fiscal year of occurrence or, in transports, by fiscal year of underwriting. It contains the following information: date and number of the recording, policy number, name of the insured, date of the event. A direct reading list must be prepared at least once a month.

Furthermore, the following information must appear on a document which may easily be consulted: recording number, policy number and name of the decentralised office, the brokerage firm, the broker or sworn broker on whom the policy depends, name of the insured, date of occurrence of the event, classes or sub-classes of the guarantee(s), name of the victims, beneficiaries or opposing parties, currency in which the contract is drawn up, first estimate and, except in the event that the company is exempted by regulation of the claim by claim approach, successive assessments of amounts to be paid out, indication of legal actions, date and amount of payments made (the amounts paid being broken down into principal and incidental expenses), date and amount of recoveries collected, successive assessments of amounts to be recovered.

Article 416 Claims recording (continuation)

In all the categories of risks defined in Article 411, claims occurring in the inventoried fiscal year shall be entered into a direct reading list, in addition to the claim number as pursuant to Article 415, the amounts paid during the fiscal year and the assessment of outstanding amounts. Claims occurred in previous fiscal years which have not been settled at the end of the preceding fiscal year shall be the subject of similar lists containing, in addition, assessments at the end of the preceding fiscal year. Cases of recoveries shall be processed in a parallel manner.

Section IV – Special provisions in coinsurance, co-reinsurance transactions and reinsurance acceptances

Article 417 Recording reinsurance transactions

Reinsurance treaties, acceptances, on one hand, cessions and retrocessions, on the other hand, shall be recorded in chronological order with the following information:

- order number of treaty,
- date of signature,
- effective date,
- term,
- name of cedant, reinsurer or retrocessionaire,
- date of cessation of its effect,
- type of treaty.

Records may be kept on loose-leaf pages.

Article 418 Coinsurance, accounting

Coinsurance transactions performed by a company, directly or through the intermediary of an association of companies must, for the subscribed share, be accounted as direct insurance transactions and shall be subject to all the rules applicable to the latter.

Article 419 Coinsurance, accounting (continuation)

Any company which participates, within common organisations, in compensation, distribution or co-reinsurance transactions must enter into accounts as direct insurance all of the business directly underwritten by them.

It must then enter into its own accounts the share not kept as cession of direct business, and record as acceptances its share of all the businesses brought to the association by the other member companies. However, it may, with the agreement of the Insurance Supervisory Commission, use any other method avoiding duplication of premiums.

Companies that are members of the organisation must be able to justify the results of the association.

Article 420 Coinsurance and co-reinsurance associations

Associations of coinsurance and co-reinsurance may only group together licensed insurance companies and possibly reinsurance companies.

They may make a commitment towards the Insurance Supervisory Commission as well as towards each one of their members, to submit to the supervision; to keep an accounting in conformity with the rules set forth by this section; to calculate technical reserves of managed businesses in conformity with the regulatory prescriptions; to send annually to the Insurance Supervisory Commission, to the Minister in charge of insurance in the Member State and to the member companies a general working accountant and a general profit and loss statement in conformity with Accounts 80 and 87, as well as Statements C10a and C10b with indication of the percentages pertaining to each member company, as well as all other documents necessary to the supervision of coinsurance or co-reinsurance transactions which might be requested by the Insurance Supervisory Commission and the Minister in charge of insurance in the Member State. Where these conditions shall be fulfilled, member companies shall be exempted from providing the Insurance Supervisory Commission and the Minister in charge of insurance in the Member State with the proof of the figures which shall be indicated to them by the association, except for the percentage of their participation.

The authorisation to profit from the preceding provisions may only be withdrawn by decision involving all the member companies of an association. This withdrawal is announced as soon as it is established that the association had not correctly kept the commitments which it had made to the Insurance Supervisory Commission and the Minister in charge of insurance in the Member State, or to its members, or is pursuing an activity contrary to the interest of the insured or to the general public interest.

Where, in addition, the association produces guarantees deemed sufficient by the Insurance Supervisory Commission and the Minister in charge of insurance in the Member State, notably in the representation of its technical commitments, the member companies shall be themselves exempted in the same way from providing the corresponding regulatory guarantees.

Article 421 Provisions of account

As regards acceptances in reinsurance, companies which immediately enter into accounting all the items received from their cedants must, in the absence of sufficient information, temporarily compensate the balances of all incomplete accounts in the same fiscal year by a document of expectation which shall be reversed at the opening of the following fiscal year.

In any case and whichever method of accounting used, when the reinsurer not in possession of all accounts of one or several treaties knows however, of the existence of a loss, the latter must be provisioned for its predicted amount.

Section V – Reports to be prepared and documents to be sent to the Insurance Supervisory Commission and the Minister in charge of insurance in the Member State

Article 422 Accounting reports

(As amended on 20 April 1995 by Decision of the Council of Ministers)

In addition to the accounts provided for in the accounting rules, notably:

- the balance sheet prepared according to Account 89,
- the general operating statement prepared according to account 80,
- the general profit and loss account prepared according to Account 87,
- the income statement awaiting allocation set up according to Account 88. Companies must prepare the following statements each year:
- C1 General operating statement by category,
- C4 Regulated commitments and assets representing these commitments,
- C5 Itemised list and summarising report of investments,
- C9 Breakdown by underwriting year and by branch of premiums due, collections and cancellations,
- C10 Breakdown by fiscal year of arrival of sub-categories of land motor vehicles,
- C10a Breakdown by sub-category of transactions,
- C10b Payments and policy reserves, by fiscal year (non-maritime insurance),
- C10c Payments and policy reserves, by fiscal year (transportation),
- C11 Solvency margin,
- C20 Movements during the inventoried fiscal year affecting policies, capital or annuities,
- C21 Items, by year of underwriting of the capital or annuities withdrawn during the inventoried fiscal year,
- C25 Profit sharing of the insured or contract holders in technical and financial results.

Article 422-1 Additional statements

(Added on 2 April 2008 by Decision of the Council of Ministers)

- 1) Companies under the obligation to prepare consolidated or combined accounts as pursuant to Article 434 must prepare each year the following statements:
 - G1 Breakdown of main pieces of technical data,
 - G2 Adjusted solvency,
 - G3 Review of technical balance – damage,
 - G4 Review of technical reserves – life,
 - G5 Review of non-insurance activities,
 - G10 Cessions in reinsurance within the group,
 - G11 Movements of assets within the group,
 - G12 Census of agreements to share general and technical assistance costs,
 - G13 Census of joint and several risks,
 - G14 Census of transactions with individuals,
 - G15 Census of contributions to funds
 - G16 Census of commitments given
- 2) Companies mentioned in 2) or Article 310-2 shall prepare Statements G10 to G16.
- 3) Companies mentioned in 1) and 2) must declare to the Commission, at least once a year, the transactions referred to in Article 310-5.

Article 423
Annual report, issuance

Companies may issue to any person who shall so request, in exchange for payment of an amount not exceeding 1 000 CFA Francs, an annual report including the following elements:

- the operating statement account,
- the general profit and loss account,
- the distribution and allocation of results account,
- the balance sheet completed by an excerpt of Class 0 and by an information table concerning subsidiaries and profit-sharing.

Article 424
Annual report, sending

Companies must send the annual report mentioned in Article 423 to the Minister in charge of insurance in the Member State in five copies, within thirty days following approval of the account by the general meeting and, at the latest, by 1st August of each year.

They must send the same documents under the same conditions to the Insurance Supervisory Commission.

Article 425
Annual file – sending

The companies shall submit to the Minister in charge of insurance in the Member State within thirty days following the holding of their general meeting and, at the latest, by 1st August of each year, a file pertaining to the transactions carried out during the current fiscal year. This file shall be produced in three copies.

It shall be certified by the chairman of the Board of Directors or the chairman of the executive council or the general manager in public companies, by the director and by the chairman of the Board of Directors in mutual insurance companies and tontines, by the general empowered agent or his legal representative in foreign companies, under the following expression: “this document, containing x numbered pages, is certified conform to the company bookkeeping and to the rules applicable to insurance, under the sanctions provided for”.

It includes:

- 1) general information,

2) the documents listed in Article 422.

They must send the same documents under the same conditions to the Insurance Supervisory Commission.

Article 425-1

File for supplementary supervision – sending

(Added on 2 April 2008 by Decision of the Council of Ministers)

The companies referred to in 1) of Article 422-1 shall provide each year to the Commission and the Minister in charge of insurance in the Member State, by 1st August at the latest, a file containing elements stated in Articles 422-1, 426-1 and 434-8.

This file shall be certified by the chairman of the Board of Directors or the chairman of the executive council or sole Chief Executive Officer of public limited liability companies, by the director and by the chairman of the Board of Directors of mutual insurance companies or group of companies, under the following expression: “This document, containing x numbered pages, is certified, under the sanctions provided for in Article 312, conform to the consolidated or combined company and its subsidiaries bookkeeping and to the provisions of Book IV of the Insurance Code.”

Companies referred to in 2) of Article 422-1 shall include Schedules G10 to G16 in their annual file pursuant to Article 425.

Article 426

General information: companies governed by national law

The general information of the annual file to be submitted to the Insurance Supervisory Commission and the Minister in charge of insurance in the Member State by companies governed by national law shall be the following:

- a) the corporate name, address, date of its formation, the amendments to the articles during the year, and if such changes were made, a current copy of the articles of association, a copy of the approval issued by the Ministry in charge of the insurance sector and the Treaty of appointment for the insurance general agent,
- b) the names, date and place of birth, nationality and residence of members of the Board of Directors or of the executive council and of management personnel, professions of members of the Board of Directors and the ranks or functions of management personnel,
- c) the name of the parent company where applicable, and the list of subsidiaries,
- d) list of insurance branches practiced in the country concerned, the year of beginning of transactions and the date of approvals,
- e) the list of countries where the company operates and branches in which it practices there, the date of approval by the supervisory authorities of this country if such approval exists, and the year of beginning of transactions,
- f) a table showing the sales and purchases of portfolio of business contracts performed during the fiscal year, modifications made to the branches operated in the country concerned and in other countries or territories;
- g) the list of agreements in force in the area of rates, of general conditions, of professional organisation, of competition or of financial management, as well as the list of administrative or commercial agreements with other insurance, reinsurance or investment companies;
- h) bonds and other loans issued during the fiscal year, reimbursements or depreciations carried out;
- i) the list of individuals or legal entities who stood as security for the company;
- j) the report of the Board of Directors or those of the executive committee and of the Supervision Council and the reports of the monitoring auditors to the meeting of shareholders or members;
- k) the report on internal controls mentioned in article 331-16;

- l) the report on the reinsurance policy mentioned in article 331-18 ;
- m) a schedule indicating modifications made during the fiscal year:
 - to registered capital (payments, call ups, increases or decreases, reimbursements);
 - to start-up funds, to depreciations realised on the last day of the fiscal year,
- n) a table showing the number, on the last day of the fiscal year, of the salaried personnel of the company in the country concerned broken down into “management personnel and executives”, “staff inspectors”, “supervisors”, “employees”, “other salaried producers”, “total salaried personnel in the country concerned”, number of salaried personnel employed abroad, total salaried personnel, as well as the number of general agents in the country concerned.

Article 426-1

General information: supplementary supervision

(Added on 2 April 2008 by Decision of the Council of Ministers)

The general information of the annual file to be submitted to the Regional Insurance Supervisory Commission and the Minister in charge of insurance in the Member State by consolidating or combining companies shall be the following:

- a) the corporate name of the consolidating or combining company, its address, date of its formation. The names, date and place of birth, nationality, residence and profession of the members of its Board of Directors;
- b) the names, date and place of birth, residence, ranks and function of management personnel within the group;
- c) the names, address and date of appointment of statutory and alternate auditors of the consolidating or combining company;
- d) the tax status: consolidated profit (CIMA zone or world) or not;
- e) the list of consolidated or combined companies with indication, when they engage in an activity subject to supervision (banks, insurance, financial management), of the competent authorities as well as the share owned and the amount of capital;
- f) the organogram of the group’s ownership;
- g) the list of intercompany loans.

Article 427

General information: foreign companies

The general information of the annual file to be submitted to the Insurance Supervisory Commission and the Minister in charge of insurance in the Member State by foreign companies shall be the following:

- a) the corporate name of the company, date of its formation, address of its registered office and special office in the country concerned and, where applicable, date of approval;
- b) the name, residence, nationality and occupation of the members of the Board of Directors, the directors and of the general agent or its legal representative; the date of acceptance of the general agent;
- c) company name of the parent company where applicable, and list of subsidiaries;
- d) a schedule indicating modifications made during the course of the fiscal year to the registered capital or company funds;
- e) a balance sheet and profit and loss account for all the transactions. In addition, the following information must be provided as regards the transactions performed by the special registered office in the country concerned;
- f) the list of branches operated, the year of the beginning of operating and the date of approvals;

- g) a schedule indicating the sales and purchases of contract portfolios performed during the fiscal year, the modifications to the branches operated in the country concerned;
- h) the list of agreements concluded with the insurance companies in the area of premiums, general contract conditions, professional organisation, competition or of financial management as well as the list of administrative or commercial agreements with other insurance, reinsurance or investment companies;
- i) bonds and other loans issued during the fiscal year, reimbursements and depreciations carried out;
- j) the list of individuals or legal entities who stood as security for the company;
- k) a statement under the terms of which the company did not stand as security for any individuals or legal entity or, in the opposite case, the name of the persons for whom the company stood as security, and the amount of the commitments guaranteed; a statement under the terms of which the company did not make any commitment of term sales or purchase and did not sign any promise of purchase or sale or, in the opposite case, the statement of the amount of liabilities of this type remaining on-going as of 31st December;
- l) a statement pertaining to the liabilities made by the company where the latter performs coinsurance and co-reinsurance transactions containing joint and several liability among the insurers or the reinsurers;
- m) a schedule indicating the manpower, on the last day of the fiscal year, of the salaried personnel of the company in the country concerned broken down into “management personnel and executives”, “staff inspectors”, “supervisors”, “employees”, “other salaried producers”, “total salaried personnel in the country concerned”, as well as the number of general agents in the country concerned.

Article 428
Company auditors

Companies must make available to the company auditors, at least fifteen days prior to the general meeting which will rule on the approval of the accounts, all the accounting and statistical items necessary to the preparations of statements C1, C10a and C10b stipulated in Article 422.

Article 429
Motor insurance – Temporary statements

For the motor branch, companies must submit each year to the Minister in charge of the insurance industry and to the Supervisory Commission, by 31st March at the latest, temporary statements C10a and C10b pertaining to transactions made during the preceding fiscal year.

Chapter III – Special accounting rules for insurance and investment

Section I – Accounting framework

Article 430
Accounting classes

The classes of the accounting framework shall be numbered from 1 to 8 and 0. Each class contains principal accounts (of which the second figure is numbered from 0 to 9). Principal

accounts shall be themselves subdivided into main accounts (three figures), broken down in turn into sub-accounts (four figures of which the last is also numbered from 0 to 9). The figures which codify the accounts shall always be read from the left.

The classes of the accounting framework shall be arranged in such a way as to distinguish:

- o) balance sheet accounts (classes 1 to 5),
- p) management accounts (classes 6 and 7),
- q) revenue accounts (class 8),
- r) special accounts (class 0).

For this purpose, they shall be presented as follows:

- 1- Permanent capital accounts
- 2- Fixed assets accounts
- 3- Technical reserves accounts
- 4- Third party accounts
- 5- Financial accounts
- 6- Expenses accounts by type
- 7- Proceeds accounts by type
- 8- Revenue accounts
- 0- Special accounts

Section II – List of accounts

Article 431

List of accounts

(Amended on 20 April 1995 by Decision of the Council of Ministers)

The classes stated in Article 430 shall be the following:

Class 1

Permanent capital accounts

10. Capital

100. Capital stock

1000. Called-up capital

1001. Uncalled capital

101. Start-up fund

1010. Complementary corporate fund

1016. Outstanding part of the loan for start-up fund to be reimbursed

102. Complementary company fund

103. Endowment fund of national companies.

11. Reserves

110. Issue premiums

112. Statutory reserves

113. Special long-term net capital gains reserves

114. Reserves coming from equipment subsidies

115. Optional reserves

116. Fixed asset replacement reserves

118. Special revaluation reserves

119. Allowance for guarantees.

12. Balance carried forward

- 13. Regulatory reserves
 - 130. Reserves for reimbursement of loan for start-up fund
 - 134. Reserves for fluctuations in exchange rate
 - 14. Equipment subsidies received
 - 141. Subsidies received
 - 147. Subsidies entered under profit and loss
 - 15. Provisions for liabilities and charges
 - 150. Allowance for guarantees of depreciation on managed shares
 - 154. Provisions for commission advances received from reinsurers
 - 155. Provisions for litigations and other risks
 - 1550. Provisions for litigations
 - 1556. Provisions for fines and penalties
 - 1557. Provisions for exchange losses
 - 157. Provisions for expenses to be distributed over several fiscal years
 - 158. Provisions for employee benefit plans
 - 159. Foreign
 - 1599. Allowance for loss of guarantee
 - 16. Loans and other debts over one year
 - 160. Bonds and bills
 - 162. Loans for guarantee
 - 1620. In the country concerned
 - 1629. Abroad
 - 163. Other loans
 - 1630. In the country concerned
 - 1639. Abroad
 - 165. Advances received and current accounts frozen
 - 166. Debts for cash guarantee from general agents
 - 167. Debts for cash guarantee deposits from insured
 - 168. Debts for guarantee and other guarantee deposits received in cash
 - 1680. Guarantee
 - 1685. Deposits from tenants
 - 1688. Miscellaneous
 - 169. Government advances
 - 17. Reciprocal accounts of establishments and branches
 - 18. Debts for cash remitted by reinsurers and retrocessionaire in representation of technical liabilities
 - 19. Provision for depreciation of fixed assets and securities
 - 192. Fixed assets covering technical reserves and guarantees
 - 195. Unauthorised investment securities in coverage of technical reserves and guarantees
- Class 2
Fixed asset accounts
- 20. Start-up and development expenses in the country concerned
 - 200. Corporate expenses
 - 2000. Corporate expenses
 - 2008. Depreciation

- 201. Start-up expenses
 - 2010. Prospecting expenses
 - 2011. Research expenses
 - 2012. Study expenses
 - 2013. Advertising expenses
 - 2018. Depreciation
- 202. Expenses of increase in capital or start-up fund or complementary corporate fund
 - 2020. Expenses
 - 2028. Depreciation
- 203. Bond issue expenses
 - 2030. Expenses
 - 2038. Depreciation
- 204. Acquisition expenses of fixed assets
 - 2040. Undeveloped sites
 - 2042. Constructed buildings
 - 2047. Intangible assets
 - 2048. Depreciation
 - 20480. Undeveloped sites
 - 20482. Constructed buildings
 - 20487. Intangible assets
- 205. Acquisition expenses of contracts, deducted in advance
 - 2058. Depreciation
- 206. Reimbursement premiums of bonds issued by the company
 - 2060. Premiums
 - 2068. Depreciation
- 209. Acquisition expenses of fixed operating assets
 - 2094. Acquisition expenses
 - 2098. Depreciation
- 21. Fixed assets in the country concerned
 - 210. Undeveloped sites
 - 2100. Sites
 - 2102. Forests and rural operations
 - 2109. Provision for depreciation of sites
 - 21090. Sites
 - 21092. Forests and rural operations
 - 211. Stocks of civil company with real estate purpose
 - 2110. Paid-up part
 - 2111. Not paid-up part
 - 2119. Provision for depreciation
 - 212. Constructed buildings
 - 2121. Sites
 - 2122. Constructions
 - 2128. Depreciation
 - 2129. Provision for depreciation
 - 213. Stocks and shares of real estate companies not quoted
 - 2131. Paid-up part of stocks and shares of real estate companies
 - 2132. Not paid-up part of stocks and shares of real estate companies
 - 2138. Depreciation
 - 2139. Provision for depreciation
 - 214. Equipment
 - 2140. Electronic and data-processing equipment
 - 2142. Other equipment
 - 2148. Depreciation

- 215. Transportation equipment
 - 2150. Automobile vehicles
 - 2158. Depreciation
- 216. Other tangible fixed assets
 - 2160. Office furniture and equipment
 - 2162. Fixtures, fittings
 - 2168. Depreciation
- 218. Intangible fixed assets
 - 2180. Business fund and lease fee
 - 2189. Provision for depreciation
- 219. Operating fixed assets
 - 2190. Undeveloped sites
 - 21902. Miscellaneous sites
 - 21904. Sites for company works
 - 21909. Provision for depreciation
 - 2192. Constructed buildings
 - 21921. Foundation sites of buildings
 - 21922. Constructions
 - 21928. Depreciation
 - 21929. Provision for depreciation
 - 2193. Stocks and shares of real estate companies
 - 21931. Paid-up part
 - 21932. Not paid-up part
 - 21938. Depreciation
 - 21939. Provision for depreciation
 - 2198. Intangible assets
 - 21981. Various assets
 - 21989. Provision for depreciation
- 22. Fixed assets in the country concerned
 - 220. Sites allocated to a construction in progress
 - 2200. Sites
 - 2209. Provision for depreciation of sites
 - 222. Buildings in progress of construction
 - 2220. Buildings
 - 2229. Provision for depreciation of buildings
 - 223. Stocks and shares of real estate companies (buildings in progress)
 - 2231. Paid-up part of stocks and shares of real estate companies
 - 2232. Not paid-up of stocks and shares of real estate companies
 - 2239. Provision for depreciation
 - 224. Advances to real estate companies
 - 228. Advances and instalments on orders for tangible assets
 - 229. Operating fixed assets
 - 2290. Sites
 - 2292. Constructed buildings
 - 2293. Stocks and shares of real estate companies
 - 2299. Provision for depreciation
- 23. Stocks and shares and similar securities held in the country concerned, which may be allocated to the representation of regulated liabilities, belonging to the company and conserved by it (other than participation securities)
 - 230. Quoted State stocks and shares
 - 231. Quoted stocks and shares from the public and semi-public sectors (participating bonds and securities)

- 232. Other quoted securities (participating bonds and equity interest)
- 233. Other quoted securities (stocks and other transferable securities)
- 234. Shares of open-ended investment companies (“Sicav”) and shares of mutual funds
 - 2341. Sicav and bonds funds
 - 2346. Sicav and mutual funds
 - 2347. Mutual funds with risk
- 235. Securities representing the technical pertaining to unit-linked life insurance transactions
- 236. Quoted foreign securities (bonds)
- 237. Quoted foreign securities (stocks)
- 238. Other securities
 - 2381. Admitted without limitation
 - 2386. Admitted with limitation
- 239. Provision for depreciation of stocks and shares and similar securities

- 24. Loans and similar bills which may be allocated to the representation of regulated commitments, in the country concerned
 - 240. Loans to territorial groups and to their administrative public institutions
 - 241. Loans to public State institutions
 - 242. Loans to construction organisations guaranteed by a territorial group
 - 243. Loans to mutual insurance companies
 - 244. Loans to industrial and commercial companies
 - 245. Property loans to individuals, loans to ship builders or owners and mortgage notes
 - 246. Treasury bonds and other authorised bonds
 - 247. Advances on policies
 - 248. Other loans
 - 249. Provision for depreciation of loans

- 25. Participation securities held in the country concerned
 - 250. Quoted securities - paid-up part
 - 2500. Shares in insurance companies
 - 2501. Stocks and shares in real estate companies
 - 2502. Stocks and shares in real estate investment companies
 - 2503. Shares in investment companies
 - 2504. Other securities
 - 2505. Shares in foreign insurance companies
 - 2506. Stocks and shares in foreign real estate companies
 - 2507. Shares in foreign investment companies
 - 2508. Other foreign securities
 - 251. Unquoted securities - paid-up part
 - 2510. Shares in insurance companies
 - 2513. Shares in real estate investment companies
 - 2514. Other securities
 - 2515. Shares in foreign insurance companies
 - 2516. Stocks and shares in foreign real estate companies
 - 2517. Shares in foreign investment companies
 - 2518. Other foreign securities
 - 252. Shares of open-ended investment companies (“Sicav”) and shares of mutual funds
 - 2521. Sicav and bond funds
 - 2526. Sicav and mutual funds
 - 2527. Mutual funds with risk
 - 253. Securities representing technical reserves pertaining to unit-linked life insurance transactions

- 254. Stocks in associations, syndicates, economic interest groups and various organisations
 - 255. Stocks in limited liability or limited partnership companies
 - 256. Quoted securities - not paid-up part
 - 2560. Shares in insurance companies
 - 2561. Stocks and shares in real estate companies
 - 2562. Stocks and shares in real estate investment companies
 - 2563. Shares in investment companies
 - 2564. Other securities
 - 2565. Shares in foreign insurance companies
 - 2566. Stocks and shares in foreign real estate companies
 - 2567. Shares in foreign investment companies
 - 2568. Other foreign securities
 - 257. (Un)quoted securities - not paid-up part
 - 2570. Shares in insurance companies
 - 2573. Stocks and shares in real estate companies
 - 2574. Other securities
 - 2575. Shares in foreign insurance companies
 - 2576. Stocks and shares in foreign real estate companies
 - 2577. Shares in foreign investment companies
 - 2578. Other foreign securities
 - 259. Provision for depreciation of equity securities
26. Deposits and guarantee in the country concerned
- 260. Guarantee deposits made in cash by the company
 - 262. Reciprocal guarantee of foreign companies
 - 2622. Tangible assets
 - 2625. Cash
 - 263. Securities or cash deposited with the cedants as guarantee of acceptances of the registered office (or special office)
 - 2630. Securities remitted as collateral to the cedants
 - 26301. Fixed assets
 - 26302. Current fixed assets
 - 26303. Tangible securities and similar securities which may be allocated to the representation of regulated liabilities (other than participation securities)
 - 26304. Loans and similar instruments which may be allocated to the representation of regulated liabilities
 - 26305. Participation securities
 - 26307. Other securities
 - 26309. Provision for depreciation of securities remitted to the cedants
 - 2635. Debts for cash deposited with the cedants
 - 264. Securities remitted by the company in guarantee of transactions other than acceptances
 - 269. Provision for depreciation of assets deposited as guarantees
27. Securities guaranteeing commitments towards pension funds or covering investment funds managed by the company
28. Intangible securities abroad
- 280. Start-up expenses
 - 2805. Acquisition expenses of contracts, deducted in advance
 - 2807. Miscellaneous
 - 281. Fixed assets

- 2810. Sites
- 2812. Buildings
- 2813. Stocks and shares of real estate companies
- 2814. Equipment
- 2815. Transportation equipment
- 2816. Other tangible fixed assets
- 2818. Intangible fixed assets
- 2819. Operating fixed assets
- 282. Current fixed assets
 - 2820. Sites
 - 2822. Constructed buildings
 - 2823. Stocks and shares of real estate companies
 - 2828. Advances and instalments on orders of fixed assets
 - 2829. Operating fixed assets
- 283. Tangible securities which may be allocated to the representation of regulated liabilities belonging to the company and conserved by it
 - 2830. State funds
 - 2838. Other securities
- 284. Loans which may be allocated to the representation of regulated liabilities abroad
- 285. Participation securities
- 286. Deposits and guarantees
 - 2860. Guarantee deposits made in cash
 - 2861. Guarantee pertaining to insurance transactions
 - 2863. Securities or cash deposited with the cedants in guarantee of acceptances of branches abroad
 - 28630. Securities remitted as collateral to the cedants
 - 28635. Debts for cash deposited with the cedants
 - 2864. Securities remitted in guarantee of transactions other than acceptances
- 288. Depreciation
- 289. Provision for depreciation

Class 3

Technical reserves accounts

- 31. Technical reserves of life insurance transactions in the country concerned
 - 310. Premiums
 - 3104. Mathematical reserves
 - 3105. Transfer of reserves
 - 315. Claims
 - 3150. For outstanding claims
 - 3152. For outstanding capitals and arrears
 - 3153. For outstanding surrenders
 - 3158. For profit sharing
- 32. Technical reserves of direct damage, civil liability and miscellaneous risks insurance transactions
 - 320. Premiums
 - 3200. For current risks: premiums issued in advance
 - 3201. For current risks: other premiums
 - 3205. For increasing risks
 - 3206. For equalisation
 - 3207. Other reserves
 - 3208. For outstanding refunds to the insured
 - 3209. For cancellation of premiums

- 325. Claims
 - 3250. For outstanding claims
 - 3254. Mathematical reserves
 - 3257. Other reserves
 - 3258. For profit sharing
 - 3259. Forecasts of recoveries to be collected

- 34. Technical reserves of life acceptances in the country concerned
 - 340. Premiums
 - 345. Claims

- 35. Technical reserves of damage, civil liability and miscellaneous risks acceptances in the country concerned
 - 350. Premiums
 - 355. Claims

- 38. Technical reserves abroad
 - 381. Life insurance transactions
 - 3810. Premiums
 - 3815. Claims
 - 382. Direct damage, civil liability and miscellaneous risks insurance transactions
 - 3820. Premiums
 - 3825. Claims
 - 384. Life acceptances
 - 3840. Premiums
 - 3845. Claims
 - 385. Damage, civil liability and miscellaneous risks acceptances
 - 3850. Premiums
 - 3855. Claims

- 39. Reinsurers and retrocessionaire share in the technical reserves
 - 391. Direct life insurance transactions in the country concerned
 - 392. Direct damage, civil liability and miscellaneous risks insurance in the country concerned
 - 3920. Premiums
 - 39201. For current risks and various reserves
 - 39208. For outstanding refunds to the insured
 - 39209. For cancellation of premiums
 - 3925. Claims
 - 39251. For outstanding claims and various reserves
 - 39259. Forecasts of recoveries to be collected
 - 394. Life acceptances in the country concerned
 - 3940. Premiums
 - 3945. Claims
 - 398. Transactions abroad
 - 3981. Life insurance transactions
 - 39810. Premiums
 - 39815. Claims
 - 3982. Direct damage, civil liability and miscellaneous risks insurance transactions
 - 39820. Premiums
 - 39825. Claims
 - 3984. Life acceptances
 - 39840. Premiums

- 39845. Claims
- 3985. Damage, civil liability and miscellaneous risks acceptances
- 39850. Premiums
- 39855. Claims

Class 4
Third party accounts

- 40. Reinsurer, cedants, coinsurers
 - 400. Current accounts of reinsurers and retrocessionaire
 - 4000. Debit balances
 - 4001. Credit balances
 - 404. Current accounts of cedants and retrocedants
 - 4040. Debit balances
 - 4041. Credit balances
 - 408. Current accounts of coinsurers
 - 4080. Debit balances
 - 4081. Credit balances
 - 409. Provision for depreciation of accounts of reinsurers, cedants, coinsurers
- 41. Insured and brokers, general agents and other producers
 - 410. Accounts with general agents, brokers and other producers in the country concerned
 - 4100. Direct insurance
 - 411. Debts owed by and to the insured, general agents and other producers (going through Account 410) in the country concerned
 - 4110. Premiums (gross of commissions), net of taxes, on direct business
 - 4112. Commissions on premiums, direct business
 - 4114. Premiums taxes, direct business
 - 4116. Debit cash balances, direct business
 - 4118. Credit cash balances, direct business
 - 412. Premium accounts in direct recovery, in the country concerned
 - 4120. Premiums, net of taxes, on direct business
 - 4124. Premiums taxes, direct business
 - 413. Debts owed by and to the agents and brokers (not going through Account 410 and separate from guarantee deposits) in the country concerned
 - 414. Various debts owed by and to the insured (other than premiums due, indemnities or other contractual services, guarantee deposits and distribution of surplus) in the country concerned
 - 4140. Debts (receivables)
 - 4141. Debts
 - 415. Contested premiums in the country concerned, direct business
 - 416. Doubtful debts in the country concerned
 - 4160. On agents
 - 4161. On brokers
 - 4162. On the insured
 - 417. Reinsurance brokers in the country concerned
 - 4170. Cessions and retrocessions
 - 41700. Receivables
 - 41701. Debts
 - 4174. Acceptances
 - 41740. Receivables
 - 41741. Debts
 - 418. Insured and brokers, general agents and other producers abroad

- 4182. Premium accounts of the insured
- 4183. Various debts owed by and to agents and brokers
- 4184. Various debts owed by and to the insured
- 4186. Contested premiums and doubtful debts on agents, brokers, insured
- 419. Provision for depreciation of accounts of agents, brokers, producers, insured
 - 4190. In the country concerned
 - 4198. Abroad
- 42. Personnel
 - 420. Advances and instalments to personnel
 - 4200. Management personnel
 - 4201. Other administrative personnel
 - 4202. Production personnel
 - 425. Remunerations owed to personnel
 - 4250. Management personnel
 - 4251. Other administrative personnel
 - 4252. Production personnel
 - 426. Deposits of personnel
 - 427. Stop payments
 - 428. Work council
- 43. State
 - 432. Advances on loans subsidies
 - 433. Depreciated beneficiaries shares
 - 435. Taxes on insurance or investment contracts
 - 436. Other duties and taxes
 - 438. Special transactions with the State
- 44. Shareholders (or members)
 - 440. Recoverable taxes on shareholders (or members)
 - 441. Shareholders: uncalled capital
 - 442. Shareholders: remainder on called up capital
 - 443. Payments received on capital increase
 - 445. Current accounts of shareholders
 - 446. Current accounts of administrators
 - 447. Dividends (or surplus to be distributed)
 - 448. Capital to be reimbursed
- 45. Subsidiaries (or parent company)
 - 450. Current accounts of subsidiaries
 - 455. Current accounts of parent company
 - 459. Provision for depreciation of accounts of subsidiaries (or of parent company)
- 46. Various debtors and creditors
 - 460. Bondholders and bearers of beneficiary shares
 - 4600. Bonds due to be reimbursed
 - 4601. Outstanding coupons on bonds
 - 4602. Recoverable taxes on bonds
 - 4603. Depreciated beneficiary shares to be reimbursed.
 - 4604. Outstanding interest of beneficiary shares
 - 4605. Recoverable taxes on interest of beneficiary shares
 - 461. Payments remaining to be made on securities not paid-up
 - 4611. Stocks and shares of real estate companies (closed fixed assets)
 - 4612. Stocks and shares of real estate companies (current fixed assets)

- 4615. Participation securities held in the country concerned
 - 46156. Quoted securities
 - 46157. Unquoted securities
- 4617. Securities guaranteeing liabilities towards pension funds
- 4618. Intangible securities abroad
- 462. Pension funds
- 463. Social security
- 464. Employee benefit schemes
- 465. Debts on insurance companies for advances to the insured
- 466. Foreign States, international public organisations
- 467. Guarantee funds and other funds
- 468. Miscellaneous
- 469. Provision for financial depreciation of various debtors accounts

- 47. Accruals and deferred income
 - 470. Outstanding expenses
 - 475. Proceeds collected or accounted in advance
 - 4751. Rents
 - 4753. Income
 - 4756. Various proceeds

- 48. Prepayments and accrued income
 - 480. Expenses paid or accounted in advance
 - 485. Proceeds to receive
 - 4856. Various proceeds
 - 4857. Interest accrued and not due (on investments under assets for their capital value)
 - 486. Earned premiums not yet written, net of commissions and taxes and net of cessions
 - 4861. Direct insurance in the country concerned
 - 4869. Direct insurance abroad

- 49. Suspense accounts to be settled

- Class 5
Financial accounts

- 50. Loans under one year
 - 502. Loans for guarantees
 - 5020. In the country concerned
 - 5029. Abroad
 - 503. Other loans
 - 5030. In the country concerned
 - 5039. Abroad
 - 509. Advances from the State

- 51. Loans which may not be allocated to the representation of regulated liabilities
 - 513. Loans to co-operatives or mixed economy housing construction companies not guaranteed in totality by the departments and municipalities
 - 516. Loans to foreign States, foreign or international organisations
 - 517. Loans abroad
 - 518. Other loans
 - 519. Provision for depreciation of loans

- 52. Outstanding bills

53. Bills receivable

54. Checks and coupons to be collected

540. Checks

545. Coupons and interests due and not recovered

55. Investment securities

550. Quoted securities, paid-up part, in the country concerned

552. Unquoted securities, paid-up part, in the country concerned

553. Limited liability companies shares in the country concerned

554. Securities issued and repurchased by the company

556. Quoted securities, part not paid-up, in the country concerned

557. Unquoted securities, part not paid-up, in the country concerned

558. Securities abroad

559. Provision for depreciation of investment securities

56. Banks and postal checks

560. Issuing institution

562. Other banks in the country concerned

564. Treasury accounts in the country concerned

565. Postal checks in the country concerned

566. Accounts in the funds of public establishments in the country concerned

567. Other establishments in the country concerned

568. Banks abroad

569. Other establishments abroad

57. Fund

570. Registered office

571. Branches in the country concerned

578. Branches (abroad)

59. Internal transfers

590. Fund transfers

Class 6

Expenses accounts by type

60. Benefits in the country concerned

601. Benefits payable (direct life business)

6010. Claims

6012. Matured capital

6013. Outstanding annuity instalment

6014. Surrenders

6015. Participation in liquidated surplus

602. Benefits and expenses paid (direct damage, civil liability and miscellaneous risk business)

6020. Principal claims

6021. Capital constituting annuities

6023. Annuity instalment after constitution

6024. Surrenders

6025. Profit sharing

6126. Incidental expenses

6029. Main proceedings

- 604. Benefits due (life acceptances)
 - 6040. Claims
 - 6042. Matured capital
 - 6043. Outstanding annuity instalment
 - 6044. Surrenders
 - 6045. Profit sharing
 - 6048. Portfolio withdrawals
 - 6049. Portfolio entries
- 605. Benefits and expenses (damage, civil liability and miscellaneous risks)
 - 6050. Claims and incidental expenses, net of recoveries
 - 6055. Profit sharing
 - 6058. Portfolio withdrawals
 - 6059. Portfolio entries
- 609. Share of reinsurers in benefits and expenses
 - 6091. Benefits due (direct life business)
 - 60910. Claims
 - 60912. Matured capital
 - 60913. Outstanding annuity instalment
 - 60914. Surrenders
 - 60915. Profit sharing
 - 60918. Portfolio withdrawals
 - 60919. Portfolio entries
 - 6092. Benefits and expenses paid (damage, civil liability and miscellaneous risks business)
 - 60920. Claims
 - 60925. Profit sharing
 - 60928. Portfolio withdrawals
 - 60929. Portfolio entries
 - 6094. Benefits and expenses (life acceptances)
 - 60940. Claims
 - 60942. Matured capital
 - 60943. Outstanding annuity instalment
 - 60944. Surrenders
 - 60945. Profit sharing
 - 60948. Portfolio withdrawals
 - 60949. Portfolio entries
 - 6095. Benefits and expenses (damage, civil liability and miscellaneous risks acceptances)
 - 60950. Claims
 - 60955. Profit sharing
 - 60958. Portfolio withdrawals
 - 60959. Portfolio entries
- 61. Personnel expenses in the country concerned
 - 610. Wages and salaries of administrative personnel
 - 6100. Wages
 - 6103. Supplementary hours
 - 6105. Bonuses imposed by law or collective bargaining agreements
 - 6106. Other bonuses
 - 6107. Gratuities
 - 612. Remuneration of production personnel
 - 613. Indemnities and various cash advantages
 - 615. Remuneration of administrators
 - 616. Expenses related to wages and salaries

- 6160. Expenses related to wages and salaries of administrative personnel
 - 61600. Paid leaves
 - 61602. Indemnities of prior notice and dismissal
 - 61604. Family supplement
- 6162. Expenses related to remuneration of production personnel
 - 61620. Paid leaves
 - 61622. Indemnities of prior notice and dismissal
 - 61624. Family supplement
- 617. Social security expenses
 - 6170. Social security contributions on wages and salaries
 - 61700. National insurance
 - 61704. Family benefits
 - 61706. Accidents at work
 - 6172. Social security contributions on remuneration of production personnel
 - 61720. National insurance
 - 61724. Family benefits
 - 61726. Accidents at work
 - 6175. Contributions to employee benefit and retirement plans
 - 61750. Contributions to healthcare bodies
 - 61757. Contributions to other employee benefit and retirement plans
 - 6176. Direct benefits
 - 61764. Family benefits
 - 61765. Retirements
 - 6178. Contributions to unemployment funds
- 618. Other company expenses
 - 6181. Social benefits
 - 6188. Work council
- 62. Duties and taxes in the country concerned
 - 620. Direct duties and taxes
 - 6200. Business license
 - 6201. Land tax and real estate taxes
 - 6203. Other municipal and departmental taxes
 - 6206. Training levy
 - 6207. Tax on wages or salaries of administrative personnel
 - 6208. Tax on remuneration of production personnel
 - 6209. Tax on surplus of claims reserves
 - 622. Indirect duties and taxes, excluding the special insurance tax
 - 6221. Tax on turnover
 - 624. Duties, taxes and registration fees
 - 6240. Registration fees of records and transactions
 - 6241. Tax stamps
 - 625. Duty fees
 - 626. Taxes collected by international public organisations
 - 627. Business licenses
 - 6270. Supervision expenses
 - 6279. Miscellaneous taxes
 - 628. Miscellaneous taxes
 - 6280. Contribution to guarantee funds at the expense of companies
 - 6281. Contribution to the common fund of increase of lifetime annuities
 - 6282. Contribution to the fund for compensation of construction insurance risks
 - 6283. Contribution of financial institutions
 - 6284. Taxes on certain general expenses
 - 6289. Miscellaneous taxes

- 63. External work, furnishings and services in the country concerned
 - 630. Rents and rental expenses
 - 6300. Sites of operation
 - 6302. Buildings used for the needs of the company
 - 63020. Registered office
 - 63021. Decentralised agencies or offices
 - 63024. Buildings for social works
 - 6306. Equipment and furnishings
 - 63060. Electronic and data processing equipment
 - 63061. Vehicles
 - 63062. Office equipment
 - 63065. Furnishings
 - 63066. Other equipment
 - 631. Maintenance and repairs (expenses paid to third parties)
 - 6310. Maintenance of operating sites
 - 6312. Maintenance of buildings used for the needs of the company
 - 63120. Registered office
 - 63121. Decentralised agencies or offices
 - 63124. Buildings for social works
 - 6316. Maintenance and repairs of equipment and furnishings
 - 63160. Electronic and data processing equipment
 - 63162. Office equipment
 - 63165. Furnishings
 - 63166. Other equipment
 - 6318. Various maintenance products
 - 632. Work and labour performed outside the company
 - 6320. Data processing works
 - 6325. Other works
 - 6326. Temporary personnel not directly remunerated by the company
 - 6327. Lead expenses
 - 633. Furnishings and small equipment
 - 634. Supplies made to the company
 - 6340. Electricity
 - 6341. Water
 - 6342. Gas
 - 6345. Other supplies
 - 635. Royalties
 - 636. Studies, research and technical documentation (expenses paid to third parties)
 - 637. Remuneration of intermediaries and honorarium (excluding those entered into accounts 60 and 65)
 - 638. Insurance premiums
 - 6380. Fire insurance
 - 6381. Theft insurance
 - 6382. Transportation insurance
 - 6383. Civil liability insurance
 - 6386. Insurance of personnel for the benefit of the company
 - 6389. Other insurance
- 64. Transports and travel within the country concerned
 - 640. Transportation of personnel
 - 641. Trips and travel
 - 6410. Business inspectors
 - 6411. General agents

- 6413. Other managers
- 6414. Administrative personnel
- 6415. Other inspectors
- 6416. Management personnel
- 6417. External personnel
- 6418. Administrators
- 6419. Miscellaneous
- 648. Miscellaneous transportation (equipment, records...)

- 65. Commission in the country concerned
 - 651. General agents
 - 652. Brokers
 - 653. Other agent-producers
 - 654. Company salaried for their occasional commission
 - 655. Variation of commission on premiums acquired and not issued
 - 656. Contributions to retirement plans and non-salaried producers
 - 657. Acceptances
 - 6574. Life
 - 6575. Damages, civil liability and miscellaneous risks
 - 658. Depreciation of acquisition fees deducted in advance
 - 659. Acquisition fees deducted in advance

- 66. Various management expenses in the country concerned
 - 660. Publicity and advertisement
 - 6600. Announcements and insertions
 - 6601. Catalogues and printed materials
 - 6602. Group publicity
 - 6605. Fairs and exhibitions
 - 6608. Gifts
 - 661. Missions and receptions
 - 662. Office furnishings
 - 6620. Printed materials and supplies for data processing
 - 6621. Other printed materials
 - 6622. Other supplies
 - 663. General documentation
 - 664. Postal and telecommunication expenses
 - 6640. Postage
 - 6643. Telephone and telegrams
 - 6644. Telex
 - 6645. Teleprocessing
 - 665. Costs of legal acts and disputed claims (excluding those posted in 60 and 67)
 - 6650. Cost of legal acts
 - 6655. Cost of disputed claims
 - 6656. Other costs for disputed claims
 - 666. Contributions and gifts
 - 6660. Contributions to professional organisations
 - 6661. Tips and gifts for New Year
 - 6668. Other contributions
 - 6669. Other gifts
 - 667. Costs of councils and assemblies, director's fees
 - 668. Subsidies granted

- 67. Financial expenses in the country concerned
 - 670. Interest on loans contracted by the company

- 6700. Debenture loans
- 6702. Other loans
- 671. Interest on credit accounts and deposits
 - 6710. Current accounts with reinsurers and retrocessionaire
 - 6711. Current accounts with cedants and retrocedants
 - 6714. Other credit accounts
 - 6716. Cash deposits made with reinsurers and retrocessionaire
 - 6717. Agent deposits
 - 6719. Other deposits
- 672. Bank interest; commissions on opening of credit, sureties and endorsement
- 673. Discounts granted
- 674. Bank and recovery fees
 - 6740. Security fees
 - 6741. Fees on bills
 - 6745. Various commissions
 - 6746. Investment disputes fees
- 675. Securities purchase fees
- 676. Interest paid to the reserve for profit sharing
- 677. Other financial expenses
- 678. Fees on buildings
 - 6780. Maintenance
 - 6785. Repairs
 - 6789. Other expenses (insurance, management...)
- 679. Adjustment of the securities allocated to the representation of unit-linked insurance transactions

- 68. Allocation from the fiscal year to depreciation and provision accounts in the country concerned
 - 680. Allocation to depreciation of start-up and development costs (excluding contract acquisition fees deducted in advance)
 - 6800. Costs of formation
 - 6801. Start-up costs
 - 6802. Costs of increase of capital or start-up fund or complementary company funds
 - 6803. Bonds issuing costs
 - 6804. Acquisition costs of tangible assets
 - 6806. Reimbursement premiums of bonds issued by the company
 - 6809. Acquisition costs of tangible operating assets
 - 681. Allocation to depreciation of fixed assets
 - 6812. Buildings and structures
 - 6813. Stocks and shares of real estate companies
 - 6814. Equipment
 - 6815. Transportation equipment
 - 6816. Other tangible fixed assets
 - 6819. Fixed operating assets
 - 685. Allocation to reserves for losses and operating expenses (excluding the reserve for guarantee of depreciations on managed securities 150)
 - 6854. Reserve for advances of commissions received from reinsurers
 - 6855. For litigation and other risks
 - 6857. For expenses to be distributed over several fiscal years
 - 6858. For employee benefit plans
 - 689. Allocation to reserve for depreciation of third party accounts
 - 6890. Reinsurer, cedant, coinsurers
 - 6891. Agents, brokers, producers, insured

6895. Subsidiaries
6896. Various debtors

69. Expenses by type abroad

- 690. Benefits
 - 6901. Direct life business
 - 6902. Direct damage, civil liability and miscellaneous risks business
 - 6904. Life acceptances
 - 6905 Direct damage, civil liability and miscellaneous risks acceptances
 - 6909. Share of reinsurer in benefits and fees
 - 69091. Direct life business
 - 69092. Direct damage, civil liability and miscellaneous risks business
 - 69094. Life acceptances
 - 69095. Direct damage, civil liability and miscellaneous risks acceptances
- 691. Personnel expenses
 - 6910. Wages and salaries of administrative personnel and related expenses
 - 6912. Wages and remuneration of production personnel and related expenses
 - 6913. Indemnities and various cash benefits
- 692. Duties and taxes
 - 6920. Direct
 - 6922. Indirect
 - 6927. Business licenses
 - 6928. Miscellaneous
- 693. External works, supplies and services
 - 6930. Rents, rental costs, maintenance, repairs
 - 6932. Works, furnishings, other supplies
- 694. Transports and travel
- 695. Commissions
 - 6950. Direct business
 - 6957. Acceptances
 - 6958. Depreciation of acquisition costs deducted in advance
 - 6959. Acquisition costs deducted in advance
- 696. Miscellaneous management costs
- 697. Financial expenses
 - 6970. Interest of loans, credit deposit accounts, bank interest; commissions on opening of credit, securities and endorsement
 - 6974. Bank fees, investment disputes fees
 - 6975. Securities purchase expenses
 - 6976. Interest paid into the reserve for profit sharing
 - 6977. Other financial expenses
 - 6978. Building costs
- 698. Allocation from the fiscal year to depreciation and reserve accounts
 - 6980. Depreciation of start-up and development costs
 - 6981. Depreciation of fixed assets
 - 6985. Depreciation for losses and expenses
 - 6989. Reserve for depreciation of third party accounts

Class 7

Proceeds accounts by type

70. Premiums or contributions in the country concerned

- 701. Premiums (direct life business)
 - 7010. Periodic premiums issued
 - 7011. Single premiums issued

- 7013. Costs of policy and incidentals
- 7019. Terminations
 - 70190. On issues from current fiscal year
 - 70191. On issues from previous fiscal years
- 702. Premiums (direct damages, civil liability and miscellaneous risks business)
 - 7022. Premiums issued
 - 70220. On current fiscal year
 - 70221. On previous fiscal years
 - 7023. Costs of policies and incidentals
 - 7024. Variation of the reserve of earned premiums not yet issued
 - 7025. Supplementary premiums
 - 7026. Other supplementary premiums
 - 7029. Terminations
 - 70290. On issues from current fiscal year
 - 70291. On issues from previous fiscal years
- 704. Premiums (life acceptances)
 - 7040. Premiums
 - 7048. Portfolio entries
 - 7049. Portfolio withdrawals
- 705. Premiums (damages, civil liability and miscellaneous risks acceptances)
 - 7050. Premiums
 - 7058. Portfolio entries
 - 7059. Portfolio withdrawals
- 709. Share of reinsurers in premiums
 - 7091. Direct life business
 - 70910. Premiums
 - 70918. Portfolio entries
 - 70919. Portfolio withdrawals
 - 7092. Direct damages, civil liability and miscellaneous risks business
 - 70920. Premiums
 - 70928. Portfolio entries
 - 70929. Portfolio withdrawals
 - 7094. Life acceptances
 - 70940. Premiums
 - 70948. Portfolio entries
 - 70949. Portfolio withdrawals
 - 7095. Damages, civil liability and miscellaneous risks acceptances
 - 70950. Premiums
 - 70958. Portfolio entries
 - 70959. Portfolio withdrawals
- 71. Operating subsidies received in the country concerned
- 73. Premium reductions and refunds in the country concerned
- 74. Refunds, rebates and discounts obtained in the country concerned
- 75. Commissions and participation received from reinsurers in the country concerned
 - 751. Direct life business
 - 752. Direct damages, civil liability and miscellaneous risks business
 - 754. Life acceptances
 - 755. Damages, civil liability and miscellaneous risks acceptances
- 76. Incidental proceeds in the country concerned

- 760. Proceeds from services operated in the interest of the personnel
 - 7601. Cafeteria
 - 7609. Miscellaneous
- 762. Sale of waste products
- 765. Compensation and miscellaneous proceeds

- 77. Financial proceeds in the country concerned
 - 771. Income from building
 - 773. Income from investment securities
 - 7731. Income from bonds
 - 7735. Income from shares
 - 774. Interest from loans
 - 7740. To the personnel
 - 7741. To agents
 - 7742. To third parties
 - 775. Income from participation securities
 - 776. Interest from current accounts and debit deposit accounts, bank interest
 - 7760. Current accounts with reinsurers and retrocessionaire
 - 7761. Current accounts with cedants and retrocedants
 - 7764. Other debit accounts
 - 7765. Bank interest
 - 7767. Cash deposits made with cedants
 - 7769. Other deposits
 - 777. Director's fees, percentage (of profits), remuneration of administrators
 - 778. Other financial proceeds
 - 779. Adjustment of securities allocated to the representation of unit-linked insurance transactions

- 78. Work done by the company for itself. Expenses not imputable to the operating for the fiscal year, in the country concerned
 - 780. Work done by the company for itself
 - 7800. Company works for start-up costs (excluding contract acquisition fees)
 - 785. Expenses not imputable to the operating for the fiscal year, in the country concerned
 - 7850. Expenses covered by provisions
 - 7857. Expenses imputable to profits and losses

- 79. Proceeds by type abroad
 - 790. Premiums
 - 7901. Direct life business
 - 7902. Direct damages, civil liability and miscellaneous risks business
 - 7904. Life acceptances
 - 7905. Damages, civil liability and miscellaneous risks acceptances
 - 7909. Share of reinsurers in premiums
 - 791. Operations subsidies received
 - 793. Premium reductions and refunds
 - 794. Refunds, rebates and discounts obtained
 - 795. Commissions and participation received from reinsurers
 - 796. Incidental proceeds
 - 797. Financial proceeds
 - 7971. Income from building
 - 7973. Income from investment securities
 - 7974. Interest from loans
 - 7975. Income from participation securities

- 7976. Interest from current accounts and debit deposit accounts, bank interest
- 7977. Director's fees, percentage (of profits), remuneration of administrators
- 7978. Other financial proceeds
- 798. Work done by the company for itself. Expenses not imputable to the operating for the fiscal year

class 8
Revenue accounts

80. General operation

82. Profits and losses on previous fiscal years

- 820. Losses on previous fiscal years
 - 8202. Taxes recall
 - 8206. Various expenses imputable to the operating of previous fiscal years
- 822. Profits on previous fiscal years
 - 8220. Receipts of written off debts
 - 8222. Tax abatements
 - 8227. Various proceeds imputable to the operating of previous fiscal years
- 828. Recovery from previous reserves
- 829. Usage of reserves previously constituted to cover losses on previous fiscal years and exceptional losses

83. Appropriations from the fiscal year to the accounts of reserve outside of operating or exceptional and or regulatory reserves.

- 831. Appropriation to miscellaneous reserves abroad
- 833. Appropriation to regulatory reserves
 - 8330. Reserve for reimbursement of the loan for start-up funds
 - 8331. Start-up funds constituted
 - 8334. Reserve for exchange rate fluctuations
- 839. Appropriation to reserves for depreciation
 - 8391. On buildings in the country concerned
 - 8392. On bonds in the country concerned
 - 8393. On shares in the country concerned
 - 8396. On various debts in the country concerned
 - 8399. Abroad

84. Exceptional profits and losses

- 840. Capital losses on transfers of asset items
 - 8400. In the country concerned
 - 8409. Abroad
- 841. Exchange rate losses
 - 8411. Losses on transfers of foreign currencies
 - 8414. Losses on conversion of foreign currencies
- 842. Calculation of results on cessions of asset items
 - 8421. Fixed assets in the country concerned
 - 8422. Current fixed assets in the country concerned
 - 8423. Transferable securities held in the country concerned
 - 84232. Bonds
 - 84233. Shares
 - 8425. Participation securities in the country concerned
 - 8428. Fixed assets abroad
- 843. Exceptional subsidies granted
- 844. Other exceptional losses

- 8440. Non-recoverable debts
- 8441. Import duties
- 8449. Abroad
- 845. Capital gains on cessions of asset items
 - 8450. In the country concerned
 - 8459. Abroad
- 846. Exchange gains
 - 8461. Gains on cessions of foreign currencies
 - 8464. Gains on conversion of foreign currencies
- 847. Gains resulting from equipment subsidies
- 848. Balancing subsidies received
- 849. Other exceptional profits
 - 8490. Membership fees and import duties in the country concerned
 - 8499. Abroad

85. Income tax

86. Proceeds from offers of service exchanged between establishments

87. General profit and loss account

88. Results awaiting allocation

89. Balance sheet

- 890. Opening balance sheet
- 891. Closing balance sheet

Class 0

Special accounts

00. Commitments in favour of the company

- 000. Endorsement, securities and contractual guarantees received
- 001. Endorsement, securities and contractual guarantees from which the company benefits
- Other liabilities received by the company
- 009. Possible creditors

01. Commitments upon the company

- 010. Endorsement, securities and contractual guarantees given by the company
 - 0100. Guarantee of repurchase of mortgage debts or financing of mortgage loans
 - 0101. Guarantee of acquisition of residential buildings
 - 01010. New residences
 - 01011. Old residences
 - 0102. Guarantee of acquisition of commercial and industrial buildings
 - 0103. Guarantee of acquisition of titles representative of residential buildings
 - 01030. New residences
 - 01031. Old residences
 - 0104. Guarantee of acquisition of titles representative of commercial and industrial buildings
 - 0105. Subsidiaries
 - 0106. Guarantee of repurchase of bonds
 - 0107. Miscellaneous
- 011. Endorsement, securities and contractual guarantees for which the company is responsible

- 012. Contractual commitments of joint solidarity
 - 0120. For participation in an association or coinsurance or co-reinsurance group
- 013. Legal commitments of joint solidary
- 014. Contractual commitments resulting from the non-performance of a contract
- 015. Legal commitments resulting from the non-performance of a contract
- 016. Other contractual commitments
- 017. Other legal commitments
 - 0170. Membership fees not reimbursed
- 019. Possible debtors

- 03. Other expenses towards third parties
 - 035. Subsidiaries
 - 037. Miscellaneous
 - 039. Possible debtors
 - 050. Investment plan concerning the company
 - 052. Real estate transactions
 - 057. Miscellaneous
 - 059. Amount of projected investments

- 06. Securities received as collateral from reinsurers and retrocessionaire
 - 061. Fixed assets in the country concerned
 - 0611. Shares of companies with a real estate purpose
 - 0613. Stocks or shares of unquoted real estate companies
 - 063. Transferable securities and similar securities
 - 0630. Quoted State securities
 - 0631. Quoted securities from public and semi-public sectors (bonds and participation securities)
 - 0632. Other quoted securities (bonds and participation securities)
 - 0633. Other quoted securities (shares or other transferable securities)
 - 0634. Shares of open-ended investment companies ("Sicav") and shares of mutual funds
 - 06341. Sicav and bonds funds
 - 06342. Sicav and mutual funds
 - 0636. Quoted foreign securities in the country concerned (bonds)
 - 0637. Quoted foreign securities in the country concerned (shares)
 - 069. Reinsurers and retrocessionaire owners of securities

- 07. Securities belonging to pension funds
 - 070. Securities
 - 079. Pension funds owners of securities

- 08. Securities remitted by the reinsured organisations with joint and several security or with substitution
 - 080. Securities
 - 089. Organisations owners of securities

- 09. Other securities owned by the company
 - 090. Securities deposited by administrators
 - 092. Securities deposited by agents
 - 094. Securities deposited by third parties
 - 099. Owners of securities

Section III – Explanatory terminology and working procedures

Article 432

Explanatory terminology and working procedures

(Amended on 20 April 1995 by Decision of the Council of Ministers)

Class 1

Permanent capital accounts

Permanent capital : means of financing used by the company in a permanent and durable manner, constituted in particular by capital, issue premiums, profits put into reserve and long or medium term loans, reserves or loans for start-up funds.

10. Capital

The outstanding part of capital to be called-up shall be entered to the credit of Account 1001 and by the debit of Account 441 (shareholders, capital not paid-up).

In the event of a call for capital not paid-up, Account 1001 shall be debited by the amount called-up through the credit to Account 1000, and correlatively Account 441 shall be credited by the same amount through the debit of Account 442, or if there is total and immediate payment through the debit of the account concerned of class 4 or class 5.

In the event that the loan for start-up funds is reimbursed by annuities, Account 1010 (corporate start-up fund) shall be credited by the debit from Account 8331 of an amount equal to the reimbursed part of the loan.

In other cases (reimbursement less than depreciation of the year) Account 1016 (outstanding part of the loan to be reimbursed) shall be debited through credit to Account 56 (bank), Account 1010 (corporate start-up fund) shall be credited by the debit from Account 8331 of an amount equal to the sum reimbursed and Account 130 (reserve for loan reimbursement) shall be credited by the debit from Account 8830 of an amount equal to the sum which, in the year, was depreciated without being reimbursed. At the end of the loan, Account 1010 shall be credited by the debit from Account 130 while Account 1016 shall be balanced by Account 56.

11. Reserves

Account 110 shall be used to record share premiums and merger premiums.

When operating abroad depends on a guarantee, the reserve imposed under this heading appears in Account 119; likewise, when a deposit is required from companies which exceeds their technical obligations, the surplus shall be, in principle, credited to this account. If it appears that the assets corresponding to these guarantee supplements required abroad become non-recoverable, a reserve for loss of surety (1599) shall be constituted, by the debit from Account 835.

12. Balance carried forward

This Account functions after decision on the allocation of profits or on the fate of losses left up until that time waiting in Account 88.

13. Regulatory reserves

14. Equipment subsidies received

15. Provisions for liabilities and charges

Account 150 (reserve for guarantee of depreciations on managed securities appearing in class 0) concerns insurance companies which manage for the account of third parties (in particular pension funds) securities belonging to the latter which have agreed to be accountable for all or part of possible depreciation incurred by these securities; insofar as this guarantee comes into play, insurance companies constitute the reserves in question through debit from Account 87.

The other estimated liability provisions are created or readjusted by the action of accounts 68 and 698 when they concern the operating; through debit of account 835 when they do not concern operating or when they are of an exceptional nature, finally, through the action of accounts 7850 and 829 when the amount of the reserve must be decreased or cancelled.

16. Loans and debts of over one year

Securities received as guarantee do not appear in classes 2 or 5 but in class 0; they do not, therefore, form the subject of a contra to account 168.

17. Reciprocal accounts of establishments and branches

For companies governed by national law, this account shall be normally balanced at the end of the fiscal year.

For foreign companies, it records the entries which involve the registered office.

18. Debts for cash remitted by reinsurers and retrocessionaire in representation of technical liabilities

This account only records cash remitted by reinsurers and retrocessionaire in order to allow the insurer to represent all or part of the technical liabilities payable by them. The securities remitted by the reinsurers and retrocessionaire, for the same purpose, to the insurer are only accepted in representation if they form the subject of collateral for the benefit of the latter. They are off of the balance sheet.

19. Provisions for depreciation of fixed assets and securities

Capital losses possibly existing on inventory belonging to companies and conserved by them in application of the investment appraisal rules shall be the subject of a reserve for depreciation; for this purpose account 19 shall be credited through debit of account 87.

Class 2

Fixed assets accounts

Fixed assets: "fixed assets" shall be understood as all possessions and assets intended to remain durable in the same form within the company.

20. Start-up and development costs in the country concerned

Start-up costs entered in accounts 200 to 204 may be entirely amortised as of the first year.

Acquisitions costs of the insurance contracts which constitute account 205 are excluded from account 2010 (development costs).

Acquisition costs of fixed assets (account 204) include solely transfer fees, notary fees, possible agent commissions and document fees; they do not include architect fees pertaining to construction. This itemization of fixed assets into acquisition fees and principal are only compulsory for possessions entering into the estate as of the effective date of the special accounting plan for insurance.

Depreciation accounts 2008, 2018, 2028, 2048 and 2068 are credited through debit from account 680. When one of the items from accounts 2000, 2010 to 2013, 2020, 2030, 2040 to 2047 and 2060 has formed the subject of an integral depreciation, the corresponding sum shall be compensated by the debit of the depreciation account among those listed above which is concerned.

Acquisition costs of contracts deducted in advance (account 204) are governed by the regulation in force. This account shall be debited by credit to account 659.

Account 2058 shall be credited by debit from account 658; it records the accumulation of depreciations carried out on the commissions from fiscal years not yet having formed the subject of an integral depreciation; when the depreciation of the commissions from one fiscal year shall be completed, the corresponding part from account 2058 shall be compensated by account 2050.

Account 209 shall be, at the closing of the fiscal year, debited (2094) by the credit of account 204, shall be credited (2098) by the debit from 2048; these entries are reversed at the opening of the following fiscal year.

21. Fixed assets in the country concerned

When an undeveloped site is the subject of a building, account 210 shall be credited by the debit from account 220; upon completion of the building, the cost of the site-building shall be transferred from the debit of account 220 or 222 to the debit of accounts 212 or 213.

Tangible fixed assets (accounts 2010 to 216 and 2190 to 2193) are entered in accounting for real purchase price or for their real production cost. Transfer fees, honorariums or commissions and document fees paid for the acquisition of tangible fixed assets are not included in this cost; they are entered in account 2040 or 2042.

Unquoted stocks and shares of real estate companies or real estate investment companies are entered into account 213 (or in account 223). When they are quoted, they must appear in accounts 23 or 25 according to the proportion of capital owned. The amount of outstanding payments to be made on not entirely paid-up securities shall be entered to the debit of account 2132 and the credit of account 4611.

The right to a lease shall be the subject of account 2180 when its acquisition contains a specified price in the document.

Depreciations practiced on the fixed assets of account 21 are entered in the four digit sub-accounts ending in 8. Depreciation accounts 2128, 2138, 2148, 2158 and 2168 are credited with depreciations performed during each fiscal year by the debit of account 681.

Depreciation reserves (four digit sub-accounts ending in 9) are created by the debit of account 839; they are adjusted by the credit of account 828 and 829 when the amount of the reserve must be reduced or cancelled.

Fixed operating assets are those allocated to professional operations and fixed investment assets, those allocated to covering the commitments of the company or constituting free assets. Account 219 only comes into play twice per year: it shall be debited at the closing end of the fiscal year by the credit of accounts 210, 212, 213 and 218. These entries are reversed at the opening of the following fiscal year.

When fixed assets come out of assets, the difference between the value of assets minus depreciations and the cession price constitutes a profit or a loss per liquidation which shall be entered into accounts 840 or 845.

22. Current fixed assets in the country concerned

The purpose of this account shall be to show the value of fixed assets not terminated.

23. Stocks and shares and similar instruments held in the country concerned, which may be allocated to the representation of regulated liabilities, belonging to the company and conserved by it (other than equity interest)

Stocks and shares and the parts of common investment funds which by their nature may represent regulated liabilities, in compliance with the regulation in force, and which are not recorded in accounts 25, 26 or 28, are accounted in 23. These securities appear there even if the company does not need them in entirety to represent its regulated commitments or if their amount exceeds the limitations anticipated by the regulation.

Incidental expenses of purchase (taxes, broker and commissions) are not included in the assets value, but are entered in the debit of account 675.

The amount paid on the price of underwriting or on the purchase price of a not entirely ^paid-up security alone shall be entered in account 23.

Under each heading, securities are classed in the order of the share of the stockbrokers.

Account 239 "Reserves for depreciation of stocks and shares" (as well as accounts 259, 26309 and 289) enter all the differences between the cost price and inside estimate, in particular on unquoted securities.

25. Investment certificates held in the country concerned

It shall be considered that a company holds a share in another when it owns a fraction at least equal to 10%.

Account 254 enters the shares owned by the company in non-commercial organisations. The amount of outstanding payments on not entirely paid-up securities shall be entered simultaneously to the debit of accounts 256 and 257 and to the credit of account 4615.

26. Deposits and guarantee in the country concerned

Securities which, if they were kept by the company, would appear in accounts 23, 24 or 25 are entered respectively in accounts 26303, 26304 or 26305.

27. Securities guaranteeing commitments towards pension funds or covering investment funds managed by the company.

When the agreement with pension funds provides that securities shall be recorded in the name of the insurance company lending its assistance, funds paid by the institutions for the purpose of purchasing these securities are accounted to the credit of account 27; the reversed amounts are entered in the debit of this same account. Account 27 enters the movements of this special portfolio of securities: it shall be debited from the price of securities entering therein, and credited by the price of securities withdrawn therefrom.

28. Fixed securities abroad

Class 3

Technical reserve accounts

Class 3 shall be, in this plan, reserved for technical reserves, i.e. for predictable expenses which concern the execution of contracts made between the company and the insured. It also records commitments towards pension funds or those pertaining to investment funds managed by the company.

32. Technical reserves of direct damages, civil liability and miscellaneous insurance transactions in the country concerned

Premiums issued pertaining to due dates belonging to subsequent fiscal years are entered in account 3200.

35. Technical reserves of acceptances in the country concerned

Account 355 receives notably backlogged entries intended to temporarily compensate acceptance accounts when these are incomplete and to supply predictable losses when the reinsurer is not in possession of all the accounts.

Class 4

Third party accounts

Class 4 accounts enter transactions concerning relations with third parties (except for those anticipated in class 3) and, by extension, adjustment entries of expenses and assets.

40. Reinsurers, cedants, coinsurers

Main accounts 400 to 403 give way to the opening, for each reinsurer, in each currency of the treaty, of an account intended to enter, over the fiscal year, all transactions which take place: the company opens, for this purpose, accounts 4002, 4003,... up to 4038 and 4039; if the number of accounts thus available is inadequate, five-digit accounts will be created (from 40020 and 40021 to 40398 and 40399) or six-digit accounts. At the end of the fiscal year, the balance for each reinsurer is derived by currency and this balance is shown in accounts 4000 and 4001 according to whether it is debit or credit. Accounts 404 to 408 work in an analogous manner.

41. Agents, insured and brokers

Account 410 corresponds to accounts with agents and brokers in the normal meaning of the term. For the purpose of determining premiums in arrears, at the closing of the fiscal year it is the subject of an itemization to account 411 between the various items of premiums to be collected and the cash balances; this account 411 is not, therefore, an inventory account.

Account 412 records insurance transactions which do not go through an agent or broker and which do not lead to a commission. The insured are debited from receipts which are presented to them and credited to their payments.

Accounts 413 and 414 record transactions other than current insurance transactions (for example, loans to agents...).

Account 419 records reserves for depreciation other than the reserve for premium cancellations which appears in class 3.

43. Government

Transactions to be entered in account 43 are those made with the State considered as public power.

Account 432 temporarily receives the amounts paid to the company by the State whose nature as a loan or subsidy has not yet been established: this account must normally be balanced at the end of the fiscal year.

In account 433, the stocks in question are the securities created by the nationalised insurance companies; the depreciated stocks have been reimbursed to the bearers by the company who must recover the amount thereof. Duties and taxes to be entered, should such be the case, in account 436 shall include not only State duties and taxes, properly speaking, but also duties and taxes collected on account of the departments and municipalities.

45. Subsidiaries or parent company

Subsidiaries properly speaking shall include the companies of which the enterprise holds 50% or more of the capital.

46. Miscellaneous debtors and creditors

Account 465 "Debts on insurance organisations by reason of advances to insured" works in the following manner:

When, in land motor vehicle insurance, the contract does not cover damages incurred but a legal expenses coverage provides that the insured shall benefit from the share of its insurer of a payment prior to the fiscal year of recovery, payment and recovery are respectively accounted to the debit of sub-accounts 6020 and 6026 and to the credit of sub-account 6029.

When, in the absence of such a provision in the contract, a similar system of settlement nevertheless operates by virtue of an agreement between companies, account 465 shall be debited during the year by the amounts paid under these conditions and credited by those recovered; it shall be credited at the end of the fiscal year with amounts not recoverable by the debit of accounts 6020 and 6026.

47 and 48. Adjustment accounts

These accounts are used to distribute expenses and income over times, in such a manner as to connect to a set fiscal year all the expenses and all the income which actually concerns it, and only that.

In account 470 are included, notably, interest incurred and not due on loans contracted by the company, as well as the amount of rights acquired by personnel at the closing of the fiscal year under the heading of paid holiday.

Accounts 470 and 480 are to be sub-divided in the order of the expenses appearing in accounts 61 to 64, 66, 67 and 69.

Accounts 475 shall be credited by the amounts corresponding to the income collected or accounted before the services and supplies justifying them were performed or provided.

Account 485 shall be debited at the end of the fiscal year by the credit of accounts 76, 77, 796 and 797 of the income earned by the company but whose amount, not finally set, has not yet been entered in a debit account of class 4.

49. Suspense accounts and accounts to be adjusted

Transactions which cannot be imputed with certainty to a set account at the time when they must be entered or which require supplementary information are temporarily entered in 49. This procedure must only be used in an exceptional circumstance.

Except for impossibility, transactions entered in this account are re-categorised at the end of the fiscal year amount the accounts appearing in the model balance sheet, and account 49 does not appear, in principle, on the balance sheet. If re-classification cannot be performed, no compensation between the credit balances and the debit balances of accounts shall be established, which must appear on the balance sheet.

Class 5

Financial accounts

Financial accounts record the movements of cash securities, checks, commercial instruments, coupons, transactions made with banks, brokers, etc. They also include short-term loans, as well as investment securities not capable of being accepted as representation of policy reserves and which, due to this fact, do not in theory present this permanence, this stability, which are one of the features of the investments accepted as representation and constituting class 2.

50. Loans of under one year

These accounts records loans contracted by the company of which it is sure, at the beginning, that they are made or granted for a term less than one year.

51. Loans which may not be allocated to the representation of regulated commitments

Unsecured participatory loans are notably allocated to account 518.

55. Investment securities not previously listed

These securities are those which cannot be allocated either to accounts 25 or 285 because these are not investment securities, not to accounts 23 or 283 because they are not capable of being accepted as representation of technical reserves.

59. Internal transfers

These are passage accounts used to account for, in a convenient manner, transactions called up to finally be balanced.

Class 6

Expense accounts by type

Class 6 groups accounts intended to record the technical and general operating expenses incurred during the fiscal year (excluding, however, the recovery of former reserves for benefits and the constitution of new ones which go directly into operating account 80).

60. Benefits in the country concerned

Account 601 benefits payable and reserved for companies practicing the transactions defined in 1 of article 300. (In capitalisation, the sums going out to guaranteed redemptions are accounted in account 6010). Participations allocated prior to determinations of the results of the fiscal year go through account 6015, whether they are to be distributed immediately, to be incorporated into the mathematical reserve or to be paid into the reserve for depreciation of surplus (participations possibly allocated on the profits of the profit and loss account appear in account 88).

Main account 602 “benefits and expenses paid (direct business)” shall be reserved for damage insurance companies which enter the amounts having actually been paid, including the Annuity instalments before constitution (6020). At the time of the constitution of an annuity of which the company shall assume the management, account 6020 “claims” shall be debited by the credit of account 6021 “Sums constituting an annuity”; annuity instalments paid as of this time come into the debit of account 6023; at inventory the working account shall be debited in order to balance accounts 6020 and 6023 while account 2061 shall be balanced by the credit of the working account. Inversely, if the annuity constituted is the subject of a surrender, account 6024 shall be debited (by credit of a cash account). Attached expenses itemised by claim or recovery file (such as expert appraisal fees, barristers’ fees, solicitors; fees, legal expenses, medical fees...) are accounted in account 6026.

61. Personnel expenses in the country concerned

The expenses entered into this account are those which are incurred by the company by reason of remuneration of its personnel and the supplements (related expenses, social security expenses, social benefits expenses...). They do not include commissions or brokers’ fees allocated to personnel, which appear in account 654.

Account 612 records income paid to salaried employees of the company assigned to the presentation of insurance transactions. In the case of salaried employees collecting payment in part from account 610 and in part from account 612, it shall be necessary to break down these amounts between the two accounts, either immediately, or at the end of the year and, when this breakdown is impossible, to account the payment in that of the accounts to which the main function of the concerned party corresponds.

Accounts 613, 616, 617 and 618 concern personnel whose incomes are entered into accounts 610 and 612.

Accounts 61600 and 61620 record amounts paid in cash, by reason of paid leaves, to persons leaving the company. They also receive, where applicable, the variation, from one 31st December to the next, in the amount of rights earned by the personnel at the closing of the fiscal year by reason of paid leaves. This amount then appears on the liabilities side of the balance sheet, in account 470 (outstanding expenses).

The income entered in 617 only contains the employer’s share.

Other company expenses (account 618) include expenses for social benefits, except for expenses which, such as the rental and maintenance of cafeterias, must be entered, by reason of their very nature, in the other accounts of class 6.

62. Duties and taxes in the country concerned

Account 62 records all the duties and taxes which are payable by the company, with the exception of:

- a) those which, such as income tax or tax on companies, constitute a drawing in advance on benefits and are directly entered into the debit of account 85;
- b) those which, collected on third parties by the company, must be transferred by it and are recorded in accounts 435 (taxes on insurance premiums), 440 (recoverable duties and taxes on shareholders), 4062 and 4065 (recoverable duties and taxes on bondholders or bearers of beneficiary shares);
- c) calling in outstanding taxes concerning prior fiscal years which are entered in account 8022;
- d) penalties and fiscal fines, exceptional fees which must be recorded in account 844.

63. External works, supplies and services in the country concerned

Account 63 records expenses paid to third parties, with the exclusion of transports and travel expenses which are entered into account 64 and management fees which are entered into account 66.

In account 631, the distinction between maintenance costs and repairs costs only takes place within account 631 whenever possible; in the event of impossibility of this distinction,

regrouping shall be made under the heading “maintenance”. Expenses incumbent upon the occupant of the building appear in this account (even when the company is owner of the building in which it is installed).

Account 632 records fees paid to third parties which are assigned by the company with performing, on its account, transactions whose subject shall be the manufacture of products or the supply of services.

Expenditures for the purchase of small equipment, which must be renewed periodically, are entered into the debit of account 633.

Fees such as those paid to tax advisors, lawyers, architects, auditors, experts of the work council, etc. shall be entered into account 637.

64. Transports and travel within the country concerned

Account 64 records all transportations and travel expenses, including those concerning the transportation of equipment and records, which the company does not provide by its own means. When the company provides these transportations by its own means, the expenses appear in the corresponding entries: salaries, maintenance and equipment repair, etc.

65. Commission in the country concerned

Account 65 records, on one hand, income of any kind allocated to insurance brokers and to general insurance agents under the heading of services rendered by them to the company (excluding those concerning the exercise of a recovery) and, on the other hand, amounts paid to other empowered company agents in remuneration of services rendered by them in the presentation of insurance transactions or to salaried employees of the company under the heading of occasional commissions.

66. Miscellaneous management expenses in the country concerned

Account 668 enters in its debit, by the credit of the concerned accounts in class 4 or class 5, grants by the company when with regard to their frequency or their nature, these grants may be considered as belonging to normal management.

67. Financial expenses in the country concerned

As for interest on debenture loans, the minimum amount of the distribution given out to beneficiary shares shall be entered into account 6700. The surplus appears in account 88 in “other distributions”.

Account 673 shall be debited by the discounts from which the insured benefit (notably in marine insurance) when the premiums stipulated payable by quarters are, in fact, paid in one single payment.

Account 675 records incidental expenses linked to purchase (taxes, brokers’ fees and commissions) of participation and investment securities in the country concerned (the same shall be held true for account 6975 as regards securities held abroad). Account 677 includes notably interest charges resulting from the guarantee given by insurance companies to pension funds.

Expenses paid or account in advances – Outstanding expenses

Accounts 61 to 64, 66 and 67, recording the expenses as they are produced, do not indicate the exact amount of expenses which pertain to the fiscal year: they include expenses incurred during this fiscal year, but which concern subsequent fiscal years; they do not include, on the contrary, the expenses which, pertaining to the fiscal year, by question, shall only be recorded during a later fiscal year.

In order to re-establish the exact amount of the expenses pertaining to the fiscal year in the accounts of class 6, these accounts must be adjusted at the end of the fiscal year, by the debit from account 480 and credit of account 470.

At the opening of the following fiscal year, the entries posted in these accounts, 480 and 470, are reversed in the concerned accounts of class 6. However, companies may also directly debit

account 470 at the time of the actual payment of outstanding expenses and credit account 480 on the date of the expenses paid or accounted in advance.

Companies which deem this opportune may bring accounts 470 and 480 into play at the end of each accounting term and not only at the end of the fiscal year.

68. Allocation from the fiscal year to depreciation and reserve accounts in the country concerned

These accounts are intended to make the allocations from the fiscal year to depreciation, estimated liability provisions and reserves for depreciation of asset items appear in class 6, when these reserves concern the operating; they only lead to positive allocations. When the previously constituted reserve by allocation to accounts 685 or 889 prove to be too sizeable, the surplus shall be taken back by the credit of account 828.

The sub-accounts derived from 680, 681, 685 are debited by the credit of corresponding depreciation or reserve accounts derived from accounts 20, 21 and 15; account 689 shall be debited by the credit of accounts 409, 419, 459 and 469.

Class 7

Income accounts by type

Outside of the technical accounts (accounts 70, 73, 75 and 79), the income including amounts received or outstanding under the heading of the operating, and pertaining to the current fiscal year, either per contra to the provision of services or benefits performed or provided by the company, or exceptionally without contra. They also include works done by the company for itself.

Class 7 also includes, by extension, corrective accounts of class 6 expenses accounts.

Class 7 accounts do not include, therefore, income or profits which come from grants or equipment, of transactions concerning previous fiscal years, or presenting an exceptional character, and which must be entered in one of the following accounts: 822, 847, 848 or 849. Companies debit, should such be the case, each income account by the amount of the sum which are entered there and which are to be recorded, definitively, to the credit of the profit and loss account. These rectifying entries are posted, at the latest, at the end of the fiscal year.

70. Written Premiums or contributions

Account 70 shall be, at the time of the issuance of receipts, credited by the amount of the premiums or contributions, including therein incidental expenses and policy costs, but net of insurance taxes.

Annuity purchase money managed by the company constituted subsequent to a claim are not accounted in 70 but are entered into account 6021.

71. Grants received

Appearing in this account are State, public organisations or third parties grants, which are neither balancing grants, nor equipment grants.

73. Reductions and premium refunds

Account 73 records the bonus during the year when it is the subject of the reimbursement of part of the premium. It shall, at the end of the year, be balanced by accounts 701 to 706.

74. Refunds, rebates and discounts obtained

This account records discounts obtained from suppliers and whose amount, not deducted for the purchasing invoices, shall be only known after the accounting of these invoices. It shall be credited by the debit of third parties accounts or cash accounts and balanced at the end of the year (At the same time as supplemental income 76) by operating account 80.

76. Miscellaneous revenues in the country concerned

Account 765 includes notably participation received from organisations which the insurance companies are authorised to manage.

The reimbursement of expenses borne by the company for the account of other companies with which it has common services come over to the credit of the concerned accounts of class 6.

For investments whose accounting value does not include the pro rata of interest incurred since the last due date, interest incurred and not due at the inventory are entered in the credit of the concerned sub-accounts of account 77 and to the debit of sub-account 4857. Upon re-opening of accounts after inventory, sub-account 4857 shall be balanced by the debit of these sub-accounts. Interests accrued and not collected are entered to the credit of the concerned sub-accounts of 77 and to the debit of account 545.

Reimbursement lots and redemption premiums on transferable securities are to be included in account 77.

Within other financial income (778) enter notably, to the credit of interest which shall be added to premiums, when the tariff is annual, the premiums shall only be, contingent on interest, payable by semi-annual or quarterly fractions.

78. Works done by the company for itself – works and expenses not imputable to the operating from the fiscal year

Account 780 shall be called-up to record the cost of jobs done by the company for itself, whose amount must be entered in a balance sheet account.

Account 7800 shall be credited by the debit from account 20.

Account 785 shall be called-up to record the contra of the expenses recorded in accounts 61, 66 and 67 and which are covered by estimated liability provisions constituted during previous fiscal years by the debit from account 685 or which do not pertain to operating or to the fiscal year.

Class 8

Revenue accounts

80. General operation

Account 80 shows the result of the fiscal year, that is to say those which result from the management of the various activities of the company. This account shall only be used at the end of the fiscal year.

The balance of account 80 shall be transferred, for the closing of the accounts to account 87.

Account 80 shall be set up in conformity with the model provided in Section IV.

The accounts constituting the entries of account 80 are indicated in the following lists.

80. General operating (special accounts for life and investment companies)

Claims incurred: 6010, 6030, 6040, 6060, 6901, 6904 and (cessions) 60910, 60930, 60940, 60960, 6909.

Sums due: 6012, 6032, 6042, 6062 and (cessions) 60912, 60932, 60942, 60962.

Annuity instalments due: 6013, 6033, 6043, 6063 and (cessions) 60913, 60933, 60943, 60963.

Surrenders: 6014, 6034, 6044, 6064 and (cessions) 60914, 60934, 60944, 60964.

Profit sharing: 6015, 6035, 6045, 6065 and (cessions) 60915, 60935, 60945, 60965.

Mathematical reserves: 310, 340, 3810, 3840 and (cessions) 3910, 3930, 3940, 3960, 39810, 39840.

Adjustment of securities allocated to unit-linked insurance (debit): 679.

Interest on the reserve for profit sharing: 676 and 6976. Premiums: 701, 703, 704, 706, 7901, 7904 and (cessions) 709, 7909.

Adjustment of securities allocated to unit-linked insurance (credit): 779.

80. General operating (special accounts for companies of all types)

Benefits and expenses paid: 602, 604, 605, 606, 6902, 6904, 6905 and (cessions) 609, 6909.

Claim reserves: 325, 355, 3825, 3855 and (cessions) 3925, 3955, 39825, 39855.

Premiums: 702, 704, 705, 706, 7902, 7904, 7905 and (cessions) 709, 7909.

Premium reserves: 320, 340, 350, 360, 3820, 3840, 3850 and (cessions) 3920, 3940, 3950, 39820, 39840, 39850.

80. General operating (accounts common to all companies)

Commissions: 65 and 695.

Deducted acquisition fees entered in assets: 659 and 6959.

Depreciation of deducted acquisition fees: 658, 6958.

Personnel expenses: 61 and 691.

Duties and taxes: 62 and 692.

External works, supplies and services, transports and travel: 63, 64, 693, 694.

Miscellaneous management expenses: 66 and 696.

Allocation to depreciations (other than those pertaining to investments): 6800, 6801, 6802, 6809, 6814, 6815, 6816, 6819, 6980

Allocation to reserves: 685, 689, 6985, 6989.

Commissions and other expenses (cessions): 75, 795.

Financial expenses on securities: 6740, 675, 6974, 6975.

Fees on investment buildings: 678, 6804, 6978.

Other expenses: 670, 671, 672, 673, 6741, 6745, 6746, 677, 6803, 6806, 6970, 6977.

Allocations to depreciations of investment securities: 6812, 6813, 6981.

Financial income on securities: 773, 775, 7973, 7975.

Financial income on investment buildings: 771, 7971.

Other financial income: 774, 776, 777, 778, 7974, 7976, 7977, 7978.

Operating subsidies: 71, 791.

Incidental income: 74, 76, 794, 796.

Works done by the company for itself – Expenses not imputable to the operating of the fiscal year: 78, 798.

82. Profits and losses on previous fiscal years

This account records profits and losses under the heading of previous fiscal years on non-technical entries, i.e. results obtained during the fiscal year, but whose origin goes back to previous fiscal years.

Account 828 receives, to its credit, the recovery of possible surplus on reserves which had initially been posted in accounts 685, 835 and 839.

Account 829 is intended to receive, to its credit, the contra of losses recorded in accounts 82 and 84 and covered by reserves for losses constituted during previous fiscal years by the debit of accounts 835 and 839. Account 829 shall be credited by the debit from the account of the provision concerned, either by the amount of the provision if this amount is less than or equal to the losses, or by a sum equal to the amount of these losses if the reserve is greater than this amount.

83. Allocations from the fiscal year to the accounts of reserves outside of operating or exceptional and of regulatory reserves

Only those allocations to the reserves of account 11 are posted in account 831 which (different from those carried out by debit from account 88) do not fall under the exclusive competence of the general meeting.

Account 833 shall be debited by allocations to regulatory provisions (account 13) which are an expenditure of the fiscal year, according to the texts in force, but which are not directly connected with the operating.

Allocations to regulatory provisions may be negative if the withdrawal can be done without prior authorisation; if authorisation is required, as long as it is not obtained, the withdrawal shall be made by using account 88.

Account 835 shall be used to make allocations to estimated liability provisions (account 15).

However, the reserve for guarantee of depreciations on managed securities appearing in class 0 shall directly be constituted by debit from account 87.

Account 839 concerns allocations to provisions for depreciation of the asset items of classes 2, 4 and 5.

84. Exceptional profits and losses

This account records the results obtained during the fiscal year originating from exceptional events or occurrences, such as liquidations of asset items, exchange differences, debts whose irrecoverable nature appeared during the fiscal year. Reimbursement lot and premiums of stocks and shares are not considered exceptional events and are posted in account 7731 and 7973.

The result of exchange transactions (841, 846) shall be broken down into profits and losses on cessations or conversion of foreign currencies, insofar as the relative significance of these two items justifies such a breakdown. Account 842 shall be a calculation account which serves to fill out the fiscal schedules required for the determination of the results on cessations. It works the following way:

- a) it shall be debited, by credit of the account of the asset concerned, of the amount of the original value of this item;
- b) it shall be credited, by debit from the “depreciations” or “depreciation provisions” account, by the amount of the depreciation or the provision pertaining to the transferred item and, by the debit of the cash account concerned, of the amount of the price of transfer;
- c) it shall be debited (in case of capital gain) or credited (in case of capital loss), for balance by the credit of 845 or the debit of 840.

Account 843 records in its debit, by credit of the concerned accounts of classes 4 or 5, subsidies granted by the company which do not have the nature of operating expenses.

Balance subsidies received are subsidies which might be granted by the State, public organisations or third parties, depending on the results of companies which profit therefrom.

86. Products and services exchanges between companies

This account shall be in connection with the opening of account 17 “reciprocal account between companies and branches”. Its balance at the closing for the fiscal year shall be zero.

87. General profit and loss account

This account shall be set up in conformity with the model provided in Section IV.

88. Results awaiting allocation

Account 88 shall be set up in conformity with the model provided in Section IV.

When the fiscal year shows a profit, account 88 shall be credited prior to the distribution of profits by debit from account 87. It shall be debited by the amount of the sums distributed or allocated to a reserve account. The balance, if there is one, shall be transferred to account 12 “balance carried forward”.

Account 88 may be used in the case of losses.

The amounts intended, by decision of the general meeting, to be refunded to the members of mutual companies, to mutual companies and their unions, and to agricultural mutual, shall be debited from account 88 at the time of the allocation of the results.

If the terms and conditions of the refund are not set, the sums intended to be refunded are entered into the credit of account 115 “optional reserve”. When a subsequent decision of the general meeting sets the method of refunds, the necessary advance payment to the reserve shall be performed by debiting account 115 by credit of account 88.

When the general meeting has ruled, account 88 becomes the account of distribution and allocation of the results mentioned in Article 423.

89. Balance sheet

890. Opening balance sheet

891. Closing balance sheet

This balance sheet shall be established in conformity with the model provided in Section IV. Provisions common to accounts 80, 87, 88, 89.

In the publication of the general operating statement, of the general profit and loss account, of the account of the distribution and allocation of the results and of the balance, the numbers of the accounts constituting lines are not reproduced.

Class 0 *Special accounts*

Class 0 groups all the special accounts which do not have their place in classes 1 to 8 of the accounting framework. They do not, therefore, concern technical commitments forming the main subject of the insurance and of which the classical method of evaluation, notably for the provisions of class 3, rests on the statistical compensations law.

The accounts of class 0 are kept in double-entry bookkeeping, as are those of the general accounting. In order to do this, inside of each principal account, the main account whose number ends with 9 shall be used as contra of all other main accounts and sub-accounts. For example, account 009 is the contra of accounts 000 and 001.

00. Liabilities owed by the company

This account expresses the situation of the company towards third parties likely to become debtors.

01. Liabilities payable by the company

Account 01 expresses the various aspects of the company following liabilities made to third parties or resulting from legal provisions. For this purpose, each item contains three columns:

- a) in the first column appears the maximum cash withdrawal to which the company shall be exposed (for example, subsequent to invoking a joint liability that does not make other co-debtors bear their share);
- b) into the second column shall be entered the probable amount of the cash withdrawal in the event of an invoked liability (taking into account the chances that this liability might only involve the company for a partial amount);
- c) finally, the third column indicates the estimate, no longer of the cash **to raise**, but of the most probable loss of company assets which would lead the company to actually honour its commitment.

Account 016 concerns notably reinsurance treaties of support concluded with a subsidiary of the company or a company in which the company holds equity; cash expenses (maximum amount and possible expenses) of the most probable loss shall be figured for all next three fiscal years.

Account 0170 shall be reserves for mutual insurance companies.

03. Other expenses towards third parties

This account records the cash amounts that the company, outside of any legal commitment but under the heading of good management, decided to allocate to third parties (such as indispensable cash needs during the next three years to assist or develop a subsidiary or a company in which the company holds an equity).

05. Investment plan involving the company

This account has the same subject as account 03, but concerns the company itself, also during the next three years, for existing commitments or pending transactions (notably real estate transactions in progress, equipment of a branch, the creation, development or transformation of the commercial network...).

06. Securities received as collateral from reinsurers and retrocessionaire

This account receives securities remitted as collateral by reinsurers.

07. Securities belonging to pension funds

This account shall be used in the case where the convention with institutions, organisations, federations or benefit groups provides that the securities purchased for their account on the instructions of the managing insurance company shall be entered into account under the name of these institutions.

08. Securities remitted by reinsured organisations with joint liability guarantee or with substitutions

Account shall be used:

- a) by the unions of mutual companies in order to record investments placed at their disposal by reinsured mutual, for the purpose of allowing them to meet commitments,
- b) by companies or licensed mutual agricultural insurance and reinsurance funds, in order to record the investments placed at their disposal by organisations exempted from licensing when they reinsure.

This account shall be sub-divided, according to needs, into main accounts and sub-accounts structured on the model of class 2.

It shall be published at the foot of the balance sheet under the same conditions as account 06.

Section IV – Statements and schedules

Article 433

Model statements

(As amended on 2 April 2008 by Decision of the Council of Ministers)

The insurance companies and group of companies subject to supervision and supplementary surveillance of the Commission pursuant to the provisions of Articles 300 and 309, must prepare the accounting and statistical statements listed in Articles 422 and 422-1 in compliance with the attached statements:

ASSETS – ACCOUNT 89 – BALANCE SHEET

ASSETS			
	Gross amount	Amortisation and provisions for depreciation	Net amount
20. Start-up and development expenses in the Member State:			
Start-up expenses (200 to 203, 205 and 206)			
Acquisition expenses of fixed assets (2004 and 209)			
Total start-up expenses in the Member State			
21 and 22. Fixed assets in the Member State:			
Buildings (210, 212, 213, 2190, 2192 and 2193)			
Equipment, furnishings, fixtures and fittings (214, 215 and 216)			
Intangible assets (218 and 2198)			
Current fixed assets (22)			
23 to 27. Other fixed assets in the Member State:			
Securities accepted as representation of technical reserves (other than participation securities) (23)			
Loans and similar bills in representation of technical reserves (24)			
Participation securities (25)			
Deposits and guarantees (26)			
28. Fixed assets abroad:			
To be deducted: outstanding payments on not paid-up securities (4611 to 4618)		xxxxxxxxxxxxxx	
Provision for depreciation of fixed assets and securities (192 and 197)		xxxxxxxxxxxxxx	
Net total of fixed assets			
39. Share of reinsurers and retrocessionaire in technical reserves:			
Premiums (391, 3920, 3940, 3960, 39810, 39820, 39840, 39850)			
Claims (3915, 3925, 3935, 3945, 39815, 39825, 39845, 39855)			
Total share of resinsurers and retrocessionaire in technical reserve			
4 and 5. Short-term or available liquid assets:			
Current accounts of debtor reinsurers or retrocessionaire (4000)			
Current accounts of debtor cedants and retrocedants (4040)			
Current accounts of debtor coinsurers (4080)			
Claims on insured and agents (41) ¹			
Personnel (42) ¹			
State (43) ¹			
Shareholders (44) ¹			
Subsidiaries (45) ¹			
Various debtors (46) ¹			
Adjustment accounts (48)			
Suspense accounts and accounts to be adjusted (49)			
Loans not accepted as representation of technical reserves (51)			
Accounts receivable (53)			
Checks and coupons to be collected (54)			
Various investment securities (55 and minus 195)			
Bank and postal checks (56)			
Cash (57)			
Total third party accounts and financial accounts			
17. Accounts with the registered office (receivables)			
87. Results (loss from the fiscal year)			
OVERALL TOTAL			
06. Securities received as collateral from reinsurers and retrocessionaire			
08. Securities remitted by reinsured organisations with joint and several guarantee or with substitution			
09. Other securities held by the company			

1- Total of main accounts and sub-accounts with a debit balance.

LIABILITIES – ACCOUNT 89 – BALANCE SHEET

LIABILITIES	
10. Registered capital or start-up funds:	
Registered capital (100)	
Called-up capital (1000)	XXXXX
Uncalled capital (1001)	XXXXX
Start-up funds (101)	
Constitutive funds (1010)	XXXXX
Outstanding remainder of the loan (1016)	XXXXX
Complementary company funds (102)	
11. Reserves:	
Issue premiums (110)	
Statutory reserves (112)	
Reserves for net long-term capital gains (113)	
Reserves from equipment subsidies (114)	
Reserves for capital gains reinvested, to be reinvested and miscellaneous (115)	
Reserves for renewal of fixed assets (116)	
Special reevaluation reserves (118)	
Reserves for guarantees (119)	
13. Regulated reserves:	
Reserve for reimbursement of the loan for start-up funds (130)	
Reserve for exchange fluctuations (134)	
12. Balance carried forward:	
Total of net assets and reserves	
14. Equipement subsidies received	
15. Provisions for liabilities and charges:	
Other provisions for liabilities and charges (15)	
16 and 18. Long and mid-term debts:	
Loans and other debts over one year (16)	
Debts for cash remitted by reinsurers and retrocessionaire (18)	
Total subsidies, provisions for liabilities and charges	
31 to 38. Technical reserves:	
Premiums (10, 320, 340, 350, 3810, 3820, 3840, 3850)	XXXXX
Claims (315, 3250 to 3258, 345, 355, 3815, 3825, 3845, 3855)	XXXXX
Minus: provisions for recoveries to be collected (3259)	XXXXX
Total technical reserves	XXXXX
4 and 5. Short-term debts:	
Current accounts of debtor reinsurers or retrocessionaire (4001)	
Current accounts of debtor cedants and retrocedants (4041)	
Current accounts of debtor coinsurers (4081)	
Claims on insured and agents (41) ¹	
Personnel (42) ¹	
State (43) ¹	
Shareholders (44) ¹	
Subsidiaries (45) ¹	
Various debtors (46) ¹	
Adjustment accounts (47)	
Suspense accounts and accounts to be adjusted (49)	
Loans under one year (50)	
Accounts receivable (52)	
Total short-term debts	
17. Accounts with the registered office (debts)	
87. Results (surplus prior to allocation)	
OVERALL TOTAL	
06. Agreement to return securities received as collateral from reinsurers and retrocessionaire	
07. Agreement to return securities held belonging to pension funds	

08. Agreement to return securities remitted by reinsured organisations with joint and several guarantee or with substitution	
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09. Agreement to return other securities held by the company belonging to third parties	
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- 1- Total of main accounts and sub-accounts with a credit balance. Some accounts show both as assets and liabilities, their balances may be either debit or credit (418, 428, 436, 445, 446, 450, 455, 462 to 468). Other accounts balanced and do not have to show on the balance sheet.

ACCOUNT 80 – Life/Investment

DEBIT			
	Gross transactions	Cessions and retrocessions	Net transactions
Claims and sums due:			
Claims incurred			
Sums due			
Annuity instalments due			
Surrenders			
Dividends			
Benedits from the exercise			
Mathematical reserves:			
Mathematical reserves at closing of fiscal year			
To be deducted: Mathematical reserves at opening of fiscal year			
To be deducted: Dividends incorporated in fiscal year			
Allocation to the exercise's reserves			
Commission expenses			
Other expenses:			
Personnel expenses		xxx	xxx
Duties and taxes		xxx	xxx
External works, supplies and services, transports and travel		xxx	xxx
Various management expenses		xxx	xxx
Allocations to depreciation (other than those pertaining to investments)		xxx	xxx
Total other expenses from the fiscal year			
Total commission and other expenses			
Investment expenses:			
Financial fees on securities			xxx
Financial fees on investment buildings			xxx
Other financial fees			xxx
Allocation to depreciations of investment securities			xxx
Adjustment of securities allocated to unit-linked insurance			xxx
Total investment expenses		xxx	
Interests entered in the reserve for profit sharing			
Credit balance			
Total			

ACCOUNT 80 – Life/Investment

CREDIT			
	Gross transactions	Cessions and retrocessions	Net transactions
Premiums and incidentals (net of cancellations)			
Investment income:			
Financial income on securities			xxx
Financial income on investment buildings			xxx
Other financial income			xxx
Adjustment of securities allocated to unit-linked insurance			xxx
Total investment income		xxx	
Other income:			
Operating subsidies			xxx
Incidental income			xxx
Total other income		xxx	
Works done by the company for itself:			
Expenses not imputable to operating from the fiscal year			

Debit balance		
Total		
Interests entered in the mathematical reserves		
Gross transactions		
Cessions and retrocessions		
Net transactions		

ACCOUNT 80 – All types of insurance

DEBIT			
	Gross transactions	Cessions and retrocessions	Net transactions
Claim expenses net of recoveries:			
Benefits and expenses paid			
To be added: claim reserves at closing of exercise			
To be deducted: claim reserves at opening of exercise			
Benefits and expenses from the exercise			
Commission expenses			
Other expenses:			
Mathematical reserves at closing of fiscal year			
To be deducted: Mathematical reserves at opening of fiscal year			
To be deducted: Dividends incorporated in fiscal year			
Allocation to the exercise's reserves			
Commission expenses			
Other expenses:			
Personnel expenses		xxx	xxx
Duties and taxes		xxx	xxx
External works, supplies and services, transports and travel		xxx	xxx
Various management expenses		xxx	xxx
Allocations to depreciation (other than those pertaining to investments)		xxx	xxx
Allocation to reserves (other than those pertaining to technical reserves and to investments)		xxx	xxx
		xxx	xxx
Total other expenses from the fiscal year			
Total commission and other expenses			
Investment expenses:			
Financial fees on securities			xxx
Financial fees on investment buildings			xxx
Other financial fees			xxx
Allocation to depreciations of investment securities			xxx
Adjustment of securities allocated to unit-linked insurance			xxx
Total of investment expenses		xxx	
Credit balance			
Total			

ACCOUNT 80 – All types of insurance

CREDIT			
	Gross transactions	Cessions and retrocessions	Net transactions
Premiums:			
Premiums and incidentals (net of cancellations)			
To be added: premium reserves at closing of exercise			
To be deducted: premium reserves at opening of exercise			
Premiums from the exercise			
Investment income:			
Financial income on securities			xxx
Financial income on investment buildings			xxx
Other financial income			xxx
Total investment income		xxx	
Other income:			
Operating subsidies			xxx
Incidental income			xxx
Total other income		xxx	

Works done by the company for itself: Expenses not imputable to operating from the fiscal year Debit balance Total		

ACCOUNT 87 – GENERAL PROFIT AND LOSS ACCOUNT

DEBIT		
Operating losses from the fiscal year (80)		
Losses on previous fiscal years (820)		
Reserves for capital losses at the closing of the year		
For guarantee of capital losses on managed securities (150)		
For depreciation of fixed assets and securities (19)		
Allocation to provisions for capital losses	xxx	
Allocation from the fiscal year to various reserves abroad (to be itemised) (831)		
Allocation from the fiscal year to regulatory reserves:		
Reserve for reimbursement of the loan for start-up fund (8330)		
Constituted start-up fund (8331)		
Reserve for exchange rate fluctuations (8334)		
Allocation to the regulatory reserves (833)	xxx	
Allocation from the fiscal year to reserves for losses:		
Allocation from the fiscal year to reserves for depreciation (839)		
Exceptional losses:		
Depreciation on cessions of asset items (840)		
Exchange losses:		
On cessions of foreign currencies (8411)		
On conversions of foreign currencies (8414)	xxx	
Exchange losses (841)		
Exceptional subsidies granted (843)		
Other losses (844)		
Allocation to reserves for losses	xxx	
Income tax (85)		
Net total income or surplus (credit balance)		
Total		

ACCOUNT 87 – GENERAL PROFIT AND LOSS ACCOUNT

CREDIT		
Operating profits from the fiscal year (80)		
Profits on previous fiscal years (822)		
Reserves for capital losses at the closing of the year		
For guarantee of capital losses on managed securities (150)		
For depreciation of fixed assets and securities (19)		
Allocation to provisions for capital losses	xxx	
Recovery on previous reserves (828)		
Usage of reserves previously constituted to cover losses on previous fiscal years and exceptional losses (829)		
Exceptional profits:		
Capital gains on cessions of asset items (845)		
Exchange profits:		
On cessions of foreign currencies (8461)		
On conversions of foreign currencies (8464)		
Exchange profits (846)	xxx	
Profits resulting from equipment subsidies (847)		
Balancing subsidies received (848)		
Other profits (849)		
Exceptional profits	xxx	
Net total loss or inadequacy (debit balance)		
Total		

ACCOUNT 88 – RESULTS AWAITING ALLOCATION

DEBIT		CREDIT	
Carried forward from preceding fiscal year		Carried forward from preceding fiscal year	
Losses from the fiscal year		Profits from the fiscal year	
Dividends		Drawings on reserves (to be itemised)	
Percentages		Carried forward (loss)	
Allocation to reserve for capital gains reinvested and to be reinvested, and long-term capital gains			
Allocation to other reserves (to be itemised)			
Other distributions (to be itemised)			
Carried forward (profit)			
Total		Total	

C1 OPERATING ACCOUNT BY CATEGORY OR SUB-CATEGORY

The various entries of statement C1 are composed of the same accounts as those of account 80. Unless otherwise indicated.

STATEMENT C1 OF LIFE AND INVESTMENT COMPANIES

Statement C1 prepared by life insurance companies contains in columns the categories concerned in Article 411 and in lines the following entries:

DEBIT	CREDIT
Claims incurred	Issued premiums (7010 to 7013, 704, 706, 7901, 7904, minus 73 and 793)
Arrears due	To be deducted: cancellations (7019)
Annuity instalment due	Sub-total: net premiums
Surrenders	Income from investments, net of expenses ¹
Dividends	To be deducted: interest credited to mathematical reserves net of cessions
Sub-total: benefits due	Sub-total: net financial income
Mathematical reserves at the closing of the fiscal year	Operating subsidies
To be deducted: mathematical reserve at the opening of the fiscal year	Share of reinsurers in claims and sums
To be deducted: participation in reserves	Share of reinsurers in the mathematical reserves at the closing of the fiscal year
Surplus incorporated into fiscal year	To be deducted: share of reinsurers in the mathematical reserves at the opening of the fiscal year
To be deducted: interest credited to the gross mathematical reserves of cessions	To be deducted: interest credited to the mathematical reserves on cessions
Transfer of mathematical reserves (3105)	Commission of reinsurers
Sub-total: expense from reserves	Sub-total: claims and expenses incumbent upon reinsurers
Commissions (65 and 695)	Debit balance
Other net expenses	Total
Premiums ceded to reinsurers	
Credit balance	
Total	

1- "Income from investments" within the meaning of account 80, minus "investment expenses" as well as "interest credited to the reserve for profit sharing"

STATEMENT C1 FOR DAMAGE COMPANIES

Statement C1 prepared by damage insurance companies contains in columns the categories concerned in Article 411 and in lines the following entries:

DEBIT	CREDIT
Claims paid (6020 minus, 6021, 6024, 6040 to 6044, 6050, 6902, 6904, 6905)	Issued premiums (7010 to 7013, 704, 706, 7901, 7904, minus 73 and 793)
Incidental expenses (6026)	Recalls (7025 and 7026)
Dividends (6025, 6045, 6055)	To be deducted: cancellations (7029)
To be deducted: recovery (6029)	Sub-total: net premiums
Annuity instalments after constitution (6023)	Provisions for current risks (3200, 3201, 340, 350, 3820, 3840, 3850)
Sub-total: benefits and incidental expenses paid	+ as of the previous 31 December
Reserve for claims (3250, 355, 3825, 3855):	- as of 31 December
- as of the previous 31 December	Other premium reserves (3205 to 3208):
+ as of 31 December	+ as of the previous 31 December
Reserve for profit sharing (3258):	- as of 31 December
- as of the previous 31 December	Provisions for cancellations (3209):
+ as of 31 December	+ as of the previous 31 December
Provision for recovery to be collected (3259):	- as of 31 December
- as of the previous 31 December	Sub-total: allocation to premium reserves
+ as of 31 December	Net financial income ²
Mathematical reserves and miscellaneous (3254, 3257):	Operating subsidies received (71)
- as of the previous 31 December	Share of reinsurers in benefits (609 and 6909)
+ as of 31 December	Share of reinsurers in reserves for benefits (3295, 39825, 39855)
Sub-total: allocation to reserves for outstanding benefits and expenses	- as of the previous 31 December
Commission (65 and 695)	+ as of 31 December
Other expenses ¹	Commission of reinsurers (75, 795)
Premiums ceded (709, 7909)	Sub-total: share of reinsurers in the expenses
Premium reserves payable by reinsurers (3920, 3940, 3950, 39820, 3940, 39850)	Debit balance
+ as of the previous 31 December	Total
- as of 31 December	
Sub-total: premiums earned by reinsurers	
Credit balance	
Total	

- 1- "Other expenses" of account 80 minus by "incidental expenses" as well as "works done by the company for itself".
- 2- "Net financial income" within the meaning of account 80 minus "investment expenses".

Provisions common to all companies

Distribution by category or sub-category of management expenses and allocations to depreciations shall be performed by connecting to each branch the expenses which are directly applicable to it and by breaking down the other general expenses as exactly as possible according to their type, notably taking into account the number of contracts, the size of the business, the number of claims. Except for special proof, the total of the expenses respectively allocated to transportation and acceptance categories must not exceed 10% and 2.5% of the premiums.

Financial income shall be, failing a more in-depth study, broken down by category or sub-category to the pro rata of the technical reserves net of reinsurance; however, the “acceptances” column receives exactly the investment interest allocated to it.

Statement C4 is prepared in compliance with the following model:

STATEMENT C4 – AMOUNT OF REGULATED LIABILITIES AND THEIR COVER

Country:
Fiscal year:
Currency:

I – AMOUNT OF REGULATED LIABILITIES				
Reserves for current risks				
Reserves for outstanding claims				
Mathematical reserves				
Other technical reserves				
Other regulated liabilities				
TOTAL REGULATED LIABILITES				
II – REPRESENTATIVE ASSETS	Article No.	Purchase price or cost price	Liquidation value	Cover value
- Bonds and other State securities	Art 335-1 1a)			
- Bonds from international organisations	Art 335-1 1b)			
- Bonds from financial institutions	Art 335-1 1c)			
- Other bonds	Art 335-1 2a)			
- Quoted shares	Art 335-1 2b)			
- Shares of insurance companies	Art 335-1 2c)			
- Shares and bonds from commercial companies	Art 335-1 2d)			
- Shares of investment companies	Art 335-1 2e)			
- Real property rights	Art 335-1 3			
- Guaranteed loans	Art 335-1 4			
- Mortgage loans	Art 335-1 5a)			
- Other loans	Art 335-1 5-b)			
- Bank deposits	Art 335-1 6			
Sub-total 1 – Total securities				
- Advances on life company contracts	Art 335-2	xxxx	xxxx	
- Recoveries accepted (regulation no. 0001/PCMA/CE.SG/CIMA/3003)		xxxx	xxxx	
- Premiums or contributions of under three months of life companies	Art 335-2	xxxx	xxxx	
- Premiums or contributions of under a year of accident companies, except transport	Art 335-3 §1	xxxx	xxxx	
- Premiums or contributions of under a year of transport branches	Art 335-3 §2	xxxx	xxxx	
- Receivables on reinsurers guaranteed by collateral	Art 335-5	xxxx	xxxx	
- Other receivables on reinsurers for the transport branch	Art 335-5	xxxx	xxxx	
- Receivables on cedants	Art 335-6	xxxx	xxxx	
Sub-total 2 – Total other assets accepted as representation		xxxx	xxxx	
Total assets accepted as representation		xxxx	xxx	

STATEMENT C5 – DETAILED LIST OF INVESTMENTS

II – REPRESENTATIVE ASSETS	Article No.	Purchase price or cost price	Liquidation value	Cover value
- Bonds and other State securities	Art 335-1 1a)			
Sub-total				
- Bonds from international organisations	Art 335-1 1b)			
Sub-total				
- Bonds from financial institutions	Art 335-1 1c)			
Sub-total				
- Other bonds	Art 335-1 2a)			
Sub-total				
- Quoted shares	Art 335-1 2b)			
Sub-total				
- Shares of insurance companies	Art 335-1 2c)			
Sub-total				
- Shares and bonds from commercial companies	Art 335-1 2d)			
Sub-total				
- Shares of investment companies	Art 335-1 2e)			
Sub-total				
- Real property rights	Art 335-1 3			
Sub-total				
- Guaranteed loans	Art 335-1 4			
Sub-total				
- Mortgage loans	Art 335-1 5a)			
Sub-total				
- Other loans	Art 335-1 5-b)			
Sub-total				
- Bank deposits	Art 335-1 6			
Sub-total				
Total securities				

STATEMENT C9 – BREAKDOWN BY UNDERWRITING YEAR AND BY BRANCH OF PREMIUMS DUE, COLLECTIONS AND CANCELLATIONS

INVENTORIED FISCAL YEAR	UNDERWRITING YEAR						TOTAL
		Year	Year	Year	Year	Year	
Year	(1) Issuance		xxx	xxx	xxx	xxx	
	(2) Cancellations		xxx	xxx	xxx	xxx	
	(3) Collections		xxx	xxx	xxx	xxx	
	Arrears (1) – (2) – (3)		xxx	xxx	xxx	xxx	
Year	(1) Arrears: carried forward		0	xxx	xxx	xxx	
	(2) Issuance			xxx	xxx	xxx	
	(3) Cancellations			xxx	xxx	xxx	
	(4) Collections			xxx	xxx	xxx	
	Arrears (1) + (2) – (3) – (4)						
Year	(1) Arrears: carried forward			0	xxx	xxx	
	(2) Issuance				xxx	xxx	
	(3) Cancellations				xxx	xxx	
	(4) Collections				xxx	xxx	
	Arrears (1) + (2) – (3) – (4)						
Year	(1) Arrears: carried forward				0	xxx	
	(2) Issuance					xxx	
	(3) Cancellations					xxx	
	(4) Collections					xxx	
	Arrears (1) + (2) – (3) – (4)						
Year	(1) Arrears: carried forward					0	
	(2) Issuance						
	(3) Cancellations						
	(4) Collections						
	Arrears (1) + (2) – (3) – (4)						

STATEMENT C10

TABLE A: Situation of the costs of claims in Civil Liability insurance resulting from the usage of land motor vehicles.

Inventoried fiscal year	Transactions	Fiscal year of occurrence				
		Year	Year	Year	Year	Year
Year	Settlements Reserves Total claims Earned premiums % Claims/Earned premiums	%	%	%	%	%
Year	Settlements Reserves Total claims Earned premiums % Claims/Earned premiums	%	%	%	%	%
Year	Settlements Reserves Total claims Earned premiums % Claims/Earned premiums	%	%	%	%	%
Year	Settlements Reserves Total claims Earned premiums % Claims/Earned premiums	%	%	%	%	%
Year	Settlements Reserves Total claims Earned premiums % Claims/Earned premiums	%	%	%	%	%

TABLE B: Situation of the costs of claims in damage and other risks insurance resulting from the usage of land motor vehicles. Breakdown per fiscal year of occurrence.

Inventoried fiscal year	Transactions	Fiscal year of occurrence				
		Year	Year	Year	Year	Year
Year	Settlements					
	Provisions					
	Gross total claims (a)					
	Collected recoveries					
	Recoveries to be collected					
	Total recoveries (b)					
	Net total claims (a-b)					
	Earned premiums					
% Claims/Earned premiums		%	%	%	%	%
Year	Settlements					
	Provisions					
	Gross total claims (a)					
	Collected recoveries					
	Recoveries to be collected					
	Total recoveries (b)					
	Net total claims (a-b)					
	Earned premiums					
% Claims/Earned premiums		%	%	%	%	%
Year	Settlements					
	Provisions					
	Gross total claims (a)					
	Collected recoveries					
	Recoveries to be collected					
	Total recoveries (b)					
	Net total claims (a-b)					
	Earned premiums					
% Claims/Earned premiums		%	%	%	%	%
Year	Settlements					
	Provisions					
	Gross total claims (a)					
	Collected recoveries					
	Recoveries to be collected					
	Total recoveries (b)					
	Net total claims (a-b)					
	Earned premiums					
% Claims/Earned premiums		%	%	%	%	%
Year	Settlements					
	Provisions					
	Gross total claims (a)					
	Collected recoveries					
	Recoveries to be collected					
	Total recoveries (b)					
	Net total claims (a-b)					
	Earned premiums					
% Claims/Earned premiums		%	%	%	%	%

Statements C10a and C10b are prepared for all the damage insurance transactions realised in the country and for each of the damage insurance categories defined in Article 411, in compliance with the following models:

STATEMENT C10a – PAYMENTS AND LOSS RESERVES, ACROSS ALL FISCAL YEARS

	CATEGORY ¹	1	TOTAL
1- Issued premiums and incidentals net of cancellations and of all duties and taxes			
2- Allocation to premium reserves			
3- EARNED PREMIUMS (1-2)			
4- Settlements made			
5- Outstanding claims as of 31.12 of the fiscal year			
6- Outstanding claims as of 31.12 of the preceding fiscal year			
7- Collected recoveries			
8- CLAIM EXPENSES (4+5) – (6+7)			
10- Commissions			
11- General expenses			
12- GROSS BALANCE OF THE FISCAL YEAR: 3 – (8+10+11)			
9- S/PA: $8/3 \times 100$			
13- Commission rate $(10/1) \times 100$			
14- General expenses rate $(11/3) \times 100$			
15- Balances rate to PA $(12/3) \times 100$			

1- Each category in which the company operates must be the subject of a column.

STATEMENT C10b – CLAIMS AND RESERVES FOR OUTSTANDING CLAIMS

A – EARNED PREMIUMS FROM THE FISCAL YEAR

Breakdown of premium (or contribution) incidents and policy costs, net of taxes, of the fiscal year

a) Premiums and parts of premiums of the fiscal year	
b) Premiums payable in advance written in the fiscal year net of cancellations (premiums on former exercises excluded)	
b) bis) Premiums payable when due	
c) Earned premiums in the fiscal year and not written	
Total (a + b + b bis + c)	
d) Estimate of cancellations to realise on premiums of the fiscal year	
e) Premiums or parts of premiums payable in advance to be carried forward to 31 December of the fiscal year	
Total (d + e)	
Net amount (a + b + b bis + c – d – e)	

Premiums or part of premiums payable in advance carried forward from the preceding fiscal year as well as those to be carried forward to 31 December of the fiscal year must be calculated taking into account the uneven distribution of premium or premium instalments due during the fiscal year.

Companies which are not in position to perform a sufficient analysis may enter into line b all of the issuances and into line c the variation of earned premiums not issues.

B – NUMBER OF CONTRACTS

Number of contracts as of the preceding 31 December

Number of contracts as of 31 December

C – NUMBER OF PAID OR OUTSTANDING CLAIMS

Itemisation by fiscal year of occurrence

NUMBER OF CLAIMS	20.. AND PREVIOUS	20..	20..	20..	20..	INVENTORIED FISCAL YEAR
a) Considered as terminated as of preceding 31 December ¹	xxx					xxx
b) Reopened during the fiscal year (to be deducted)						
c) Terminated during fiscal year						
d) Outstanding claims remaining ²						
TOTAL	xxx					
Of which declared during the current fiscal year						

1- a – b – c of the preceding year.

2- This line must include the estimate of the number of claims yet unreported

D – CLAIMS, PAYMENTS AND RESERVES

Breakdown per fiscal year of occurrence, of transactions made during the current fiscal year

NUMBER OF CLAIMS	20.. AND PREVIOUS	20..	20..	20..	20..	INVENTORIED FISCAL YEAR	TOTAL
Payment of the fiscal year (6020 and 6026)							
Reserve as of 31 December							

TOTAL Reserve as of preceding 31 December						xxx	
--	--	--	--	--	--	-----	--

E – RECOVERIES

Amount, per fiscal year of occurrence of the claims, recoveries collected and expected

NUMBER OF CLAIMS	20.. AND PREVIOUS	20..	20..	20..	20..	INVENTORIED FISCAL YEAR	TOTAL
Recoveries collected during the fiscal year (6029)							
Estimate of recoveries remaining to be collected							
TOTAL							
Estimate as of preceding 31 December of recoveries remaining to be collected carried forward						xxx	

F – AVERAGE COST AND PERCENTAGES PER FISCAL YEAR

Breakdown per fiscal year in process of liquidation

	20..	20..	20..	20..	INVENTORIED FISCAL YEAR
Accumulated payments from previous fiscal year					xxx
Payments from the fiscal year					
Reserve as of 31 December					
TOTAL					
Accumulation of recoveries collected					
Estimate of recoveries remaining to be collected					
Expenses net of recoveries					
Number of claims					
Average net cost of recovery					
Earned premiums ¹					
Ratio claims net of recoveries to premiums					

- 1- For the fiscal year inventoried, amount appearing in table A: for the others, at the very least for the fiscal year preceding the fiscal year inventoried, amount rectified to take into account issues and cancellations.

The shares of business underwritten in coinsurance appear, in written sums and in figures, in the statements of the sub-category corresponding to the type of risk. However, in companies wishing to exclude C10b statements by sub-categories, all of these transactions in coinsurance or certain among them (for example those performed within a group or consortium) have the power to do so, it being their responsibility to establish, for these excluded transactions, a special report by sub-category concerned. Reserves for outstanding claims considered in statements C10b shall be understood as excluding management expenses.

STATEMENT C10c – CLAIMS AND RESERVES FOR CLAIMS

Transport category

A C10c statement shall be prepared for each of the following sub-categories; however, companies for which the amount of earned premiums corresponding to one or several sub-categories shall be less than fifty million CFA Francs are exempted from preparing the corresponding C10c statement:

- Marine, river and lake insurance,
- Aviation insurance,
- Space insurance,
- Transported goods insurance,
- Total transportation.

D – PAYMENT OF CLAIMS AND RESERVES

NUMBER OF CLAIMS	20.. AND PREVIOUS	20..	20..	20..	20..	INVENTORIED FISCAL YEAR	TOTAL
a) Payments from the fiscal year							
b) Reserve for current risks as of 31 December ¹							
c) Reserve for claims as of 31 December ²							
d) Total							
e) Recoveries collected during the fiscal year							
f) Recoveries to be collected							
g) Difference (d – e – f)							
Reserves as of preceding 31 December:							
For current risks ¹						xxx	
For claims ²						xxx	
Minus: recoveries to be collected as of preceding 31 December						xxx	
Plus: increases of earned premiums ³							
TOTAL						xxx	

F – PERCENTAGES FOR FISCAL YEAR

	20..	20..	20..	20..	INVENTORIED FISCAL YEAR
Accumulated payments from previous fiscal year					xxx
To be deducted: recoveries collected during the previous fiscal years					
Line g of Table D carried over					
Costs of claims					
Earned premiums ⁴					
Ratio of claims to earned premiums					

- 1- For the sub-categories for which the loss is attached to the fiscal year in which underwriting was done.
- 2- Management expenses excluded
- 3- Net of refunds and commissions
- 4- Amount rectified every year to take into account cancellations and issuances occurred.

STATEMENT C11 SOLVENCY MARGIN

Preparation of the C11 statement shall be at the discretion of each company.

STATEMENT C20 – MOVEMENT DURING THE INVENTORIED FISCAL YEAR OF POLICIES, CAPITAL OR INSURED ANNUITIES

Statement C20 shall be prepared by life insurance companies, for each category concerned in Article 411, in compliance with the following model:

INDIRECT BUSINESS

MOVEMENTS		COMBINATIONS
In progress at the opening of the fiscal year	Number	
In progress at the opening of the fiscal year	Capital ¹	
Income – Underwriting	Number	
Income – Underwriting	Capital	
Income – Revaluations ²	Number ³	
Income – Revaluations	Capital	
Total income	Number	
Total income	Capital	
Outgo – Without effect	Number	
Outgo – Without effect	Capital	
Outgo – Replacements or transformations	Number	
Outgo – Replacements or transformations	Capital	
Outgo – Maturities	Number	
Outgo – Maturities	Capital	
Outgo – Claims ⁴	Number	
Outgo – Claims	Capital	
Outgo – Terminations	Number	
Outgo – Terminations	Capital	
Outgo – Surrenders	Number	
Outgo – Surrenders	Capital	
Outgo – Reductions	Number	
Outgo – Reductions	Capital	
Outgo – Cancellations	Number	
Outgo – Cancellations	Capital	
Outgo – Total outgo	Number	
Outgo – Total outgo	Capital	
In progress at the closing of the fiscal year	Number	
In progress at the closing of the fiscal year	Capital	

- 1- Capital or annuities.
- 2- Revaluations during the fiscal year: index-linking profit-sharing investments.
- 3- The numbers appearing on this line are not added into the total.
- 4- In investment, this heading records reimbursements per drawing.

For unit-linked insurance, capital shall be expressed in reference values with separate columns for each reference value chosen. At the bottom of each column are indicated the values in CFA Francs of the various reference values as of 31 December of the fiscal year inventoried.

STATEMENT 21 – BREAKDOWN, PER UNDERWRITING YEAR, OF CAPITAL OR ANNUITIES OUTGOING DURING THE INVENTORIED FISCAL YEAR

The C21 statement shall be prepared by life insurance companies, for each category concerned in Article 411, in compliance with the following model:

COMBINATIONS ¹		Original fiscal years ²				
		Year and previous	Year	Year	Year	Inventoried fiscal year
Contracts underwritten from the origin ³	Number					
Contracts underwritten from the origin	Capital					
Revaluation during the fiscal year ⁴	Capital					
In process as of 1st January	Number					
In process as of 1st January	Capital					

OUTGOINGS DURING THE FISCAL YEAR INVENTORIED BY:

COMBINATIONS		Original fiscal years				
		Year and previous	Year	Year	Year	Inventoried fiscal year
Replacements or transformations	Number					
Replacements or transformations	Capital					
Claims ⁵	Number					
Claims	Capital					
Maturities or terminations	Number					
Maturities or terminations	Capital					
Reductions	Number					
Reductions	Capital					
Surrenders	Number					
Surrenders	Capital					
Cancellations	Number					
Cancellations	Capital					

CUMULATION, FROM THE UNDERWRITING FISCAL YEAR, OF OUTGOINGS BY:

COMBINATIONS		Original fiscal years				
		Year and previous	Year	Year	Year	Inventoried fiscal year
Replacements or transformations	Number					
Replacements or transformations	Capital					
Claims ⁵	Number					
Claims	Capital					
Maturities or terminations	Number					
Maturities or terminations	Capital					
Reductions	Number					
Reductions	Capital					
Surrenders	Number					
Surrenders	Capital					
Cancellations	Number					
Cancellations	Capital					

1- In case of mixed and similar combinations considering payment in the even of death, under certain conditions, of a capital above the basic capital, only the latter shall be taken into consideration in the table's income and outgoings.

- 2- The breakdown per columns shall only be required for the most recent five fiscal years. However, companies are not required to provide information for contracts underwritten prior to the entry into force of the insurance accounting rules.
- 3- Underwritings and transformations (net of without effect) in the original fiscal year, contractual increases of capital or annuities preceding the inventoried fiscal year, revaluations preceding the inventoried fiscal year.
- 4- Index-linking profit-sharing investments.
- 5- In the tables constituting the C21 statement, companies shall only be required to fill in the “number” lines; regarding “capital”, they may choose not to prepare all or part of the corresponding information. For the unit-linked insurance, capital shall be expressed in reference values with separate groups of columns for each reference value chosen. At the bottom of the statement are indicated the values in CFA Francs of the various reference values as of 31 December of the fiscal year inventoried.

STATEMENT C25 – PARTICIPATION OF INSURED OR CONTRACT HOLDERS IN TECHNICAL AND FINANCIAL RESULTS

DESIGNATION	FISCAL YEARS ¹				
	Year n – 4	Year n – 3	Year n – 2	Year n – 1	Year n
A – Technical items:					
1. Premiums ²					
2. Mathematical reserves ³					
B – Regulated minimum amount of participation					
C – Actual amount of participation including:					
1. Participation allocated to contracts in the fiscal year					
2. Variation of technical reserves for participation not yet allocated					
D – Ratios (in percentages):					
C/A2 Ratio of total participation to mathematical reserves	%	%	%	%	%
C1/A2 Ratio of participation allocated to contracts in the fiscal year to mathematical reserves	%	%	%	%	%
C/B Ratio of actual participation to regulated minimum participation	%	%	%	%	%

- 1- Fiscal year n is the fiscal year under review. Columns n – 4 to n – 1 restate the figures from columns n – 3 to n from the statement of the preceding fiscal year.
- 2- Life insurance: premiums issued net of cancellation appearing as income in the dividend account defined in Article 82 – Investment: premiums net of cancellation of contracts drawn up in CFA Francs.
- 3- Half-amount of mathematical provisions at the opening and the closing of the fiscal year.

The following statements are the consolidated or combined accounts prepared by companies that are part of an insurance group.

STATEMENT G1 – BREAKDOWN OF MAIN PIECES OF TECHNICAL DATA

Companies shall break down, per company that is part of the basis for consolidation or combination, issued premiums, underwriting balances, technical reserves and contribution to results of the consolidated or combined group. Any insurance or reinsurance company must appear in this statement if they represent more than 5% of the premiums or technical reserves. This breakdown shall be done separately for life and damage activities.

Table in millions of CFA Francs

Consolidated company	Premiums ¹	Underwriting balance ²	Technical reserves	Contribution to results
Total life insurance/reinsurance CIMA zone				
Total damage insurance/reinsurance CIMA zone				
Total insurance/reinsurance CIMA zone				
Total life insurance/reinsurance outside CIMA zone				
Total damage insurance/reinsurance outside CIMA zone				
Total insurance/reinsurance outside CIMA zone				
Total insurance/reinsurance				
			XXXXX	
			XXXXX	
			XXXXX	
Total other activities			XXXXX	
Total				

1- Turnover of “other activities”.

2- For insurance or reinsurance companies, difference between earned premiums and benefits, including dividends, paid or reserved; for the other activities, operating value-added.

STATEMENT G2 – ADJUSTED SOLVENCY

TABLE A: Minimum amounts of solvency margin

Table A shows the minimum amount of the solvency margin by breaking it down according to the consolidation model and indicating the percentages applied for companies consolidated proportionally or in equity.

For insurance companies located in the CIMA zone, this statement restates the minimum amounts of the solvency margin of each company. Where applicable, these amounts are then adjusted for the impact of internal cessions.

For other insurance and reinsurance companies the needs for capital pursuant to Article 337-5-3 shall be restated. For the other companies, the needs for capital pursuant to domestic legislations shall be restated. These items may possibly be adjusted for the impact of internal cessions.

Table in millions of CFA Francs

Consolidated company	Consolidation method	Minimum of solvency under local norms	Contribution to Minimum amount of adjusted solvency margin
Total insurance/reinsurance CIMA zone			
Total insurance/reinsurance outside CIMA zone			
Total insurance/reinsurance			
Total other activities			
Total			

TABLE B: Solvency margin available

Table B analyses the manner in which the requirement for minimum amounts of the solvency margin is met within the group, by breaking down:

- group share in capital,
- minority interest which may be allocated to the different companies,
- subordinated securities which may be allocated to the different companies,
- unrealised gains which may be allocated to the different companies,
- other possible items.

Consolidated company	Group share Capital *	Minority interest	Subordinated securities	Other possible items	Intangible assets	Goodwill	Constitutive items excluding unrealised gains	Unrealised gains Damage	Unrealised gains Life before treatment for profit sharing	Unrealised gains Life after treatment for profit sharing	Constitutive items including re-treated unrealised gains
				xxx xxx xxx							
Total insurance/ reinsurance CIMA zone				xxx							
Total insurance/ reinsurance outside CIMA zone											
Total insurance/ reinsurance											
Total other activities											
Total											

* the group share in capital may not be broken down between the different companies.

STATEMENT G3 – REVIEW OF TECHNICAL BALANCE – DAMAGE

Companies shall break down, per company that is part of the basis for consolidation or combination, the underwriting balances by separating the fiscal year result from the liquidation of previous fiscal years' results. These pieces of data are gross of reinsurance.

Consolidated company	Underwriting balance	Inventoried fiscal year	Previous fiscal years
Total insurance/reinsurance CIMA zone			
Total insurance/reinsurance outside CIMA zone			
Total			

STATEMENT G4 – REVIEW OF TECHNICAL RESERVES – LIFE

Companies shall break down, per company that is part of the basis for consolidation or combination, the technical reserves of life transactions.

TABLE A: Breakdown per type of agreement

Consolidated company	Contracts in CFA F	Contracts in foreign currency	Contracts in account units	Total
Total CIMA zone				
Total outside CIMA zone				
Total				

TABLE B: Breakdown of technical reserves in CFA Francs or in foreign currency by bands of 0.5% of the discount rate (including the upper limit of the band)

Consolidated company	0%	0% to 0,5%	0,5% to 1%	Total
Total CIMA zone					
Total outside CIMA zone					
Total					

TABLE C: Breakdown of technical reserves in CFA Francs

Consolidated company	Technical reserves in the event of death	Technical reserves in the event of life	Technical reserves without life hazard	Total
Total CIMA zone				
Total outside CIMA zone				
Total				

STATEMENT G5 – REVIEW OF NON-INSURANCE ACTIVITIES

Companies shall break down per company that is part of the basis for consolidation or combination, the significant data on non-insurance activities if they contribute – positively or negatively – to over 5% of the group result or occupy over 5% of the group [personnel] numbers.

The pieces of data which must be subject to a break down shall be considered as significant in the consolidated or combined accounts, notably, in the results account, income and expenses of banking operating and, in the balance sheet, receivables and debts toward the clientele of companies in the banking sector.

STATEMENT G10 – CESSIONS IN REINSURANCE WITHIN THE GROUP

TABLE A: Premiums ceded

Company ceding	Company transferring	Reinsurance method	Premiums ceded
Total life			
Total damage			
Total			

TABLE B: Technical reserves ceded

Only ceded reserves above 0.5% of the gross reserves of reinsurance shall be declared.

Company ceding	Company transferring	Reinsurance method	Reserves ceded
Total life			
Total damage			
Total			

TABLE C: Claims costs ceded

Company ceding	Company transferring	Reinsurance method	Claims costs ceded
Total life			
Total damage			
Total			

TABLE D: Results of internal cessions

Only results above 5% of the gross results of reinsurance shall be declared.

Company ceding	Company transferring	Reinsurance method	Results of cessions
Total life			
Total damage			
Total			

STATEMENT G11 – MOVEMENTS OF ASSETS WITHIN THE GROUP

Companies shall indicate sales and purchase of assets realised within the group in compliance with the following model:

Item sold	Company selling	Company purchasing ¹	Accounting value	Sale price	Supporting documents for sale price ²

- 1- to the balance sheet of the company selling
- 2- reference enabling to determine the sale price (expertise, rent or results investment...)

Neither the transactions of an amount below 5%of the minimum amount of solvency margin (or similar requirement of companies other than insurance companies of a Member State) of the company concerned nor the transactions realised in conditions objectively determined on securities external to the group shall be indicated.

The statement shall include the underwritings of securities issued by a company of the group even if they are eventually going to be quoted.

STATEMENT G12 – CENSUS OF AGREEMENTS TO SHARE GENERAL AND TECHNICAL ASSISTANCE COSTS

TABLE A: Agreements to share general costs

Companies shall establish the list of Economic Interest Groups (GIE) in which they participate with the brief description of the allocation key for the expenses of the latter and the indication of their contribution to said expenses.

Companies shall indicate the refunds of expenses or external services incurred or performed by other companies of the group where they are above 10% of the management expenses of the company.

TABLE B: Agreements of technical assistance

Companies shall establish the list of assistance agreements to which they participate with the brief summaries of services provided or received and the amount of corresponding invoices.

STATEMENT G13 – CENSUS OF JOINT AND SEVERAL RISKS

Companies shall establish the list of GIEs, associations and other groups of coinsurance or co-reinsurance in which they have unlimited joint and several liability towards other members with the indication of the amount of technical reserves in the balance sheet of these groups.

STATEMENT G14 – CENSUS OF TRANSACTIONS WITH INDIVIDUALS

Companies describe in summary, with indication of their amount, transactions of all nature with an individual referred to in Article 310-5 where they are above 5% of the minimum amount of

the solvency margin (or similar requirement of companies other than insurance companies of a Member State) of the company contributing.

STATEMENT G15 – CENSUS OF CONTRIBUTIONS TO FUNDS

Companies shall prepare, in compliance with the following model, the list of contribution to funds to other companies of the group, distinguishing between capital contributions, contributions to other items of solvency margin and other contributions, where they are above 5% of the minimum amount of the solvency margin (or similar requirement of companies other than insurance companies of a Member State) of the company contributing.

Company contributing	Company receiving	Amount
Total capital contributions		
Total contributions to other items of solvency margin		
Total other contributions		

Companies referred to in 1) of Article 422-1 shall prepare a table per company contributing.

STATEMENT G16 – CENSUS OF COMMITMENTS GIVEN

Companies shall prepare, in compliance with the following model, the list of commitments given to the other companies of the group where they are above 5% of the minimum amount of solvency margin (or similar requirement for companies other than insurance companies of a Member State) of the company giving the commitment.

Nature of the agreement	Company giving	Company receiving	Amount (millions CFA Francs)

Chapter IV – Consolidated or combined accounts

Section I – General principles

Article 434

Consolidated or combined accounts

(Added on 2 April 2008 by Decision of the Council of Ministers)

Companies under the control of the Regional Supervisory Commission pursuant to Articles 300 and 309 and with their registered office in a Member State and the insurance companies groups with a registered office in a Member State and controlling or exercising significant influence on one or more companies under the control of the Regional Supervisory Commission pursuant to Articles 300 and 309 or one or more insurance companies in a non-Member State of CIMA or reinsurance companies must prepare and publish consolidated accounts under the conditions set in Article 434-3.

When a company subject to the supervision of the Regional Supervisory Commission under Articles 300 and 309 and one or more companies subject to the same supervision, reinsurance companies, insurance group companies or mutual insurance companies form a group whose cohesion does not result from capital links, one of them shall prepare and publish combined accounts.

Similarly, when a company subject to the supervision of the Regional Supervisory Commission pursuant to Articles 300 and 309 and one or more companies subject to the same supervision, reinsurance companies, insurance group companies or mutual insurance companies form an aggregate subject to the same strategic decision-making centre located in a non-Member State of CIMA or a group controlled by a reinsurance company or by a mixed-activity insurance group company with its registered office located in a Member State of CIMA, without the existence of legal bonds of dominance, one of them shall prepare and publish combined accounts. The combined accounts referred to in paragraphs 2 and 3 shall be constituted by aggregation of all accounts, prepared where applicable on a consolidated basis, of the companies concerned.

The implementing rules of this paragraph are defined in Article 434-3.

Article 434-1

Exclusion

(Added on 2 April 2008 by Decision of the Council of Ministers)

The dominant insurance companies, which are themselves under the control of another insurance company of a Member State subject to an obligation of consolidation, shall be exempt from the preparation and publication of consolidated accounts.

However, this exclusion may not be invoked:

- if the company makes a public offering of securities,
- if financial statements are required by a number of shareholders representing at least one tenth of the capital of the dominant insurance company.

Article 434-2

Consolidation criteria

(Added on 2 April 2008 by Decision of the Council of Ministers)

Insurance groups within the meaning of 7) of Article 301-1 shall be consolidated or combined, regardless of the turnover.

Article 434-3

Jus commune

(Added on 2 April 2008 by Decision of the Council of Ministers)

Consolidated or combined accounts referred to in Article 434 are prepared according to the rules laid down in Articles 74, 75, 76, 78, 80-88, 92, 94, 96 to 104 and 106 to 111 of Title II of the Uniform Act related to the organisation and the harmonisation of the accounting of companies located in the States parties to the Treaty of Port Louis of 17 October 1993 on the harmonisation of business law in Africa subject to the provisions of this chapter and the special regulation concerning the rules on consolidation and combination of companies governed by the Insurance Code.

Section II – Combination

Article 434-4

Basis for combination

(Added on 2 April 2008 by Decision of the Council of Ministers)

The basis for combination includes all companies of Member States fulfilling the criteria of uniqueness and cohesion characterising the economic group formed, regardless of their activity, legal form or profit or non-profit object.

Article 434-5

Cohesion without capital links

(Added on 2 April 2008 by Decision of the Council of Ministers)

For the purposes of the second paragraph of section 434, shall constitute a group whose cohesion does not result from capital links, the companies in the following cases:

- 1) These companies have, under agreements between themselves, either a joint management, or joint services extended enough to lead to a common commercial, technical or financial behaviour,
- 2) These companies have between themselves links of reinsurance, significant and lasting pursuant to contractual, statutory or regulatory provisions.

Article 434-6

Combining company

(Added on 2 April 2008 by Decision of the Council of Ministers)

- 1) The company required to prepare and publish combined accounts pursuant to paragraph 2 of Article 434 shall be named by agreement between all the companies belonging to the group subject to the obligation to prepare combined accounts.

In the absence of agreement prior to the closing of the fiscal year, this company shall be the one having issued on average over the past five years, the highest amount of premiums.

However, in the case in 2) of Article 434-5, where the reinsurer is a company subject to review by the Regional Supervisory Commission pursuant to Articles 300 and 309 and with its registered office in a Member State and where the case mentioned in 1) of the same Article is not applicable, the company required to prepare and publish combined accounts shall be the reinsurer.

In the event several reinsurers subject to supervision of the Regional Supervisory Commission pursuant to Articles 300 and 309 and with their registered office in a Member State intervene, the company required to prepare and publish combined accounts shall be the one having accepted in average over the past three fiscal years the highest amount of premiums ceded by the companies of the group subject to obligation to prepare combined accounts.

- 2) The company required to prepare and publish combined accounts pursuant to paragraph 3 of Article 434 shall be named by agreement between all companies belonging to the group subject to obligation to prepare combined accounts.
In the absence of an agreement prior to the closing date of the fiscal year, this company shall be the one having issues on average over the past five fiscal years, the highest amount of premiums.
- 3) When one of the companies that are part of a group of companies as defined in paragraphs 2 and 3 of Article 434 is incorporated by full consolidation in the consolidated accounts of a company itself subject to an obligation of consolidation under paragraph 1 of this Article, the company required to prepare and publish combined accounts is the consolidating company. This obligation merges in this case with the obligation to prepare consolidated accounts.
The consolidated accounts shall then include the accounts of companies that are part of the aforementioned group of companies under the conditions set in a special regulation.
- 4) In any case, the company required to prepare and publish combined accounts pursuant to paragraph 3 of Article 434 may not be a reinsurance company.

Article 434-7

Communication of the combination agreement

(Added on 2 April 2008 by Decision of the Council of Ministers)

The agreement referred to in the first paragraph of 1 or 2 of Article 434-6 shall be communicated to the Commission within fifteen days of its signature. It is notified in the same time limits to the auditors of all companies included in the basis for combination. A special regulation specifies the minimum content of the combination agreement.

Section III – Presentation of the consolidated or combined accounts

Article 434-8

Consolidated or combined summary documents

(Added on 2 April 2008 by Decision of the Council of Ministers)

Consolidated or combined summary documents shall include the balance sheet along with a statement of given and received liabilities, the income statement and a schedule prepared in compliance with the models set by a special regulation.

BOOK V – GENERAL AGENTS, BROKERS, AND OTHER INSURANCE AND INVESTMENT INTERMEDIARIES

TITLE I – Common rules applicable to insurance intermediaries

Chapter I – General principles

Article 500

Presentation of an insurance transaction

Shall be considered as presenting a transaction made by the companies mentioned in Article 300, the solicitation or reception by individuals or legal entities of an insurance coverage or membership thereto, or the oral or written expression of the conditions of such contract to a possible policyholder, in view of its underwriting or membership.

Article 501

Persons empowered to make the presentation

(Amended on 21 April 2004 by Decision of the Council of Ministers)

Transactions carried out by the companies mentioned in Article 300 shall only be presented by the following persons:

- 1) individuals or legal entities registered in the insurance brokers' register and licensed thereto by the Minister in charge of the insurance industry, and, in these companies, by the partners and third parties in charge of management or administration thereof,
- 2) individuals or legal entities who are holders of a mandate as general insurance agents, or temporarily carrying out, for a non renewable period of no more than two years, the duties of a general insurance agent,
- 3) salaried individuals appointed for this purpose:
 - a) either by an insurance company,
 - b) or by an individual or legal entity stipulated in 1) above,
- 4) non-salaried individuals mandated and commissioned.

Article 502

Staff of Insurance Companies: presentation

Transactions carried out by a company mentioned in Article 300 may be presented by salaried staff members of this company or by one of the individuals or legal entities mentioned in 1) and 2) of Article 501:

- 1) at the headquarters of the individual or company,

- 2) in any underwriting office of said company or individual, the manager of which fulfils the required conditions for professional competence of insurance brokers and general agents.

Article 503

Individual Insurance – Exclusions

(Amended on 21 April 2004 by Decision of the Council of Ministers)

Transactions hereinafter defined may be presented both in the form of underwriting of individual insurance and membership of collective insurance, respectively by the following persons:

- 1) insurance against the risk of death, disability, loss of job or career, exclusively and explicitly purchased as guarantee for the reimbursement of a loan: lenders and persons having agreed to the granting of the loan,
- 2) insurance on the transportation of merchandise on inland waterways: freight brokers,
- 3) insurance which mainly covers the cost of intervention and assistance during travel, provided by third parties: managers, staff of travel agencies, banks and financial institutions and their agents,
- 4) banks, financial institutions, licenced microfinance institutions, savings banks and post office can present insurance transactions at their counters insofar as persons assigned thereto are holders of the card stipulated under Article 510.

Article 504

Group Insurance – Exclusions

Membership of group insurance defined in Article 95 of Book I of this Code may be presented by underwriters, their agents, mandated or not, as well as individuals or legal entities explicitly designated thereto in the group insurance contract.

Article 505

Liability of insurers for the action of their agents

Where presentation of an insurance transaction shall be made by persons empowered thereto by the provisions of Article 501, the employer or principal shall be liable for damages resulting from the negligence of their employees or agents acting in their power. The employees or agents shall be, for the application of this Article, deemed as agents notwithstanding any agreement to the contrary.

Chapter II – Good repute requirements

Article 506

Good repute requirements

Shall be prohibited from practicing as a general agent or insurance broker:

- 1) persons having been sentenced for a crime or offence,
- 2) persons having filed for personal bankruptcy or other measures of deprivation with regards to the restructuring or liquidation of companies,
- 3) persons having been dismissed from a position of a ministerial officer by court decision.

Sentences and measures referred to in the preceding paragraph shall, for agents and employees of companies, general insurance agents, brokers and brokerage firms, result in prohibition to undertake insurance activities.

Such prohibitions may be ordered by court against any person sentenced for breach of insurance legislation or regulation.

Article 507

Limitations – Good repute requirements

(Amended on 16 September 1997 by Decision of the Council of Ministers)

Transactions carried out by companies mentioned in Article 300 shall only be presented by persons falling into the categories defined in 1) to 4) of Article 501 in the events and under the conditions stated in Articles 502 and 504, under reserve that said persons are not unfit for the purpose of Article 506.

Chapter III – Qualification requirements

Article 508

Qualification requirements

Any individual mentioned in Article 501 shall, under reserve of the exclusions set in Articles 503 and 504:

- 1) be an adult in the State where the transaction's presentation is made,
- 2) be a citizen of a Member State of CIMA,
- 3) fulfil the qualification requirements laid down by the Supervisory Commission for each category following the opinion of the professional authority representing the insurance industry,
- 4) not unfit for the purpose of Article 506.

Any person mentioned in paragraph 1 of this Article shall, at all times, be expected to show proof that they fulfil the requirements set by this paragraph, in order to practice or to undertake an transaction listed in 1) of Article 501.

Insurance and investment contracts underwritten in breach of the provisions of Article 501 and this article as well as membership to such contracts in breach of said provisions may, for a two year period as from the underwriting or membership, be terminated by the underwriter or member with a one month prior notice at least. In this event, the insurer shall only be paid the part of premiums covering the period up to the termination and shall refund any surpluses received.

Article 509

Verification of qualification of staff

Within a company mentioned in Article 300 of this Code, brokerage firm or general insurance agency, any person who is responsible for persons in charge of undertaking insurance or investment transactions, shall ensure that said persons fulfil the qualification requirements laid down in Article 508.

Within an insurance company, any person who mandates a general agent or person performing the duties thereof, shall make a prior declaration in compliance with Article 517 on said agent, to the Minister in charge of the insurance industry and verified that the submitted documents fulfil the requirements of age, nationality and professional qualification laid down in paragraph 1 of Article 508.

Article 510

Supporting documents

(Amended on 16 September 1997 by Decision of the Council of Ministers)

Individuals mentioned in 2) and 4) of Article 501 and those in 4) of Article 503 shall produce a professional card issued by the Minister in charge of the insurance industry. The card shall be valid for a period of two years renewable. It shall comply with a model defined by the Supervisory Commission.

Article 511 Professional card – Withdrawal

The Minister who issued the card may withdraw it for non respect of the provisions of Articles 501, 503 and 508. The decision shall be enforceable forthwith and may be subjected to legal action before the competent court.

Any modification to the qualification requirements set in Article 508 as well as withdrawal of mandate shall be notified to the Minister in charge of the insurance industry.

In the event that the person having issued the mandate wishes to withdraw it, by their own initiative or by injunction of the Minister in charge of the insurance industry, they shall notify the holder by registered letter. This action shall have effect from the date of postage.

Article 512 Documents

The professional qualification stated in Article 508 shall be proven by the presentation of the required degree, training record book or certification of duties defined in Article 513.

Article 513 Training record book – Certification of duties

The training record book shall comply with a model designed by the Supervisory Commission. Signatures affixed to the training record book of persons or official of companies in which the training courses were undertaken shall constitute certification of the information in the record book.

The record book shall be returned to the holder with the least possible delay.

Certification of duties must be established, in compliance with a model designed by the Supervisory Commission, by the person with whom or the company in which the required duties were carried out.

Article 514 Brokers and general insurance agents

Insurance brokers, partners or third parties who manage or administrate insurance brokerage firms and general insurance agents shall, prior to their taking office, show proof:

- a) either of possession of a certificate among the list set by the Supervisory Commission following the opinion of the professional authorities representing the insurance industry, in addition to the completion of professional training,
- b) of performance, for a period of no less than two years, of full time duties related to the underwriting or performance of insurance contracts, professional training in the internal or external services of an insurance company, a broker or a brokerage firm in addition to completion of professional training, or the full time holding for at least one year of senior or managerial positions within said companies,
- c) the holding, for a period of no less than two years, of senior or managerial positions of responsibilities within an industrial or commercial company, in addition to the completion of professional training,
- d) or the holding, for a two year period, of an official position as senior staff in a government authority in charge supervising insurances.

Article 515

Salaried or non-salaried agents

(Amended on 16 September 1997 by Decision of the Council of Ministers)

The intermediaries mentioned in 3) and 4) of Article 501, except for salaried persons holding positions of responsibilities in the underwriting office or who are responsible for the management of an underwriting network, must show proof prior to their taking office:

- a) either of a certificate among the list set by the Supervisory Commission following the opinion of the professional authorities representing the insurance industry in addition to completion of professional training,
- b) or the full time performance, for a period of no less than six months, of duties relating to the underwriting or performance of insurance contracts in the internal or external services of an insurance company, an insurance broker or brokerage firm, a general insurance agent, in addition to the completion of professional training.

Article 516

Professional training courses

The professional training mentioned in Articles 514 and 515 must be performed during one single period. It shall include a period of theoretical courses as well as a period of practical training in an African Institute or in the franc zone providing specific training in the area of insurance. The theoretical courses must be provided by qualified professionals, prior to the practical training, the length of which may not exceed one half of the total length of the professional training.

Practical training shall be undertaken under the permanent and direct supervision of persons empowered to present insurance or investment transactions.

Professional training may be carried out in an insurance company, a broker or an insurance brokerage firm, a general insurance agent or a training centre chosen by the organisations representing the profession.

Professional training must be of reasonable and sufficient length but no less than five hundred hours.

Article 517

Declaration to the Minister in charge of the insurance industry

In view of ensuring the good repute requirements provided for in Article 506, a declaration must be made to the Minister in charge of the insurance industry of the State of presentation of the insurance transaction under the conditions laid down in Articles 518 and 520 concerning any individual entering into one of the categories defined in paragraphs 1 to 3 of Article 501 before said persons present insurance transactions as those defined in Article 500.

Article 518

Declaration to the Minister in charge of the insurance industry – Declarant

(Amended on 16 September 1997 by Decision of the Council of Ministers)

The obligation to submit the declaration to the Minister in charge of the insurance industry shall be incumbent:

- 1) with regards to insurance brokers, partners or third parties empowered to manage or administrate an insurance brokerage firm, upon the interested parties themselves,
- 2) with regards to general insurance agents, upon the companies which intend to mandate them,
- 3) with regards to intermediaries mentioned in 3) and 4) of Article 501, upon the company in its capacity as employer or principal.

Article 519 Declaration – Form

The declaration shall be based on a form designed in compliance with a model designed by the Supervisory Commission.

Article 520 Modifying declaration

Any modification of the information provided in the declaration mentioned in Article 518, any cessation of duties of a person having been the subject of a declaration, any withdrawal of mandate must be declared to the Minister in charge of the insurance industry referred to in Article 517 by the person or company upon which the obligation to declare as stated in Article 518 is incumbent.

Article 521 Supervision of the Minister in charge of the insurance industry (Amended on 16 September 1997 by Decision of the Council of Ministers)

It shall be incumbent upon the Minister who receives a declaration as stated in Article 518 to ascertain that the person who was the subject of this declaration, is not or has not recently been affected by one of the requirements set in Article 508, and to notify it forthwith:

- 1) if it concerns a broker or a partner or a third party having, within an insurance brokerage firm, the power to manage or administrate, to the clerk competent to receive the registration in the insurance brokers' register,
- 2) if it concerns a general insurance agent, to the declaring company,
- 3) if it concerns intermediaries mentioned in 3) and 4) of Article 501, to the declarant.

The Minister in charge of the insurance industry may proceed with the withdrawal of the professional card.

Article 522 Intermediary – Designation by name

The name of persons or companies mentioned in Article 501 through whom an insurance contract or a membership to such a contract was underwritten must be indicated on a copy of this contract or any other similar document, given to the policyholder or member.

Article 523 Commercial documents - Stipulations

Any correspondence or advertisement from a person or company mentioned in 1) of Article 501, acting in this capacity, shall include, in its letterhead, the person's name or the corporate name, followed by the words "insurance broker" or "insurance brokerage firm". Advertisement, regardless of its form, from such person or insurance company on the underwriting of a contract with an insurance company or the membership thereto or expressing, in view of such underwriting or membership, the conditions of coverage of the contract, must indicate the name of said company.

Correspondence or advertisement from persons other than those mentioned in 1) of Article 501 offering to underwrite a contract with a given insurance company or membership thereto or expressing, in view of such underwriting or membership, the conditions of coverage of the contract, must indicate the name of the person making the proposition as well as the company's name or the corporate name.

Title II – Financial guarantee

Single chapter

Article 524

Financial guarantee

(Amended on 20 April 1995 by Decision of the Council of Ministers)

Any general agent, broker or brokerage firm shall, at all times, be expected to show proof of financial guarantee.

This guarantee may only result from a bond commitment made by a credit institution empowered thereto or a licensed insurance company.

Article 525

Amount

The amount for the financial guarantee mentioned in article 524 must be at least 10.000.000 CFA Francs and shall be no less than double the amount received by the general agent, broker or brokerage firm, calculated on the basis of income received during the last twelve months preceding the month of the date of underwriting or of renewal of the financial guarantee.

The calculation of the amount stated in the preceding paragraph shall take into account the total of the funds entrusted to the general agent, broker or brokerage firm, by the insured, in view of being paid to insurance companies or by any individual or legal entity, in view of being paid to the insured.

Article 526

Guarantee commitment – Duration – Guarantor's requirements – Certificate

The commitment shall be made for the duration of each calendar year. It shall be tacitly renewed on 1 January.

The amount of the guarantee shall be reviewed at the end of each annual period.

The guarantor may require communication of all registers and accounting documents deemed necessary to determine the amount of the guarantee.

The guarantor issues to the guaranteed person a certificate of financial guarantee. This certificate is renewed annually along with the guarantee commitment's renewal.

Article 527

Implementation – Payment

The financial guarantee shall be implemented on the proof alone that the guaranteed agent, broker or insurance brokerage firm defaulted without the guarantor being able to oppose the benefit of discussion.

Default of the guaranteed person shall be established one month following the date of receipt by the latter of registered letter demanding payment of the amount due or of service of notice to pay, without any action taken. It shall also be established by a court order of liquidation.

Payment shall be made by the guarantor at the expiry of a three month time limit following the presentation of the first written request.

Where other requests are received within this time limit, distribution shall be made franc by franc where the claims' total amount exceeds the amount of the guarantee.

Article 528

Termination

The guarantee shall end by reason of the termination of the contract at its due date. It shall also end following the death or termination of activity of the person guaranteed or, if it concerns a legal entity, following the dissolution of the company.

In any case, the guarantee may not end prior to the expiry of a three clear day period following the publication at the guarantor's initiative, of a notice in two journals empowered to receive legal announcements, one of which shall be a daily, published or by default distributed in the country where the agent, broker or insurance brokerage firm is located.

However, the guarantor shall not carry out the publication formalities stated in this Article if the person guaranteed shows proof of a new financial guarantee which continues the preceding one without interruption.

In the all events mentioned in the preceding paragraphs, termination of the guarantee may not be opposed to the creditor, for debts incurred during the period of validity of the guarantee.

Title III – Special rules governing general agents and brokers

Chapter I – General agents

Article 529 Mandate – Termination

The contract signed between the insurance companies and their general agents, without determination of duration, shall end by decision of one of the contracting parties.

However, termination of the contract by decision of one contracting party only may give rise to damages.

The parties shall not waive in advance the right to seek compensation pursuant to the provisions hereinabove.

Chapter II – Insurance brokers and insurance brokerage companies

Article 530 Authorisation – List

(Amended on 20 April 1995 by Decision of the Council of Ministers)

The practice of the profession of broker shall be approved by the Minister in charge of the insurance industry of the State in which the authorisation is sought. The Minister shall determine and publish a list of brokers which it shall send to the Supervisory Commission and the companies licenced in the territory of the State.

Insurance companies shall be prohibited from underwriting insurance contracts through unauthorised brokers under penalty of the sanctions provided for in Article 312.

Article 531 Status

Insurance brokers shall be traders irrespective of the fact that their activities are of civil or commercial nature.

They shall be subject to all obligations enforceable on traders as a result.

Article 532 Incompatibilities

Notwithstanding the legal or regulatory provisions governing the exercise of certain professions or pertaining to the status of public service, the following professions shall be considered incompatible with the exercise of the profession of broker:

- 1) administrators, managers, inspectors and employees of insurance companies,
- 2) automobile manufacturers and their subsidiaries, licenced garage owners, sales agents or automobile repairers, automobile credit companies and their agents,
- 3) contractors, architects,
- 4) representatives of industrial and commercial companies,
- 5) chartered accountants, legal advisers and tax consultants or insurance experts,
- 6) real estate agents, administrators of assets, agents for the sale or lease of businesses, administrators and agents of building construction companies or of real estate promoters,
- 7) individuals or legal entities which are part of a company, for the negotiation or the underwriting of insurance contracts of said company or its subsidiaries.

General agents shall be prohibited from managing and administrating, directly or through an intermediary, a brokerage office, and more generally any interest in such office.

The same prohibition shall apply to both brokers and brokerage firms.

General insurance agents shall be prohibited from exercising any other industrial or commercial activity without authorisation from the Minister in charge of the insurance industry.

Article 533 Authorisation – Documents

The application for authorisation shall be examined by the office of the Minister in charge of the insurance industry after submission by the interested party of the original or a certified copy of all the following documents:

- a) For individuals:
 1. birth certificate or by default a court judgement to that effect no more than six months old,
 2. excerpt of police record no more than three months old,
 3. degrees and professional certificates stipulated in Title I hereinabove,
 4. receipt showing registration in the trade register,
 5. declaration signed by the Attorney General of the county court, of persons who shall be empowered to present insurance transactions to the public,
 6. certificate of nationality,
 7. for foreigners under the jurisdiction of a Member State of CIMA: a certificate of residence in addition to all the above.
Persons from third party States whose country of origin agree to reciprocity with CIMA States in this area shall provide the aforementioned documents,
 8. any other document deemed necessary.
- b) For legal entities:
 1. company statutes,
 2. a notarised certificate or certificate from the auditor indicating the amount of share capital paid up,
 3. all documents mentioned in 4) and 5) of paragraph a) hereinabove,
 4. list of shareholders, indicating their nationality and their shares,

5. depending on the form of the company, the list of directors, managing directors and managers, indicating their nationality,
6. for chairpersons, directors, managing directors, managers or legal representatives of the company, documents mentioned in 1), 2), 3) and 6) of paragraph a) hereinabove,
7. itemised projected operating statement for the first three fiscal years,
8. any other document deemed necessary.

Individuals and legal entities must show proof of permanent residence in the territory in which the activity is carried out.

Article 534 Authorisation – form

Authorisation as well as the withdrawal thereof shall be subject to an order of the Minister in charge of the insurance industry.

Authorisation orders shall be published in the official Law Gazette.

These orders shall be published in the official journal or in a journal empowered to receive legal announcements.

Article 534-1 Contradictory report

(Amended on 21 April 2004 by Decision of the Council of Ministers)

In the event of a control performed on site or based on records of a broker or brokerage firm, a contradictory report shall be drawn up. The broker shall know of the observations formulated by the controller. The Minister in charge of the insurance industry shall know of these observations as well as the answers provided by the broker.

The results of controls are sent to the broker by the Minister.

Article 534-2 Injunctions, disciplinary penalties

(Amended on 21 April 2004 by Decision of the Council of Ministers)

In the event that a behaviour contravening or a breach of the insurance regulation is recorded, with regards to a brokerage firm or broker under supervision, the Minister in charge of the insurance industry shall order that the broker or brokerage firm to correct any recorded breach with a one month period.

Upon failure to act following the injunction, the Minister may issue one of the following disciplinary penalties:

- caution,
- official warning,
- immediate suspension or resignation of the responsible managers,
- withdrawal of authorisation.

However, these penalties shall not be issued prior to a contradictory procedure during which the brokerage firm or broker can present their observations.

When issuing the penalty of withdrawal of authorisation, the Minister refers to the President of the Court to name a liquidator in compliance with the rules pertaining to commercial companies.

Article 535 Authorisation – Expiry

(Amended on 21 April 2004 by Decision of the Council of Ministers)

Authorisation shall be considered expired in the following cases:

- 1) for private individuals:

- death of the broker,
 - non practice of the profession of broker for a continuous six month period,
 - bankruptcy of the broker.
- 2) for legal entities:
- non practice of the profession of broker for a continuous six month period,
 - bankruptcy or liquidation of the brokerage firm,
 - dissolution of the brokerage firm.

The Minister in charge of the insurance industry shall confirm the expiry of the authorisation granted and begin the procedure for the withdrawal of the authorisation. The broker or the brokerage firm, the authorisation of which has been confirmed as no longer valid, shall no longer be able to carry out the activities of an insurance broker. With regards to pending transactions, the Minister in charge of the insurance industry, considering the interests concerned, shall take measures to ensure their successful completion.

Article 536 Authorisation – Death – Resignation

In the event of death or resignation of the legal representative or manager of a brokerage firm, the latter shall, within a three months period as from the death or resignation, submit the application of a new legal representative or new manager for approval of the Minister in charge of the insurance industry.

Chapter III – Professional liability

Article 537 Professional liability insurance

Any insurance broker and brokerage firm shall, at all times, be expected to show proof of the existence of an insurance contract that covers the pecuniary implications of their professional liability.

Article 538 Professional liability insurance contract

The professional liability insurance contract mentioned in Article 537 shall include, for insurance companies, obligations that shall be no less than those determined hereunder. The contract shall include a guarantee of 10 millions CFA francs per claim and per year, for each guaranteed broker or brokerage firm. It may set a deductible per claim which may not exceed 20% of the amount of indemnities payable. This deductible shall not be opposed to the victims. It shall cover the person insured against all claims made between the effective date and the expiry date, regardless of the date of the wrongful act which gave rise to liability insofar as the insured had no knowledge of it at the time of underwriting. It shall guarantee the compensation of any claim by the insured within a maximum period of twelve months as from the expiry date, under condition that the event having caused the claim occurred during the period of validity of the contract.

Article 539 Duration – Certificate

The contract mentioned in Article 538 shall be tacitly renewed on 1 January of every year.

The insurer shall issue to the insured a certificate of professional liability insurance. The certificate shall be annually renewed along with the renewal of the contract.

Article 540
Compulsory indication

Any professional document from insurance brokers shall carry the indication “financial guarantee and professional liability insurance in compliance with Articles 524 and 538 of the Insurance Code”.

Chapter IV – Collection of premiums

Article 541
Collection of Premiums - Prohibition

Intermediaries shall be prohibited, subject to the penalties provided for in Articles 534-2 and 545, to collect premiums, portions of premiums, to make out or receive checks payable to their organization.

This prohibition does not apply to cash payments not exceeding the sum of one million CFA francs by policy and payments by checks made payable to the insurer.

Intermediaries shall be prohibited, in the absence of an explicit agreement of the insurance company, from deducting the amount of their commissions from the collected premiums.

Article 542
Time limit

The premiums or parts thereof collected by brokers or brokerage firms must be returned to insurance companies, accompanied with a receipt slip, within a thirty days maximum period following collection.

In case of non-repayment by the intermediary of premiums received on time, the unpaid amounts automatically accrue interest at double the marginal lending rate within the rate of attrition as from the expiration of stipulated time limit.

Article 543
Cover note

Brokers and brokerage firms shall be prohibited from issuing a cover note without an explicit mandate of the insurance company.

Article 544
Commission

Commissions due to intermediaries must be paid within thirty days following receipt of premiums by the insurance company.

The amount of commissions due but not paid by the insurer automatically accrue interest at double the marginal lending rate within the rate of attrition as from the expiration of the stipulated time limit.

The Minister in charge of insurance shall set the minimum and maximum commission of brokers and brokerage firms.

TITLE IV – Sanctions – Penalties

Single chapter

Article 545 Sanctions

Any person who presents transactions as defined in Article 500, failing to comply with the rules laid down in Articles 501 to 508 shall be liable to a fine of 500 000 CFA Francs to 1 500 000 CFA Francs.

Any person referred to in Article 509 shall also be liable to sanctions stated in paragraph 1 of this Article in the event that they hire, or consequent to a lack of supervision, allow the hiring of persons who do not fulfil the requirements set in Articles 501 to 508.

Any person who presents contracts in view of underwriting insurance or underwrites insurance contracts on behalf of companies not licenced for the branch of insurance under which said contracts are classified, shall be imposed a fine of 500 000 CFA Francs to 2 500 000 CFA Francs and, in the event of a repeated offence, a fine of 1 000 000 CFA Francs to 5 000 000 CFA Francs and a sentence of 6 months to 3 years, or either one of these two sanctions only.

Any broker or brokerage firm which does not comply with the provisions of Article 530 shall also be liable to the sanctions stated in paragraph 3 of this Article.

The fine stated in this Article shall be levied for each of the contracts proposed or underwritten, the total amount thereof, however, not exceeding 500 000 CFA Francs and, in the event of a repeated offence, 5 000 000 CFA Francs.

Any violation of the provisions of Articles 510 and 511, 518, 520, 522 to 524, 532 to 537 and 541 to 544 shall be punishable by a fine of 500 000 to 1 500 000 CFA Francs.

TITLE V – Transitional provisions

Single chapter

Article 546 Compliance – Authorisation

Brokers and brokerage firms which practice in the Member States of CIMA shall, within three months of the effective date of this Code, submit, to the Minister in charge of the insurance industry of each Member State, an application for regularisation of authorisation in compliance with the provisions of Article 533.

Article 547 Compliance – Time limit

Individuals or legal entities who, at the date of entry into effect of this Code, practice the profession of broker or general agent shall comply with the provisions of the Insurance Code within a one year time limit as from its effective date.

TITLE VI – Schedules and statements of general agents and brokers

Chapter I – Schedules

Article 548

Schedule of premiums issued and commissions

(Added on 2 April 2008 by Decision of the Council of Ministers)

Insurance intermediaries must either keep, through the insurance company, a monthly schedule for issuance, collection, arrears of premiums and commissions under continuous numbering that may include several series, without omission or duplication, successive riders attached to the original policy, or affect to underwriters or members continuous numbers meeting the same conditions.

The information pertaining to these documents should, at all times, be accessible and at least include the following elements:

- either the policy number or rider number, or number of the insured or of the member with all policies or riders concerning the latter,
- date of underwriting and duration of the contract,
- names of the underwriter and the insured,
- date and time of the effective date specified in the contract,
- classes and sub-classes of insurance,
- amount of coverage limits, capital or annuity insured,
- amount of the net premium,
- additional or policy costs,
- tax amount,
- amount of the total premium,
- amount of the commission pertaining to the premium.

Article 549

Schedule for cancellation of premiums and commissions

(Added on 2 April 2008 by Decision of the Council of Ministers)

The schedule for cancellation of premiums and commissions must be kept under the same conditions as in Article 548.

Article 550

Schedule of premium income

(Added on 2 April 2008 by Decision of the Council of Ministers)

Insurance intermediaries shall keep a monthly schedule of premium income through the insurance company. It includes the following elements:

- either the policy number or rider number, or number of the insured or of the member with all policies or riders concerning the latter,
- date of underwriting and duration of the contract,
- date of premiums collection,
- names of the underwriter and the insured,
- classes and sub-classes of insurance,
- amount of the net premium,
- additional or policy costs,
- tax amount,

- amount of the total premium,
- amount of the collected premium,
- amount of the commission pertaining to the premium.

Receipts of repayment of collected premiums shall be attached to this schedule.

Article 551

Schedule of repayment of premiums

(Added on 2 April 2008 by Decision of the Council of Ministers)

Insurance intermediaries shall keep a monthly schedule of repayment of premiums through the insurance company. It includes the following elements:

- either the policy number or rider number, or number of the insured or of the member with all policies or riders concerning the latter,
- date of underwriting and duration of the contract,
- names of the underwriter and the insured,
- date and time of the effective date specified in the contract,
- classes and sub-classes of insurance,
- amount of the net premium,
- additional or policy costs,
- tax amount,
- amount of the total premium,
- amount of the total repaid premium.

Article 552

Schedule of outstanding premiums

(Added on 2 April 2008 by Decision of the Council of Ministers)

Insurance intermediaries shall keep a monthly schedule of arrears of premiums through the insurance company. It includes the following elements:

- date of underwriting and duration of the contract,
- names of the underwriter and the insured,
- name or code of the insurance company,
- classes and sub-classes of insurance,
- arrears of the previous year,
- amount of payments for the year,
- arrears for the year.

Article 553

Schedule of claims paid

(Added on 2 April 2008 by Decision of the Council of Ministers)

Insurance intermediaries with an explicit mandate of claims management must produce at the end of each year a schedule of claims paid under a continuous numbering that may include several series per year of occurrence or, with transfers, by underwriting year. This schedule shall be for direct reading and include for each insurance company the following elements:

- number and date of registration,
- policy number,
- name of the insured,
- date of the EVENT,
- categories or sub-categories of guarantee(s) applicable,
- names of victims or beneficiaries or opposing parties,
- amount of the assessment during the previous year or first estimate,
- amount of payments made during the year,
- evaluation of the amounts remaining due.

Article 554

Schedule of recoveries

(Added on 2 April 2008 by Decision of the Council of Ministers)

The recoveries are processed in a parallel and similar manner to that stated in Article 553.

Chapter II – Statements

Article 555

General information

(Added on 2 April 2008 by Decision of the Council of Ministers)

The general information of the annual file to be submitted to the Minister in charge of insurance in the Member State where they have been approved by the insurance general agents, insurance brokers and brokerage firms shall be the following:

- s) the corporate name, address, date of its constitution, the amendments to the articles during the year, and if such changes were made, a current copy of the articles of association, a copy of the approval issued by the Ministry in charge of the insurance sector and the Treaty of appointment for the insurance general agent,
- t) the names, date and place of birth, nationality and residence of members of the Board of Directors (or any other governing body) and management staff, professions of members of the Board of Directors and the ranks or functions of management staff,
- u) list of insurance branches practiced in the country as well as any other industrial and commercial activity and references to the authorisation of the Minister in charge of the insurance industry allowing them to do so,
- v) the list of countries where the company operates and branches in which it practices, the date of approval by the supervisory authorities of these countries if such approval exists, and the year of commencement of transactions,
- w) a list of insurance, reinsurance and investment companies with whom they maintain relations,
- x) the report of the Board of Directors and the Supervisory Board (or any other governing body) and the reports of auditors to the general meeting of shareholders or members,
- y) the amount of the guarantee provided for in Article 525 of the Insurance Code, the name of the credit institution or insurance company that provided this guarantee, the amount of funds received in the past twelve months preceding the month of the date of issue or of renewal of the bond,
- z) the name of the insurance company covering its civil liability for brokers and insurance brokerage firms,
- aa) a table showing changes in the share capital during the year (payments, calls, increases or reductions, repayments),
- bb) a table showing the number, on the last day of the year, of salaried staff of the company in the country broken down into “management staff and executives”, “supervisory staff”, “employees”, “total salaried staff”.

Article 556

The financial statements required by the Uniform Act relating to the accounting law and system of OHADA

(Added on 2 April 2008 by Decision of the Council of Ministers)

The annual file to be submitted to the Minister in charge of the insurance industry by the insurance intermediaries must include the following accounting and financial statements required by the Uniform Act relating to the accounting law and system of OHADA:

- balance sheet,
- general operating account,
- table of resources and uses,
- attached statement
- statistics to supplement and comment on the balance sheet and income statement.

Article 557

Breakdown of issuances, collections and commissions for the year and previous years
(Added on 2 April 2008 by Decision of the Council of Ministers)

Insurance intermediaries must keep a breakdown of issuances, collections and commissions for the year and previous years.

Issuances, collections and commissions for the year and previous years will be broken down into the following categories:

- personal accident and sickness (including accident at work),
- land motor vehicles: civil liability,
- land motor vehicles: other risks
- fire and other property damage
- general civil liability,
- air transport,
- maritime transport,
- other transport,
- other direct risks,
- life insurance: large branch,
- life insurance: collective,
- life insurance: additional,
- life insurance: other risks,
- investment.

	Personal accident	LMV: civil liability	LMV: other risks	Fire	Etc.
Premiums issued for the year					
Commissions for the year					
Commission rate					
Collected commissions for the year					
Collected commissions previous years					
Total collected commissions					
Premiums collection for the year					
Premiums collection previous years					
Total premiums collection					

Article 558

Breakdown per underwriting year and per branch of outstanding premiums, collections and cancellations

(Added on 2 April 2008 by Decision of the Council of Ministers)

Insurance intermediaries must keep a breakdown, per underwriting year and per branch, of outstanding premiums, collections and cancellations.

Inventory	Underwriting year
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Year-End							TOTAL
	(4) Arrears on last 31 December (5) Issuance (6) Cancellation (7) Collection Arrears (1) + (2) – (3 – (4))						
	(5) Arrears on last 31 December (6) Issuance (7) Cancellation (8) Collection Arrears (1) + (2) – (3 – (4))						
	(5) Arrears on last 31 December (6) Issuance (7) Cancellation (8) Collection Arrears (1) + (2) – (3 – (4))						
	(5) Arrears on last 31 December (6) Issuance (7) Cancellation (8) Collection Arrears (1) + (2) – (3 – (4))						
	(5) Arrears on last 31 December (6) Issuance (7) Cancellation (8) Collection Arrears (1) + (2) – (3 – (4))						

Article 559

Current account of insurance companies

(Added on April 2011 by Decision of the Council of Ministers)

General agents, brokers and insurance brokerage firms must maintain a monthly current account of transactions they carry out with the insurance companies.

Each quarter the current account must be the subject of an open validation by the insurer and the intermediary.

It is sent by the general agent or broker to the regulator within a maximum of thirty days from the end of the quarter and no later than 30 April, 31 July, 31 October and 31 January.

In case of disagreement, the doubts expressed by each party are reported in the current account or in an annexure.

This current account per insurance company includes the following elements:

FORMULATION	No. DOCUMENT	DATE	DEBIT	CREDIT
Profit balance to be carried forward			Due by the company	Due to the company
Arrears of previous years			Commissions	Premiums
Schedules of cash issuances			Commissions	Premiums
Schedules of future issuances			Commissions	Premiums
Receipts of repayment			Premiums	Commissions
Schedules of settlements			Payment of claims	Actions
Various transactions			Additional costs incurred by the intermediary	Additional costs incurred by the company
Funds transfers			Funds transferred by the intermediary	Funds transferred by the company

Arrears for the year			Premiums	Commission
Balance owing			Due to the company	Due by the company

Chapter III – Late communication and entry into effect

Article 560

Late communication of the annual report

(Added on 2 April 2008 by Decision of the Council of Ministers)

Insurance intermediaries must submit an annual report to the Minister in charge of the insurance industry of the Member State, containing the statements hereinabove and any other information that the supervisory authorities of the insurance may request, by no later than 1st August of each year.

Article 561

Entry into effect

(Added on 2 April 2008 by Decision of the Council of Ministers)

The obligation to keep schedules and statements placed upon brokers and general agents of insurance companies shall take effect on 1 January 2010 and will be published in the official journal of CIMA.

BOOK IV – SPECIFIC INSURANCE

ORGANISATIONS

Single chapter – The Motor Guarantee Fund

Article 600

Subject of the Motor Guarantee Fund

It shall be established in each Member State a Motor Guaranteed Fund in charge of, when the person responsible for the damage is unknown or not insured, except by virtue of a statutory exclusion from the obligation to insure, covering, within the limits set by the regulations of each Member State on said Fund, the medical expenses and of compensating victims of bodily injury incurred in an accident caused by a land motor vehicle in traffic, as well as its trailers or semi-trailers, excluding railways and trams.

The Motor Guarantee Fund shall pay to the victims or their beneficiaries the compensation that may not be covered under any other heading, when the accident gives right to compensation.

Article 601

Terms of compensation of the Motor Guarantee Fund

The Motor Guarantee Fund established in a Member State of CIMA shall cover, under the conditions set in Article 600 of the Insurance Code, compensation payable to victims of bodily injury or their beneficiaries, when the accidents occurred in the territory of said State.

The payments made to victims or their beneficiaries and which may not give rise to a right of recourse against the person responsible for the damage shall not be considered as compensation under any other heading within the meaning of paragraph 2 of Article 600 aforementioned.

Benefits must result either from an enforceable ruling or from a transaction which has received the approval of the Guarantee Fund.

Article 602

Excluded persons

The following persons shall not benefit from the Motor Guarantee Fund:

- the driver of the vehicle, for damages suffered;
- the victims in a stolen vehicle and accomplices of the theft and, generally, all persons transported in the vehicle. This exclusion shall only apply if the Motor Guarantee Fund provides evidence of knowledge of the vehicle theft by the transported persons.

However, the persons named in this Article, excluding the thief and their accomplices, can invoke the Fund guarantee when the accident was caused, wholly or in part, by another land motor vehicle in traffic and to the extent of its liability.

Article 603

Compensable damages

The damage which can be compensated by the Motor Guarantee Fund shall be that mentioned in Articles 258 to 266, excluding Articles 261, 263 and 266 of the Insurance Code and within the limit of the ceiling defined by the regulations of each Member State on said Fund.

Article 604

Non-insurance: protective measures

When the author of an accident is not able to prove that the obligation to insure set by Article 200 of the Insurance Code was satisfied, the victim and the Guarantee Fund are entitled to rely on the protective measures provided for by the Code of Civil Procedure applicable in each Member State or by any other regulations.

Article 605

Transaction: communication to the Fund

Any transaction with the purpose to set or adjust the compensation payable by the uninsured responsible for damage resulting from bodily injury incurred in an accident mentioned in Article 600 of the Insurance Code, must be notified to the Guarantee Fund by the debtor of the compensation within one month by registered letter with acknowledgment of receipt or by any other similar means, under sanction of the fine prescribed by the regulations of each Member State.

Article 606

Stipulations of the official report

If the author of an injury accident is unknown, the official report made or issued by the competent public authority and on this accident, must explicitly mention this fact.

In the event that the author is known and based on the statement the latter is obliged to make, this same report must indicate whether said author is insured. If so, it shall indicate the name and address of the insurance company and the policy number.

Deliberate failure to report or misrepresentation made in bad faith shall be liable to the fine prescribed by the regulations of each Member State.

If one or several pieces of information stated in the second paragraph are ignored by the author of the accident at the time of writing the report, this fact is mentioned, as well as the commitment that must be taken by said author to send this information within one week.

In this case, an official report or supplementary report shall be subsequently made.

One copy of any report on an injury accident caused by an uninsured or unknown author shall be submitted to the Guarantee Fund within sixty (60) days from the date of the accident by the competent public authority or any person having an interest therein.

Article 607

Case of the Fund's intervention when an insurance contract exists

When the insurance contract was underwritten to cover financial consequences of the author's civil liability for damages resulting from bodily injury incurred in an accident mentioned in Article 600 of the Insurance Code, the Guarantee Fund may only be required to pay the compensation awarded to the victim or their beneficiaries in case of nullity of the contract, suspension of contract or guarantee, or in case of non-insurance, opposable [oppose it] to the victim or their beneficiaries.

Article 608

Insurance exceptions: communication to the Fund by the insurer

When the insurer intends to invoke the nullity of the insurance contract, its suspension or the suspension of the guarantee, or the non-insurance opposable to the victim or their beneficiaries, it must, within a three month period from the claim by registered letter with acknowledgment of receipt or by any other similar means, make a declaration to the Guarantee Fund with

documents supporting its exception attached; it must notify at the same time and in the same way the victim or their beneficiaries by specifying the contract number.

If the insurer intends to contest the existence of the insurance contract, notwithstanding the presentation by the person responsible for the accident of supporting documents referred to in Article 213 of the Insurance Code, it must, on one hand, make a declaration within three months to the Guarantee Fund by registered letter with acknowledgment of receipt or by any other similar means and, on the other hand, notify at the same time and in the same manner the victim or their beneficiaries.

Article 609

Insurance exceptions – Contestation by the Fund

If the Guarantee Fund intends to contest the merits of the exceptions mentioned in Article 8, invoked by the insurer, or if it is unable to take a final decision in this regard, it should within three months of receipt of the declaration, notify the insurer and the victim or their beneficiaries. It also gives them its opinion on the admissibility against it of a claim of the victim or their beneficiaries in case the exclusion claimed by the insurer was upheld.

Article 610

Action against the person responsible or the insurer

When, in the hypothesis provided for in Article 609, the claim is brought before a court other than a criminal court, the victim or their beneficiaries must, where action is brought against the insurer or the person responsible, bring to court, as appropriate, the person responsible or the insurer.

Article 611

Payment on behalf by the insurer (criminal court or transaction)

If the claim was brought before a criminal court or a transaction approved by the Guarantee Fund occurred with the person responsible for the accident, the victim or their beneficiaries may request from the insurer payment of amounts which would have been paid by the Fund if payment were made by the latter, under the condition of proving that:

- 1) the Guarantee Fund has made known to them, in compliance with Article 609, that:
 - a) it contests the merits of the exception invoked by the insurer or it is not able to take a final decision on the matter,
 - b) in the absence of cover from the insurer, they are eligible for the guarantee of said Fund;
- 2) the amount of the compensation was determined by an enforceable final judgment opposable to the Funds or by a transaction it approved.

The insurer is then required to make the aforementioned payments on behalf of whom it may concern. If it does not fulfil this obligation, it may be compelled to do so by a court order made by the summary trial judge at the request of the victim or their beneficiaries.

When the merits of the exception it opposes are acknowledged either by agreement with the Guarantee Fund or by a final judgment binding on the organisation, the insurer may request from the Guarantee Fund reimbursement of the sums paid on its behalf after setting the total or partial insolvency of the person responsible in compliance with Article 614.

In case of judicial proceedings, to make the pending ruling opposable to the Guarantee Fund, the insurer must send it a copy of the writ of summons.

Article 612

Payment on behalf - Civil Jurisdiction

If the claim has been brought before a civil court in accordance with Article 610, the victim or their beneficiaries may, when the conditions mentioned in 1) of Article 611 are met, request from the insurer payment of the amounts that have been allocated to them and which would be paid by the Guarantee Fund if payment were made by the latter.

The insurer is then required to make the aforementioned payment on behalf of whom it may concern. If it does not perform this obligation, it may be compelled to do so by a court order made by the summary trial judge at the request of the victim or their beneficiaries.

Article 613 Claim - Time limit

When the person responsible for the damage is unknown, the claim of the victims or their beneficiaries for compensation for damages caused to them should be made to the Guarantee Fund within three years after the accident.

When the person responsible for the damage is known and uninsured, the claim must be made to the Guarantee Fund within a one year period from either the date of the transaction or the date of the final judgment.

In addition, victims or their beneficiaries must, within five years after the accident:

- a) if the person responsible is unknown, have entered into an agreement with the Guarantee Fund or exercised against it the action provided for in Article 615,
- b) if the person responsible is uninsured, have made a transaction with the Guarantee fund or brought an action against it.

Time limits stated in the preceding paragraphs only begin from the day on which the interested parties became aware of the damage, if they can prove that they had ignored so far.

When compensation consists in an annuity or payment of capital in instalments, the claim must be made to the Guarantee Fund within one year from the date of the time limit within which the debtor did not fulfil their obligations.

These different time limits will be set, under pain of debarment, unless the interested parties can prove that they were unable to act within said time limits.

Article 614 Claim: conditions

Accident victims or their beneficiaries shall send to the Guarantee Fund their claims by registered letter with acknowledgment of receipt or by any other similar means. To support their claim, they must prove that:

- 1) the accident gives rise to the right to compensation for their benefit in terms of domestic legislation on civil liability and that it may not give rise to the right to full compensation under any other heading. If the victim or their beneficiaries are entitled to a partial compensation for another reason, the Guarantee Fund only covers the supplement. In order to determine the additional damage to the victim or their beneficiaries, third-party payers should inform the Guarantee Fund of the amount of payments made for the benefit of the former, at the latest within a four month period from the request by the Fund;
- 2) the person responsible for the accident could not be identified or is not insured or proved insolvent after determination of the compensation by a transaction or enforceable court decision.

Article 615 Claim: contestations

Claims must be accompanied by a copy of the court decision rendered or a certified copy of the transactional settlement for the final determination of the compensation.

In the event the Guarantee Fund fails to reach an agreement with the victim or their beneficiaries either on the transaction which occurred, or on the determination of the compensation when the person responsible for the damage is unknown or when the judgment invoked cannot be opposed to the Guarantee Fund, or on the existence of various entitlements to compensation, the victim or their beneficiaries may, depending on the amount claimed, apply to the Magistrates' Court or the High Court. The dispute may be brought before the court of the place where the accident occurred.

Apart from these cases mentioned in the preceding paragraph and disputes which may lead to the application of the provisions of the last paragraph of Article 616, the Guarantee Fund may not be summoned by the victim or their beneficiaries, notably for a common judgment as pursuant to Article 600 of the Insurance Code.

Article 616

Intervention of the Fund before court

The Guarantee Fund can intervene in the criminal courts and even for the first time on appeal, to challenge, notably, the basis for or the amount of damages sought in any proceedings between victims of bodily injury or their beneficiaries on one hand, liable persons or their insurers, on the other hand. It then intervenes primarily and may use all remedies available in law. In any case, this intervention may not be ground for a joint or several sentence of the Guarantee Fund and the person liable.

Subject to the provisions of the fourth paragraph of this Article, the victim or their beneficiaries shall send without delay to the Guarantee Fund, by registered letter with acknowledgment of receipt, or by any other similar means, a copy of any writ of summons for the application to the competent court of a claim against a defendant whose liability is not established as covered by insurance.

Any writ of summons, a copy of which shall be sent to the Guarantee Fund pursuant to the preceding paragraph, shall contain the following information: date and place of the accident, references of the vehicle that caused the accident, authority which drew up the official report referred to in Article 6, amount of the claim pertaining to the compensation for damages resulting from bodily injury or, failing that, nature and severity of the damage. It must also state based on information contained in the report aforementioned or on those collected later, including those provided by the insurer pursuant to paragraph 1 of Article 608:

- either that the defendant's liability is not covered by an insurance contract,
- or that the insurer, whose name and address must be specified along with the contract number, intends to challenge its guarantee,
- or that the applicant has neither of the above information, the elements which made them doubt the existence of insurance covering the damage for which compensation is sought are to be identified in such case.

The provisions of the preceding two paragraphs shall not apply when the claim is brought before a criminal court. In this case, the victim or their beneficiaries shall, at least ten days before the hearing, notify the Guarantee Fund by registered letter with acknowledgment of receipt or by any other similar means, of their joining as civil party or of such possibility. This notice must state, in addition to the information stated in paragraph 3 of this Article, the names and address of the author of the damage and, where applicable, the person civilly liable as well as the criminal court seized and the date of the hearing.

Notifications made in compliance with the preceding paragraphs shall, even if the Guarantee Fund has not intervened in the proceedings, make it bound by the court decision rendered on the claim. Inaccurate statement contained in the notification is sanctioned, in case of bad faith, with the impossibility for the applicant to appeal against the Guarantee Fund.

Article 617

Transaction - Subrogation

When the Guarantee Fund compromises with the victim or their beneficiaries, this transaction is enforceable against the author of the damage, except for the right to challenge in court the amounts which are requested from it because of this transaction. This challenge may not have the effect of calling into question the amount of compensation paid to the victim or their beneficiaries.

The Guarantee Fund is subrogated in the creditor of the compensation's rights against the person responsible for the accident or his insurer. It shall also be entitled to interest at the legal rate in civil matters and to recovery costs.

Article 618

Ability to terminate the transaction

The victim may, by registered letter with acknowledgment of receipt or by any other similar means, terminate the transaction within one month after its conclusion.

Any clause of the transaction in which the victim waives his right of termination is void.

The above provisions shall be reproduced in bold letters in the transaction under pain of relative nullity of the latter.

Article 619

Time limit for payment – Default interest

The payment of compensation resulting either from an enforceable court decision or from a transaction between the Motor Guarantee Fund and the victim or their beneficiaries shall be made within one month from the date of notification of the court decision or after the expiry of the time limit for termination of the transaction referred to in Article 618.

Otherwise, unpaid amounts generate ipso jure interest at the legal rate.

Article 620

Recourse of the Fund

Without prejudice to the exercise of rights arising from the subrogation of the Guarantee Fund in the creditor of the compensation's rights against the author of the accident or the insurer, the Guarantee Fund has also the right to request from the debtor of the compensation: on one hand, the interest calculated at the legal rate from the date of payment of compensation when it has been determined by the court, or from the notice issued by the Guarantee Fund when compensation has been determined by a transaction, on the other hand, a lump sum allocation intended to cover collection costs and the amount of which shall be determined by each Member State.

Where applicable, the Guarantee Fund may also recover from the debtor of the compensation a contribution to be determined by each Member State.

When the author of the accident intends to use the right of objection under Article 617, they must bring their action before the competent court within three months of notice of reimbursement by the Guarantee Fund.

The notice referred to in the above paragraphs results from the Guarantee Fund sending a registered letter with acknowledgment of receipt or any other similar means.

Article 621

Transitional provisions: time limit to establish the Fund

Member States of CIMA must, as of 25 September 2001, take all necessary steps to establish the Motor Guarantee Fund defined in Article 600, determining the legal form and the financing of said Fund.