



NATIONAL COMMISSION FOR FINANCIAL MARKETS

D E C I S I O N

**on the Approval of the Regulation on the Requirements for the Insurer's
Reinsurance Programme, Rules for Contracting Reinsurance, and Provisions for
Approving the Insurer's Own Retention Level**

No 30/12 of 13.06.2023
(in force as of 27.06.2023)

Official Monitor of the Republic of Moldova No 216-219 Article 621 of 27.06.2023

REGISTERED:
Ministry of Justice
of the Republic of Moldova
No 1802 of 22 June 2023

Minister _____ Veronica MIHAILOV-MORARU

Pursuant to the provisions of Article 96 paragraph 6) and paragraph 12) of Law No 92/2022 on the Business of Insurance or Reinsurance (Official Monitor of the Republic of Moldova, 2022, No 129 – 133, Article 229), the National Commission for Financial Markets

DECIDES:

1. To approve the Regulation on the Requirements for the Insurer's Reinsurance Programme, Rules for Contracting Reinsurance, and Provisions for Approving the Insurer's Own Retention Level (shall be attached).

2. To repeal the Decisions of the National Commission for Financial Markets No 17/6/2017 on the Approval of the Regulation on the Requirements for the Insurer's Reinsurance Programme and Rules for Contracting Reinsurance (Official Monitor of the Republic of Moldova, 2017, No 181 – 189, Article 1024), registered at the Ministry of Justice of the Republic of Moldova No 1221 on 23.05.2017.

3. This Decision shall enter into force on the date of its publication in the Official Monitor of the Republic of Moldova.

CHAIRMAN

Dumitru BUDIANACHI

No 30/12. Chisinau, 13 June 2023.

Approved
by the Decision
of the National Commission
for Financial Markets
No 30/12 of 13 June 2023

REGULATION

**on the Requirements for the Insurer's Reinsurance Programme, Rules for
Contracting Reinsurance, and Provisions for Approving the Insurer's Own
Retention Level**

Chapter I GENERAL PROVISIONS

1. The Regulation on the requirements for the insurer's reinsurance programme, rules for contracting reinsurance, and provisions for approving the insurer's own retention level (hereinafter – *Regulation*) sets forth the requirements for the insurer's reinsurance programme, the rules to comply with when contracting reinsurances, and the provisions for approving the insurer's own retention level.

2. For the purposes of this Regulation, the terms defined in the Law No 92/2022 on the business of insurance or reinsurance (hereinafter - Law No 92/2022) and the following terms shall be used:

reinsurance commission – remuneration paid by the reinsurer to the reinsured for the transfer of reinsurance risks;

reinsurance contracts – an agreement between two or more parties, known as the “reinsurer” and the “reinsured”, whereby the reinsurer takes over part of the risks underwritten by the reinsured in return for an amount known as the “reinsurance premium” (set out in the contract), in respect of which it undertakes to pay the reinsured part of the compensation due in the event of the risk(s) occurring, in accordance with the conditions agreed in the contract;

surplus - the amount of risk transferred to reinsurance (a portion of the risk value that exceeds the own retention);

reinsurance premium – the amount that the reinsured is obliged to pay for the insurance provided by the reinsurer for the risks ceded in reinsurance under the reinsurance contract;

optional reinsurance – partial or full reinsurance of a risk relating to a single insurance policy, the cession being negotiated separately, where both the reinsurer and the reinsured have the option to accept or reject any of the implication of the other;

compulsory reinsurance - the reinsurance of categories of risks specified in the insurance contract, in the proportions and within the limits laid down, where it is not possible for the parties to select the risks and the reinsurer is obliged to cede the underwritten risks, whatever their nature;

non-proportional “excess of loss” reinsurance – reinsurance whereby the reinsurer indemnifies the reinsured for the amount of loss incurred in excess of a specified limit of its own retention;

non-proportional “excess of loss ratio” reinsurance – reinsurance whereby the liability of the reinsured is limited to a certain level of the loss ratio, with only that which exceeds a pre-determined percentage level of premium volume being ceded in reinsurance. Thus, the reinsurer bears the claims only if the total level of claims in a given year for the insurer exceeds the set amount;

proportional “quota share” reinsurance - reinsurance whereby the reinsurer takes over in reinsurance a certain proportion of each risk assumed by the reinsured (ceding party) under direct insurance policies, bearing all claims in the same proportion according to the direct premiums, but without reinsurance commission;

proportional “excess of amount” reinsurance - reinsurance whereby the reinsurer agrees to take a portion of a risk in excess of its own retention limit;

geographical area - an operative clause in the reinsurance contract stipulating the territory of the reinsurance protection.

Chapter II REQUIREMENTS REGARDING THE REINSURANCE PROGRAMME OF THE INSURER. RULES FOR REINSURANCE CONTRACTING

3. The insurer's reinsurance programme shall be based on compliance with the prudential requirements laid down by law, the appropriateness of the reinsurance programme to the insurer's risk profile, the avoidance of risk concentration and the effective transfer of risks.

4. The insurer is obliged to adopt and implement an effective Reinsurance Programme for each financial year. The Insurer's Reinsurance Programme shall be consistent with its underwriting policy. The insurer's actuary shall express an opinion on the appropriateness of reinsurance contracts in accordance with the Reinsurance Programme. The actuary's opinion shall be annexed to the Reinsurance Programme.

5. The insurer shall revise both the Reinsurance Program and the underwriting policies in one of the following cases:

- 1) when the underwritten risks are not adequately covered by the reinsurance; or
- 2) when the reinsurer is downgraded in the rating agencies' rankings (below the level set out in Article 96 paragraph (8) of Law No 92/2022) in two consecutive ratings; or
- 3) when the Solvency Capital Requirement (hereinafter - SCR) coverage ratio with eligible own funds of a non-resident reinsurer included in the Insurer's Reinsurance Programme, calculated in accordance with the European Union (hereinafter - EU) Solvency II regime, falls below 120 percent.

6. The Reinsurance Programme shall correspond to the reinsurance needs defined and documented in the Reinsurance Management Strategy (dependent on the Underwriting Policy) approved by the Insurer's Board, which shall include at least:

- 1) the method of monitoring the Reinsurance Programmes (existence of internal reporting and control systems);
- 2) description of an internal risk control system and its implementation by key function holders (internal audit function and risk management function), which ensures the continuous compliance of the Reinsurance Programme with the Reinsurance Strategy approved by the governing body.

7. When drawing up and adopting the Reinsurance Programme, the insurer's governing bodies shall ensure that all legal and regulatory requirements relating to the insurer's business and its reinsurance needs are met and complied with and shall strictly determine the size of the maximum own retention to be maintained at a certain level and the maximum level of protection through compulsory reinsurance which the insurer can obtain from selected reinsurers.

The insurer's governing bodies shall draw up and monitor the Reinsurance Programme, which shall include, on a compulsory basis, the arrangements for implementing the business strategies so as to ensure, on an ongoing basis, the following:

- 1) the existence of underwriting conditions for the classes of insurance underwritten and aggregate exposures for risks underwritten by class of insurance;
- 2) the establishment of limits on the insured amounts per class of insurance which will be subject to compulsory reinsurance;
- 3) the establishment of criteria for the selection of optional reinsurance;
- 4) optimising and monitoring reinsurance expenses;
- 5) the principles of liquidity risk management in the event of failure to settle claims due from the reinsurer in time;
- 6) principles for managing counterparty default risk, in the event of non-performance of contractual obligations by the reinsurer;
- 7) the efficient organisation of reinsurance administration.

8. The Reinsurance Programme, adopted by the insurer, shall contain at least the following information:

- 1) the total size of the insurer's liability covered by the Reinsurance Program; a description of the structure of the Reinsurance Program used to cover the insurer's risk - e.g., compulsory or optional, proportional or non-proportional coverage, as well as the size of each level of coverage; the share of each individual reinsurer in each level of reinsurance coverage; and the number of renewals;

- 2) the qualitative and quantitative criteria underlying the selection of reinsurance forms;
- 3) the risk management and control mechanisms (concentration, credit, liquidity, operational, market, underwriting), as defined in Article 4 of Law No 92/2022, arising from reinsurance activity;
- 4) criteria for the selection of reinsurers, minimum acceptable credit rating, operating market, applicable jurisdiction;
- 5) criteria for selecting reinsurance brokers, market of operation, applicable jurisdiction, including their safety assessment procedures;
- (6) a description of the selected reinsurers, indicating their rating, where applicable, as assessed by Standard & Poor's, Fitch-IBCA, AM BEST or Moody's rating agencies, or SCR data in the case of reinsurers authorised in EU States or in the Organisation for Economic Cooperation and Development (hereinafter - OECD) and subject to the Solvency II regime, and data on their financial statements, market experience over the last two years and country of residence;
- 7) the nomination of risks and/or groups of risks ceded by type of insurance, included in the category "general insurance" and/or "life insurance";
- 8) the level of own retention per class and/or type of insurance;
- 9) the amounts ceded in reinsurance by class and/or type of insurance, where appropriate;
- 10) the geographical area, as specified in the reinsurance contract;
- 11) the procedures for monitoring and recording claims incurred and for recovering amounts for which reinsurers are responsible.

9. The Insurer's Reinsurance Programme and the terms and conditions of reinsurance shall be consistent with the nature, scale and complexity of the business conducted, be consistent with its business objectives and strategy and reflect the insurer's overall risk appetite.

10. The insurer or reinsurer shall retain a portion of the risk in its own retention commensurate with its financial capacity and volume of business.

11. The cession of risk in reinsurance by the resident insurer or reinsurer of the Republic of Moldova outside its territory may be carried out directly to a non-resident reinsurer of the Republic of Moldova if the latter is an authorised and supervised reinsurer in its country of residence. The cession of risks in reinsurance by the resident insurer or reinsurer of the Republic of Moldova to the said non-resident reinsurer of the Republic of Moldova may be carried out through the reinsurance broker non-resident or resident of the Republic of Moldova. Reinsurers providing reinsurance cover to insurers from the Republic of Moldova shall have a credit rating of at least BBB+ or its equivalent, assigned/reconfirmed during the last year up to the date of submission of the Reinsurance Programme, as assigned by one of the following rating agencies: Standard & Poor's, Fitch-IBCA, AM BEST or Moody's.

12. Solvency reports will be used for non-rated reinsurers that are authorised in the countries subject to the EU Solvency II regime, an EU Member State or an OECD Member State. In this case, the reinsurer's eligible own funds cover ratio shall not be less than 120 percent. The Solvency Report for the last management period up to the date of conclusion of the reinsurance contract shall be used for reinsurance undertakings which do not have a credit rating from the rating agencies listed in paragraph 11 but are licensed and supervised by supervisory regimes equivalent to the EU Solvency II regime. The supervisory authority may require the insurer to provide the reinsurer's solvency report as evidence of compliance with the requirements of this Regulation.

13. When ceding and retroceding risks directly or through reinsurance brokers, the ultimate reinsurer shall comply with the requirements of this Regulation and Law No 92/2022. The insurer shall have data and information related to the ultimate reinsurer, including audited financial statements for at least the last 2 years, and submit them to the supervisory authority upon request.

14. The insurer shall have in place an adequate internal control and reporting system to ensure that the underwriting of risks or cession in reinsurance is in accordance with its reinsurance policy, adequate, safe and sufficient, the insurer's maximum limit of liability for an insured risk is not breached, reinsurance claims are properly reported, and claims are promptly collected from reinsurers.

Chapter III

ENDORSEMENT PROCEDURE. REPORTING

15. The supervisory authority shall approve the level of the annual own retention in accordance with the insurer's request, submitted by 1 November of the year preceding the reference period, with the mandatory attachment of the following documents:

- 1) The methodology for determining the own retention, signed by the head of the executive body and the head of the risk management function, including:
 - a) description of the method for estimating the single insured risk;
 - b) the amount of the insurer's maximum liability limit for a single insured risk;
- 2) the Insurer's Reinsurance Programme, including the actuary's opinion on the appropriateness of reinsurance contracts.

16. The supervisory authority's assessment of an Insurer's Reinsurance Programme is based on a number of factors, including:

- 1) the structure of the Programme, including any alternative risk transfer arrangements;
- 2) the proportion of risk ceded so that the net risks retained are commensurate with the insurer's financial resources and risk appetite;
- 3) annual financial statements and historical claims payment information for the reinsurers concerned (both under normal and stressed conditions);
- 4) exposure levels to a single reinsurer or to different reinsurers belonging to the same group;
- 5) compliance of the reinsurer with the requirements of Law 92/2022 and this Regulation.

17. Within 30 days from the date of receipt of the complete set of documents referred to in paragraph 15, the supervisory authority shall, as appropriate, approve or refuse to approve the level of its own retention on an annual basis.

18. If changes or new circumstances arise during the examination of the application and the submitted documents, the insurer is obliged to promptly inform the supervisory authority and provide the revised documents.

19. If the documents or information submitted are insufficient to take a decision on the endorsement of the level of the own retention, the supervisory authority may, on an annual basis, request the necessary documents and information, including from other persons or authorities to the extent that such information is necessary to carry out the endorsement provided for in this Regulation.

20. In the cases referred to in paragraphs 18 and 19 and where additional information is required, the time limit laid down in paragraph 17 may be extended or suspended for a period to be determined by the supervisory authority, with the insurer being informed. If the additional documents and information requested from the insurer have not been submitted within the time limit set by the supervisory authority, the supervisory authority shall terminate the examination of the application and inform the insurer within 10 working days of the expiry of the time limit for completing the set.

21. The supervisory authority shall refuse to endorse the level of the annual own retention, stating the reasons for refusal if:

- a) following the assessment of all circumstances and information related to the level of own retention, the supervisory authority shall decide that the requirements of Law No 92/2022 and this Regulation are not met; and/or
- b) incomplete, erroneous or false information has been submitted.

22. The insurer shall be obliged to revise the Reinsurance Programme when it identifies inconsistencies between the objectives and strategies and the Reinsurance Programme, from the moment it becomes aware that the reinsurer no longer meets the requirements of this Regulation, and in the cases set out in paragraph 5, including if the provisions of paragraphs 6 and 8 are not met.

23. The supervisory authority may request a review of the Reinsurance Programme and/or the Methodology for determining the own retention during the financial year in the event of a breach of the provisions of Law 92/2022 or of this Regulation.

24. In case of revision of the Reinsurance Programme, under the provisions of paragraphs 22 and 23, as well as in cases where the insurer changes the Methodology for determining the own retention and/or the Reinsurance Programme submitted for the approval of the level of the own retention, the insurer is obliged to request, repeatedly, the approval of the own retention, under the provisions of this Regulation.

25. Upon the occurrence of major changes in the Reinsurance Programme or upon becoming aware that the reinsurer no longer complies with the requirements of this Regulation, insurers shall submit the relevant documents and information to the supervisory authority within 10 working days to confirm such changes.

26. The insurer shall monitor and notify the supervisory authority, within 10 working days from the time of discovery, situations in which:

- a) the reinsurers' share of an insurer's total technical provisions exceeds 70 percent; and/or
- b) the share of the largest reinsurer exceeds 30 percent of the insurers' technical provisions.

27. Each insurer shall be obliged to submit to the supervisory authority the Report on contracts with resident and non-resident reinsurers, in the form and manner set out in the Annex to this Regulation, every six months by 25 August and by 25 February of the year following the year of management, respectively, in electronic or paper form.

Annex
to the Regulation on the Requirements
for the Insurer's Reinsurance Programme,
Rules for Contracting Reinsurance,
and Provisions for Approving the
Insurer's Own Retention Level

REPORT
on contracts with resident and non-resident reinsurers
for 01.01.20__ - 31.12.20__

No	Name of the reinsurer to whom the risks have been ceded, date of registration in the country of origin,	Reinsurer's legal address (country), postal address, telephone numbers, e-mail	Rating agency, web link, rating set by rating agencies	Direct insurance contract				Type of reinsurance contract No and date of contract	Form and method of reinsurance	Cessions per contract		Ratio of ceded premiums and direct insurance premiums	Reinsurance commission, lei (per insurance class)	Claims recovered by the reinsured, lei (per contract) in the reporting period	Damages recovered and settled per direct insurance contract, lei (per contract) in
				Contract number and date	The amount of insurance, lei	Gross written premium, lei	Insurance class			Insured amount ceded in reinsurance, lei	Gross written premium ceded in reinsurance during the reporting period, lei				

	licen ce num ber and date														the repo rtin g peri od
A	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
T ot al															

Note: If the data included in this Report do not correspond to those reflected in other specialised/statistical reports, the insurer shall provide an explanatory note, which shall contain a justification of the elements that caused the discrepancies between the figures.

Insurer's executive body _____

Head of risk management function, phone number

Date of completion ____ 20__

INSTRUCTION
on the method of completing the Report on contracts
with resident and non-resident reinsurers
for 01.01.20__ - 31.12.20__

1. Columns 1, 2, and 3 shall indicate data related to the reinsurer (including an indication of the intermediary, if applicable) as required in these columns.

2. Columns 4, 5, 6, and 7 shall indicate the information relating to the direct insurance contract: contract number and date, insured amount, gross written premium, without the amounts relating to contracts which have been terminated, and class of insurance.

3. Columns 8 and 9 shall indicate information on the types of reinsurance (optional, compulsory, treaty reinsurance on general contract, contract number and date, forms and methods of reinsurance (proportional ("quota share" or "excess reinsurance"), non-proportional ("excess of loss" or "excess of loss rate"), etc.)).

4. Columns 10 and 11 shall indicate the ceded business per contract (insured amount ceded under reinsurance/gross written premium ceded under reinsurance in the reporting period, according to the respective accounting records).

5. Column 12 shall indicate the ratio of ceded premiums per contract to direct insurance premiums per contract.

6. Columns 13 and 14 shall indicate the reinsurance commission (by class of insurance) and claims recovered by the reinsured (by contract) during the reporting period, as shown in the respective accounting records, with a breakdown of commissions and claims recovered during the reporting period relating to contracts from previous periods.

7. Column 15 shall indicate the claims endorsed and settled per insurance contract directly (per contract) during the reporting period as recorded in the accounts.